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SCSL-2003-11-PT
(1298-1300)

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SPECIAL COURT FOR SIERRA LEONE

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THE TRIAL CHAMBER

Before: Judge Bankole Thompson (Presiding Judge)
Judge Pierre Boutet
Judge Benjamin Itoe

Registrar: Robin Vincent

Date: 12th day of November 2003

The Prosecutor against

Moinina Fofana
(Case No.SCSL-2003-11-PT)

**ORDER ON THE DEFENCE REQUEST FOR AN EXTENSION OF TIME FOR THE
FILING OF A RESPONSE TO THE PROSECUTION MOTION FOR JOINDER**

Office of the Prosecutor:
Mr. Luc Côté, Chief of Prosecutions

Defence Office:
Mr. Sylvain Roy, Acting Chief

Defence Counsel:
Mr. Michiel Pestman
Mr. Victor Koppe
Mr. Arrow John Bockarie
Prof. André Nollkaemper
Dr. Liesbeth Zegveld



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THE SPECIAL COURT FOR SIERRA LEONE (“the Special Court”),

SITTING as the Trial Chamber (hereinafter “the Chamber”), composed of Judge Bankole Thompson, Presiding Judge, Judge Pierre Boutet and Judge Benjamin Mutanga Itoe;

BEING SEIZED of the Defence Request for an Extension of Time for the Filing of a Response to the Prosecution Motion for Joinder filed on the 21st day of October 2003 (hereinafter “the Request”), and the Prosecution Response thereto filed on the 24th day of October 2003 (hereinafter “the Response”);

CONSIDERING also that the Defence did not file any Reply to the Response within the prescribed time-limits:

CONSIDERING that in its Motion for Joinder filed on the 9th day of October 2003 (hereinafter “the Joinder Motion”) the Prosecution requested that the Defendant be jointly tried with Samuel Hinga Norman and Allieu Kondewa;

CONSIDERING also the Interim Order for the Transmission of the Disclosure Materials to the Registrar rendered on the 30th day of July 2003 (hereinafter “the Interim Order”);

CONSIDERING the Decision on the Prosecutor’s Motion for Immediate Protective Measures for Witnesses and for Victims and for Non-Public Disclosure rendered on the 16th day of October 2003 (hereinafter “the Witness Protection Order”);

CONSIDERING the Defence submission that it is not possible to ascertain whether a joint trial is in the interests of justice until the Prosecution has complied with “the Interim Order”, and hence that a Response to “the Joinder Motion” cannot be filed, and considering the consequent Defence request that the deadline for filing the Response be extended to ten days after the receipt of the Disclosure Materials;

CONSIDERING the Prosecution Response that the Defence does not need to see the Disclosure Materials in order to assess the appropriateness of “the Joinder Motion”, that proof is not needed at this stage and that “the Joinder Motion” can be determined on the basis of the face of the indictment, and considering the Prosecution submission that the Rules of Procedure and Evidence already provide sufficient safeguards to protect the Defendant’s rights and hence that the Defence fail to establish good cause for extension of time;

CONSIDERING also that Defence Counsel received Disclosure on the 24th day of October 2003;

CONSIDERING Rule 7 of the Rules of Procedure and Evidence;

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ACCEPTING AND RECOGNISING that in order for the Defence to make an appropriate and adequate assessment with respect to this "Joinder Motion" it required having had reasonable access to the Supporting Materials;

IN THE INTERESTS OF maintaining the fairness of the process and in order to proceed to an expeditious determination of "the Joinder Motion";

CONSIDERING that in these circumstances it would constitute good cause;

GRANTS the application for extension of time to file a Response;

AND

THE COURT ORDERS THAT:

1. The Defence shall file any Response to "the Joinder Motion" by the 17th day of November 2003;
2. The Prosecution shall file any Reply within 4 days of receipt of the Defence Response, and not later than the 21st day of November 2003.

Done in Freetown, this day on the 12th day of November 2003



Judge Pierre Boutet

