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SCSL-2004-14-PT
(6878-6880)

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SPECIAL COURT FOR SIERRA LEONE

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THE TRIAL CHAMBER

Before: Judge Bankole Thompson, Presiding Judge
Judge Benjamin Mutanga Itoe
Judge Pierre Boutet

Registrar: Robin Vincent

Date: 26 May 2004

PROSECUTOR

Against

**SAM HINGA NORMAN
MOININA FOFANA
ALLIEU KONDEWA
(Case No.SCSL-04-14-PT)**

DECISION ON REQUEST FOR EXTENSION OF TIME TO FILE PRE-TRIAL BRIEF

Office of the Prosecutor:

Luc Côté
James Johnson

Defence Counsel for Sam Hinga Norman:

James Jenkins-Johnston

Defence Counsel for Moinina Fofana:

Michiel Pestman

Defence Counsel for Allieu Kondewa

Charles Margai

SPECIAL COURT FOR SIERRA LEONE	
RECEIVED	
COURT RECORDS	
26 MAY 2004	
NAME	MARGAI, CHARLES
SIGN	[Signature]
TIME	15:35

THE TRIAL CHAMBER ("Trial Chamber") of the Special Court for Sierra Leone ("Special Court") composed of Judge Bankole Thompson, Presiding Judge, Judge Benjamin Mutanga Itoe and Judge Pierre Boutet;

BEING SEIZED of the "Request for Extension of Time to File Pre-Trial Brief" ("Request"), filed by the Accused Moinina Fofana ("Accused"), on 25 May 2004, where the Accused requests an extension of time for filing of his Pre-Trial Brief until two weeks before the opening of the Defence case, alleging that he is unable to file the Pre-Trial Brief at the present time as the case against him "has yet to be made clear", namely, because:

- (a) There is no definitive Indictment;
- (b) The jurisdictional basis of the case has yet to be confirmed;
- (c) The details of the Prosecution case are unclear due to the heavy redaction of all but twelve of the Prosecution witness statements disclosed so far and that a decision on protective measures is awaited by the Trial Chamber;

NOTING the "Order for Filing of Pre-Trial Briefs" ("Order") delivered by the Trial Chamber on 13 February 2004, where the Defence was ordered to file its Pre-Trial Brief by 23 March 2003;

NOTING the "Revised Order for the Filing of Defence Pre-Trial Briefs" ("Revised Order") delivered by the Trial Chamber on 22 March 2004, where the Trial Chamber granted a request for extension of time and ordered that the Defence Pre-Trial Briefs be filed by each Defence team two weeks prior to the date for the commencement of trial;

NOTING the "Order for Commencement of Trial," issued by the Trial Chamber on 11 May 2004, ordering that the joint trial of the three accused would commence on 3 June 2004;

NOTING that the Defence Pre-Trial Briefs were due to be filed on Thursday 20 May 2004;

CONSIDERING that the Defence Pre-Trial Briefs were not filed in time, and that the Request by the Accused for an extension of time to file his Pre-Trial Brief was filed after the date ordered by the Trial Chamber in the Revised Order;

CONSIDERING Article 17(4)(b) and (c) of the Statute of The Special Court for Sierra Leone ("Statute"), providing for the right of the Accused to have adequate time for the preparation of his defence and to be tried without undue delay;

CONSIDERING that Rule 73 bis of the Rules of Procedure and Evidence of the Special Court ("Rules"), provides for the filing of a pre-trial brief by the Defence, addressing the factual and legal issues not later than seven days prior to the date set for trial;

CONSIDERING that the Defence Pre-Trial Brief is principally intended to provide a response to the case presented in the Prosecution's Pre-Trial Brief and to address factual and legal issues, setting forth a framework for the commencement of trial;

CONSIDERING that there is no basis to the submission that the filing of the Accused's Pre-Trial Brief may be delayed on account of there being no definitive Indictment, as the Joint Indictment of

the Accused was approved by the Trial Chamber on 5 February 2004 and has binding force, notwithstanding any Motion to amend;

CONSIDERING that there is a presumption of regularity and that there are no pending jurisdictional matters before the Trial Chamber or Appeals Chamber, of such a nature as to require suspension of the order for the Accused to file his Pre-Trial Brief two weeks prior to trial;

CONSIDERING that the Prosecution has filed its Pre-Trial Brief on 2 March 2004 and a Supplemental Pre-Trial Brief on 22 April 2004, and have disclosed to the Defence on 26 April 2004, a list of pseudonyms of each witness it intends to call at trial, together with a report indicating the number of witnesses for whom witness statements or summaries have been disclosed and the count or counts of the Indictment to which the witness will testify, together with copies of documentary exhibits intended for trial,¹ and furthermore, the Prosecution has disclosed the identifying data of the first 10 witnesses it intends to call,² and that there is consequently no basis to the submission of the Accused that the details of the Prosecution case are unclear;

CONSIDERING that the Request has not shown good cause or exceptional circumstances to justify the extension of time at this stage of the proceedings;

PURSUANT TO Rules 74 and 73 *bis* of the Rules;

HEREBY DISMISSES the Motion and **ORDERS** the Defence team to file their Pre-Trial Briefs no later than 27 May 2004.

Done at Freetown this 26th Day of May 2004


Judge Bankole Thompson

Presiding Judge, Trial Chamber



¹ Materials Filed Pursuant to Order to the Prosecution to File Disclosure Materials and Other Materials in Preparation for the Commencement of Trial of 1 April 2004.

² Pursuant to Trial Chamber Order for Commencement of Trial, 11 May 2004.