



## I. INTRODUCTION

1. The “Defence Response to ‘Prosecution’s Motion for Admission of Material Pursuant to Rules 89(C) and 92bis”<sup>1</sup>, dated 10 September 2007 was served on the Prosecution after 5:00 pm on 11 September 2007 (“Response”). Pursuant to Rule 7 of the Rules of Procedure and Evidence (“Rules”), the Prosecution files this motion seeking an extension of time until 24 September 2007 for the filing of its reply.
2. Pursuant to Rule 7(C), the Prosecution should file any reply to the Response within five days of service of the Response by the Registry. The Prosecution seeks this extension of time for the following reasons:
  - (a) the Response with attachments amounted to 904 pages in totality;
  - (b) the Prosecution motion<sup>2</sup> was filed on the basis of the original wording of Rule 92bis<sup>3</sup>; and
  - (c) the Response was accompanied by the “Defense Response to ‘Prosecution’s Motion for Judicial Notice’”<sup>4</sup> (“Judicial Notice Response”) consisting of an additional 140 pages.

## II. APPLICABLE LAW

3. As stated above, Rule 7(C) specifies the time limit for the filing of any reply to a response. However, Rule 7(C) does provide that such time limit shall apply “[u]nless otherwise ordered by a Chamber or a Designated Judge”. The Rule does not specify the test to be applied for any extension of such time limit and, accordingly, the Prosecution relies upon the jurisprudence of the Special Court for Sierra Leone for guidance. In *Prosecutor v. Kallon*, the Trial Chamber noted that extensions of time

<sup>1</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-337, Defence Response to ‘Prosecution’s Motion for Admission of Material Pursuant to Rules 89(C) and 92bis’, 10 September 2007 (“Response”).

<sup>2</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-241, Prosecution’s Motion for Admission of Material Pursuant to Rules 89(C) and 92bis, 14 May 2007 (“Motion”).

<sup>3</sup> Rule 92bis was amended on 14 May 2007 to include the wording “acts and conduct of the accused”. However, the Court Management Section of the Registry gave notice of the amendments to the Rules by an email dated 22 May 2007 which attached the amended Rules.

<sup>4</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-338, Defence Response to ‘Prosecution’s Motion for Judicial Notice’, 10 September 2007 (“Judicial Notice Response”).

should only be granted upon the showing of exceptional circumstances or good cause.<sup>5</sup>

### III. SUBMISSIONS

4. There is good cause to extend the time limit for the Prosecution to file its reply to the Response until 24 September, an additional seven days.
5. The Defence takes the position that 107 pages and 10 videotapes<sup>6</sup> filed with the Motion contain evidence of the acts and conduct of the Accused which must be redacted.<sup>7</sup> In addition, the Defense has interpreted Rule 92*bis* to embrace acts not only of the Accused but also of subordinates.<sup>8</sup> In order to assist the evaluation of the arguments, the Defence provided redacted versions of documents submitted by the Prosecution.
6. The Response relies upon Rule 92*bis* as amended on 14 May 2007. The Rule was amended to include the words “including written statements and transcripts that do not go to the proof of the acts and conduct of the accused”. The amendment, having been made on 14 May 2007, was published on 22 May 2007 and, therefore, was not a part of the Prosecution analysis of the documents submitted with the Motion. Accordingly, although the Prosecution is aware of the contents of the documents of the original filing, an analysis of these documents must be undertaken in light of the amended Rule and within the context of the Prosecution’s interpretation of the law (and to properly document its conclusions in a full reply).
7. The Response was filed on the same day as the Judicial Notice Response. The Judicial Notice Response requires an analysis of the Defence position related to 107 facts and 140 pages. The Prosecution is not seeking an extension of time to file its reply to the Judicial Notice Response but raises the issue because it affects the Prosecution’s ability to file considered replies to both Defence Responses within the

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<sup>5</sup> *Prosecutor v. Kallon*, SCSL-03-07-PT-54, Order on the Defence Application for Extension of Time to File Reply to Prosecution’s Response to Preliminary Motions, 24 June 2003, page 2.

<sup>6</sup> These figures are based on a count of the pages and videotapes when redactions appear.

<sup>7</sup> Response, para. 11.

<sup>8</sup> Response, para. 12.

- same five day time frame. For the Prosecution to provide meaningful replies to both Responses, an additional seven days is required to file its reply to the Response.
8. Practical considerations also support an extension of time. The two Responses were filed on 10 September 2007 but not served on the Prosecution in hard copy until after 5:00 pm on 11 September 2007 and fully electronically on 12 September 2007. While the Rules do not require that the material filed with a response be organized into binders with tabs, the first task of any recipient is to organize the material to ascertain what it is and to confirm that it has been delivered in its entirety. This was particularly necessary in view of the fact that the electronic version was not available until 12 September 2007. Accordingly, as a result of the way in which the Responses were delivered, the Prosecution required 1.5 days to organize the some 900 pages of material attached to the Response.
  9. In view of the fact that the trial is not scheduled to start until 7 January 2008 and the new Defence team is currently engaged in its pre-trial preparation work, the requested extension of time will not cause any prejudice to the Accused.
  10. In addition, the Defence team has confirmed to the Prosecution in writing that they do not object to the Reply filing date being extended for five days and therefore do not oppose this motion.

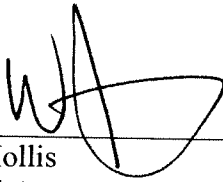
#### IV. CONCLUSION

10. For the reasons stated above, the Prosecution respectfully requests an extension of time until 24 September 2007 to file a reply to the Response.

Filed in The Hague,

14 September 2007

For the Prosecution,

PER:   
Brenda J. Hollis  
Senior Trial Attorney

**LIST OF AUTHORITIES****SCSL cases*****Prosecutor v. Taylor, SCSL-03-01***

*Prosecutor v. Taylor*, SCSL-03-01-T-241, Prosecution's Motion for Admission of Material Pursuant to Rules 89(C) and 92bis, 14 May 2007.

*Prosecutor v. Taylor*, SCSL-03-01-T-337, Defence Response to 'Prosecution's Motion for Admission of Material Pursuant to Rules 89(C) and 92bis', 10 September 2007.

*Prosecutor v. Taylor*, SCSL-03-01-T-338, Defence Response to 'Prosecution's Motion for Judicial Notice', 10 September 2007.

***Prosecutor v. Kallon, SCSL-03-07***

*Prosecutor v. Kallon*, SCSL-03-07-PT-54, Order on the Defence Application for Extension of Time to File Reply to Prosecution's Response to Preliminary Motions, 24 June 2003.