

001

SCSL-2003-05-I-001
7 MARCH 2003 (1-33)



SPECIAL COURT FOR SIERRA LEONE

OFFICE OF THE PROSECUTOR

1A SCAN DRIVE • OFF SPUR ROAD • FREETOWN • SIERRA LEONE

PHONE: +1 212 963 9915 Extension: 178 7100 or +39 0831 257100 or +232 22 236527

FAX: Extension: 174 6998 or +39 0831 236998 or +232 22 295998

March 6, 2003

Memorandum for: Confirming Judge, Special Court for Sierra Leone

Subject: PROSECUTOR MEMORANDUM TO ACCOMPANY INDICTMENT

1. Pursuant to my authority under Article 15 of the Statute of the Special Court for Sierra Leone (the Statute), I submit the attached Indictment on the basis that I am satisfied there is sufficient evidence to provide reasonable grounds for believing that **ISSA HASSAN SESAY also known as ISSA SESAY**, being a person who bears the greatest responsibility, has committed crimes within the jurisdiction of the Special Court.
2. I request that this Indictment be confirmed. To facilitate the confirmation process, I have attached an investigator statement summarizing the pertinent facts relating to the crimes charged. The investigator statement provides you with an ordered and concise review of the evidence. The investigator, trained in evidence collection and analysis, has provided relevant information to assist and expedite your review of the Indictment. In addition and should it be necessary, my representative is available to be heard on these matters during the confirmation process.
3. The first section of the Indictment lists the personal identifying information of the Accused. The next section sets forth General Allegations. The third section sets forth material facts relevant to the Accused's individual criminal responsibility. In the fourth and final section of the indictment I have set forth the crimes with which the Accused is charged and the material facts sufficient to adequately put the Accused on notice as to those crimes.

Warrant of Arrest and Order for Transfer and Detention

4. Upon confirmation of the Indictment, I seek a Warrant of Arrest and an Order for Transfer and Detention.

Application for Non-Disclosure

5. The suspect is at large and his arrest and subsequent surrender is dependent on the surrender to the jurisdiction of the Court. The Accused is one of several persons against whom I seek confirmation of indictments. This Accused and several of these other potential Accused are at large and may flee if the confirmed Indictment is made public before all indictees are arrested. In addition, this Accused and other indictees continue to have influence with members or ex-members of their respective factions who may assist these individuals to escape arrest if these Indictments become known before an arrest can be effected. For these reasons, I request an order of non-disclosure of the Indictment to the public.
6. The request for the order for non-disclosure is brought under the provisions of Rule 53 of the Rules which provides:

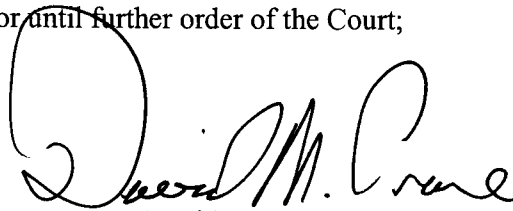
Rule 53: Non-disclosure

- (A) In exceptional circumstances, a Judge or a Trial Chamber may, in the interests of justice, order the non-disclosure to the public of any documents or information until further order.*
- (B) When confirming an indictment the judge may, in consideration with the Prosecutor, order that there be no public disclosure of the indictment until it is served on the accused, or in the case of joint accused, on both the accused.*
- (C) A Judge or Trial Chamber may, in consultation with the Prosecutor, also order that there be no disclosure of an indictment, or part thereof, or of all or any part of any particular document or information, if satisfied that the making of such an order is required to give effect to the provision of the Rules, to protect confidential information obtained by the Prosecutor, or otherwise in the interest of justice.*

7. As discussed above, it is critical that confidentiality is maintained to ensure that the Accused is not alerted to the prospect of arrest. I submit that this is an “exceptional circumstance,” which, in the interests of justice, would justify the granting of an order for the non-disclosure to the public, including the media or any public record, of the Indictment or any part thereof or information pertaining to the Indictment, including the Warrant of Arrest. I request that such Order remain in effect until further Order by a judge of the Court, or in the interests of expediency, at my discretion when I find that the “exceptional circumstance” no longer exists.
8. I have requested non-disclosure to the public in relation to the Indictment, however, the attached investigator statement is not, in my submission, disclosable to the public. Should the Confirming Judge have a different view, I also request non-disclosure to the public concerning the attached investigator statement.

Orders Sought

9. I seek the following orders (sample orders attached):
 - (A) ORDER, confirming the Indictment against **ISSA HASSAN SESAY** dated 3 March 2003;
 - (B) ORDER, for a Warrant of Arrest and Transfer and Detention of the Accused;
 - (C) ORDER, pursuant to Rule 53 of the Rules, for the non-disclosure to the public, including the media or any public record, of the Indictment or any part thereof or information pertaining to the Indictment until made public by the Prosecutor or until further order of the Court;



David M. Crane
The Prosecutor



SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

PHONE: +1 212 963 9915 Extension: 178 7000 or +39 0831 257000 or +232 22 295995
FAX: Extension: 178 7001 or +39 0831 257001 Extension: 174 6996 or +232 22 295996

Before: Judge _____

Registry: Mr. Robin Vincent

Decision of: ___ March 2003

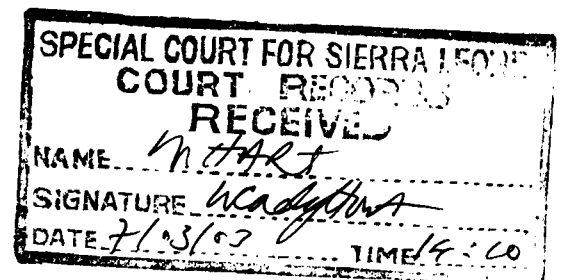
THE PROSECUTOR

Against

ISSA HASSAN SESAY also known as ISSA SESAY

CASE NO. SCSL - 03 - - I

**DECISION CONFIRMING THE INDICTMENT
and
ORDER FOR NON-DISCLOSURE**



THE SPECIAL COURT FOR SIERRA LEONE (the Court),

SITTING AS Judge _____, designated by the President of the Special Court according to Rule 28 of the Rules of Procedure and Evidence (“the Rules”);

HAVING RECEIVED on ___ March 2003 from the Prosecutor the enclosed Indictment against **ISSA HASSAN SESAY also known as ISSA SESAY** and supporting materials, pursuant to Rule 47 of the Rules;

[if needed] HAVING HEARD the Prosecutor during the review held on ___ March 2003 under Rule 47(D) of the Rules;

BEING SATISFIED from the material tendered by the Prosecutor that there is sufficient evidence to provide reasonable grounds for believing that the suspect has committed crimes within the jurisdiction of the Court;

HEREBY

CONFIRMS the Indictment submitted by the Prosecutor against **ISSA HASSAN SESAY** in respect to each and every count.

TAKES NOTE of the Prosecutor’s request that a Warrant of Arrest and Order for Transfer and Detention be issued against **ISSA HASSAN SESAY**.

ORDERS, pursuant to Rule 53 of the Rules and after consultation with the Prosecutor, that there be no public disclosure of the Indictment or any part thereof or information pertaining to the Indictment, and the Warrant of Arrest and Order for Transfer and Detention until further order by the Court or at the discretion of the Prosecutor.

DIRECTS the Registrar, in accordance with Rule 55(B) of the Rules, to serve this Decision and the Court’s Warrant of Arrest and Order for Transfer and Detention of the Accused on the Government of Sierra Leone.

Done in London, this ___ day of March 2003.

Signed Judge

SCSL - 2003 - 05 - I
OTP DRAFT ORDER

31



SPECIAL COURT FOR SIERRA LEONE

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

PHONE: +1 212 963 9915 Extension: 178 7000 or +39 0831 257000 or +232 22 295995
FAX: Extension: 178 7001 or +39 0831 257001 Extension: 174 6996 or +232 22 295996

Before: Judge _____

Registry: Mr. Robin Vincent

Decision of: ___ March 2003

THE PROSECUTOR

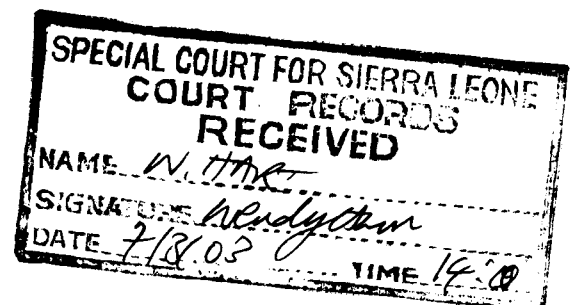
Against

ISSA HASSAN SESAY also known as ISSA SESAY

CASE NO. SCSL - 03 - - I

**WARRANT OF ARREST AND ORDER FOR TRANSFER
AND DETENTION**

To: The Government of Sierra Leone.



1. THE SPECIAL COURT FOR SIERRA LEONE (the Court),

SITTING AS Judge _____, designated by the President of the Court according to Rule 28 of the Rules of Procedure and Evidence (the Rules);

CONSIDERING Article 17.2. of the Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court For Sierra Leone;

CONSIDERING that the Indictment against Issa Hassan Sesay (the Accused) was confirmed by the Court on _____;

CONSIDERING that an Order for the Non-Disclosure was granted on _____;

2. HEREBY ORDERS the Government of Sierra Leone to:

(A) **search for, arrest and transfer** to the Court:

ISSA HASSAN SESAY also known as ISSA SESAY

a citizen of Sierra Leone, born 27 June 1970, at Freetown, Western Area, Republic of Sierra Leone, who is accused of Crimes against Humanity, violations of Article 3 common to the Geneva Conventions and of Additional Protocol II, and other Serious Violations of International Humanitarian Law;

(B) have a member of the Office of the Prosecutor present from the time of arrest;

(C) in coordination with the Registry, serve on the Accused, at the time of his arrest, or as soon as is practicable immediately following his arrest, in English or have read to him in a language he understands, a certified copy of the Warrant of Arrest, a certified copy of the Indictment, a statement of the rights of the Accused and a caution the Accused that any statement made by him shall be recorded and may be used as evidence against him;

(D) promptly notify the Registrar of the Court of the arrest of the Accused for the purposes of effectuating his transfer to the custody of the Court, and to surrender the Accused to the Court without delay;

(E) assist and facilitate the Office of the Prosecutor, at any location, in the search for and seizure of all evidence related to the crimes alleged to have been committed by the Accused;

(F) identify and locate assets owned by the Accused located within the territory of Sierra Leone and adopt provisional measures to freeze such assets without prejudice to the rights of third parties;

(G) not disclose to the public, including the media or any public record, the existence of the Indictment and this Warrant of Arrest, or any part thereof or information pertaining to the Indictment and this Warrant for Arrest until further order of the Court or at the direction of the Prosecutor;

(H) if the Government of Sierra Leone is unable to immediately execute the present Warrant of Arrest and Order for Transfer, as requested, the Government of Sierra Leone is requested to indicate the reason for its inability to give effect thereto.

3. THE COURT further **ORDERS** that the Accused, **ISSA HASSAN SESAY**, be remanded into the custody of a detention facility, as determined by the Registrar, immediately upon his transfer to the Court.

Done in London, this ____ day of March 2003.

Signed Judge