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SCSL-03-01-A  
(2636-2655)

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**THE SPECIAL COURT FOR SIERRA LEONE**

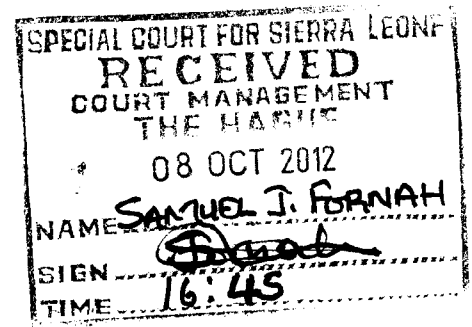
**THE APPEALS CHAMBER**

**Before:** Justice Shireen Avis Fisher, Presiding Judge

**Registrar:** Ms. Binta Mansaray

**Date:** 8 October 2012

**Case No.:** SCSL-2003-01-A



**THE PROSECUTOR**

-v-

**CHARLES GHANKAY TAYLOR**

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**PUBLIC WITH CONFIDENTIAL ANNEX A AND PUBLIC ANNEX B**

**DEFENCE RESPONSE TO PROSECUTION MOTION SEEKING CLARIFICATION OF  
THE PRACTICE DIRECTION ON THE STRUCTURE OF GROUNDS OF APPEAL BEFORE  
THE SPECIAL COURT**

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**Office of the Prosecutor:**

Ms. Brenda J. Hollis  
Ms. Ruth Mary Hackler  
Ms. Ula Nathai-Lutchman

**Counsel for Charles G. Taylor:**

Mr. Morris Anyah  
Mr. Eugene O'Sullivan  
Mr. Christopher Gosnell  
Ms. Kate Gibson  
Ms. Magda Karagiannakis

## I. INTRODUCTION

1. This Defence hereby files this response to the *Prosecution Motion Seeking Clarification of the Practice Direction on the Structure of Grounds of Appeal before the Special Court*.<sup>1</sup>
2. The Motion cites no legal authority as the basis for seeking what amounts to an advisory opinion from the Appeals Chamber, perceives a conflict between two practice directions of the Court where none exists, and ignores the purposes and spirit behind the relevant provisions of the respective practice directions. The Motion should, consequently, be denied.

## II. THE “LEGISLATIVE” HISTORY OF THE PRACTICE DIRECTION ON THE STRUCTURE OF GROUNDS OF APPEAL BEFORE THE SPECIAL COURT

3. An e-mail was sent on 27 June 2011 by “SCSL-Broadcast” to Defence counsel and others within the Court, indicating that attached to it was “the latest version of [*sic*] Practice Direction on Structure of Grounds of Appeals before the Special Court for Sierra Leone.”<sup>2</sup> What was attached to the e-mail was the first (as opposed to “latest”) version of the Practice Direction in question.<sup>3</sup> The distributed document was in Microsoft Word format and had not yet entered into force on the date it was distributed; indeed, above the signature of then Special Court president, Justice Jon M. Kamanda, were the words: “This Practice Direction shall enter into force on 1 July 2011.”<sup>4</sup>
4. Upon receiving the document, and with an awareness then of his prospective role as Lead Appeals Counsel for Mr. Taylor, current Lead Appeals Counsel wrote to two legal officers of the Appeals Chamber<sup>5</sup> on 28 June 2011, copying the Prosecutor, the Principal Defender, and former Lead Defence Trial Counsel, making observations and seeking clarification regarding the First

<sup>1</sup> *Prosecutor v. Taylor*, SCSL-03-01-A-1327, *Prosecution Motion Seeking Clarification of the Practice Direction on the Structure of Grounds of Appeal before the Special Court*, 3 October 2012 (the “Motion”). See, also, *Prosecutor v. Taylor*, SCSL-03-01-A-1330, *Scheduling Order for Response and Reply Regarding the ‘Prosecution Motion Seeking Clarification of the Practice Direction on the Structure of Grounds of Appeal before the Special Court,’* 5 October 2012 (“Scheduling Order”) (ordering the Defence to file any response to the Motion by 8 October 2012).

<sup>2</sup> See, last page of Confidential Annex A, attached hereto.

<sup>3</sup> See Practice Direction on the Structure of Grounds of Appeal before the Special Court, “adopted on” 1 July 2011 (hereinafter, “First version of the Practice Direction on Grounds of Appeal”), annexed hereto as Annex B.

<sup>4</sup> See last page of Annex B.

<sup>5</sup> See Confidential Annex A. It was believed that both legal officers in question worked directly for the Presidency of the Special Court at the time, in addition to any other obligations to the Appeals Chamber, generally.

Version of the Practice Direction on Grounds of Appeal. One of the questions raised in the correspondence to the legal officers was as follows:

Reference is made in paragraphs 20 and 25 of the draft to the 'Practice Direction on Filing Documents before the Special Court, adopted on 27 February 2003, as amended on 16 January 2008.' In the sub-office of the Court in The Hague, we have heretofore followed the 'Practice Direction Dealing with Documents in The Hague-Sub-Office,' adopted on 16 January 2008 and amended on 25 April 2008. The latter was prescribed by the then Registrar, Herman von Hebel. What is the status of the latter Practice Direction in view of the reference in paragraphs 20 and 25 of the current draft to the 27 February 2003 and 16 January 2008 Practice Direction?<sup>6</sup>

5. Paragraphs 20 and 25 of the First Version of the Practice Direction on Grounds of Appeal pertained to the filing of authorities and read, respectively, as follows:

20. In the filing of the Book of Authorities, the parties shall be guided by Article 7 of the Practice Direction on Filing Documents before the Special Court, adopted on 27 February 2003, as amended on 16 January 2008.

25. The parties shall refer to and comply with the Practice Direction on Filing Documents before the Special Court for Sierra Leone, adopted on 27 February 2003, as amended on 16 January 2008, for the general requirements for filing of written submissions, including the filing of authorities.<sup>7</sup>

6. No response was received from the legal officers or anyone else within the Appeals Chamber, in respect of the questions and correspondence the Defence transmitted on 28 June 2011. However, the current version of the Practice Direction on Grounds of Appeal, as amended on 23 May 2012,<sup>8</sup> made changes to what were paragraphs 20 and 25 of the First Version of the Practice Direction on Grounds of Appeal by referring explicitly to the Practice Direction on Dealing with Documents in The Hague in the specific context of the filing of authorities. Paragraphs 20 and 26, respectively, state:

20. In the filing of the Book of Authorities, in respect of any appeal to be decided in The Hague, the parties shall be guided by Article 7 of the Practice Direction on Dealing with Documents in The Hague Sub-Office, adopted on 16 January 2008 as amended on 25 April 2008.

26. The parties shall refer to and comply with the Practice Direction on Filing Documents before the Special Court for Sierra Leone, adopted on 27 February 2003, as

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<sup>6</sup> See Confidential Annex A. See, also, Practice Direction on dealing with Documents in The Hague - Sub-Office, as amended on 25 April 2008 (hereinafter, "Practice Direction on Dealing with Documents in The Hague").

<sup>7</sup> Annex B, paras. 20 and 25.

<sup>8</sup> Practice Direction on the Structure of Grounds of Appeal before the Special Court, adopted on 1 July 2011, amended on 23 May 2012 (hereinafter, "Practice Direction on Grounds of Appeal").

amended on 16 January 2008, and the Practice Direction on dealing with Documents in The Hague Sub-Office, adopted on 16 January 2008 and amended on 25 April 2008, as applicable, for the general requirements for filing of written submissions, including the filing of authorities.<sup>9</sup>

7. These provisions (paragraphs 20 and 26) are two of the three provisions of the Practice Direction on Grounds of Appeal which are the subject of the Motion.<sup>10</sup> The third provision of relevance to the Motion is paragraph 16, which states:

The Book of Authorities shall be numbered consecutively and shall include a table of content describing each document, including the date and reference, a legible copy of the pages of or excerpts from every referenced material including case law, statutory and regulatory provisions from the Special Court, international tribunals and national sources to which the parties actually refer in the parties' submissions or intends to refer in the parties' oral arguments.<sup>11</sup>

8. At the Status Conference held on 18 June 2012, the Defence raised the subject of the Practice Direction on Grounds of Appeal,<sup>12</sup> indicating that an e-mail with certain observations had been sent to the Appeals Chamber last year,<sup>13</sup> and expressing, for purposes of making a record, the regret that consultations with the parties had not taken place before the entry into force of the Practice Direction on Grounds of Appeal.<sup>14</sup>

9. In response to the Defence's lamentation about lack of consultation, the current President of the Court said:

As to consultation, this was raised at a Plenary where the Prosecutor and the Principal Defender were present, expressed views not unlike your own, and it was -- there were responses which were, I believe, taken into consideration. I wasn't President at the time. So there was what we consider to be an effective consultation process. It doesn't mean, though, that we ended up -- the President ended up agreeing with what that consultation suggested.<sup>15</sup>

At several points during the Status Conference, the President sought to ensure that any questions concerning the provisions of the Practice Direction on Grounds of Appeal were raised by the

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<sup>9</sup> Practice Direction on Grounds of Appeal, paras. 20 and 26.

<sup>10</sup> See Motion, para. 4.

<sup>11</sup> Practice Direction on Grounds of Appeal, para. 16.

<sup>12</sup> Transcripts of Proceedings, Status Conference, 18 June 2012, page 49755, lines 28 -29.

<sup>13</sup> Transcripts of Proceedings, Status Conference, 18 June 2012, page 49769, lines 19 - 22.

<sup>14</sup> Transcripts of Proceedings, Status Conference, 18 June 2012, page 49769, lines 14 - 24.

<sup>15</sup> Transcripts of Proceedings, Status Conference, 18 June 2012, page 49770, lines 17 - 24.

parties so they could be addressed by the Court.<sup>16</sup> At the end of the colloquy concerning the Practice Direction on Grounds of Appeal, the President asked, “Anything else regarding the Rules?” and the Prosecutor replied, “No, Your Honour.”<sup>17</sup>

### III. SUBMISSIONS

(i) *The Motion Cites no Legal Authority for Requesting what Amounts to an Advisory Opinion*

10. The Motion should be dismissed because it cites no legal authority for requesting what amounts to an advisory opinion from the Appeals Chamber.

11. The Appeals Chamber is a chamber of limited jurisdiction<sup>18</sup> and there must, consequently, be a legal basis for invoking its jurisdiction, especially in the present circumstances where a party is seeking what amounts to an advisory opinion.

12. Either before a Trial or the Appeals Chamber of the Special Court, a party seeking “clarification” must invoke the jurisdictional basis that empowers the Court to “clarify” its decisions. Thus, in the *Sesay, et al.*, case, the Trial Chamber denied a Defence request for clarification of its Rule 98 decision, stating:

The Chamber wishes to emphasize, in response to the Motion, that there does not exist, within the international adjudicatory framework of the Special Court, jurisdiction empowering the Court, either at the trial or appellate level, to **clarify** (except for clerical errors) its decisions after they have been delivery or published. The Chamber opines that the exceptional review jurisdiction conferred upon the Court with respect to its decisions is certainly not designed to be utilized as a "**clarification mechanism or device**" (emphasis in the original).<sup>19</sup>

It is of little moment that the clarification being sought at bar concerns a Practice Direction and not a decision of the Appeals Chamber; the Prosecution must point to the jurisdictional basis that empowers the Appeals Chamber to provide the “clarification” that it seeks.

<sup>16</sup> See, Transcripts of Proceedings, Status Conference, 18 June 2012, page 49769, lines 4 - 6 (in relation to paragraphs 7, 8, 9, and 10 of the Practice Direction on Grounds of Appeal, the President said, “I’m willing, at this point, if anyone has any questions about that or wants to discuss it further, this is your opportunity”) and page 49769, lines 12 – 13 (in relation to the Practice Direction on Grounds of Appeal as a whole, “I just want to make sure everyone understands it”).

<sup>17</sup> Transcripts of Proceedings, Status Conference, 18 June 2012, page 49771, lines 18 - 20.

<sup>18</sup> See, Article 20, *Statute of the Special Court for Sierra Leone*, annexed to the *Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone*, 16 January 2002 (“Statute”).

<sup>19</sup> *Prosecutor v. Sesay et al.*, SCSL-04-15-T-718, Decision on Defence Request for Clarification on Rule 98 Decision, 2 March 2007, para. 5 (“Sesay Decision”). See also, paras. 6 and 7 of the Sesay Decision.

13. Furthermore, Rule 107 provides that the President retains the discretion to issue Practice Directions addressing aspects of the conduct of proceedings before the Appeals Chamber.<sup>20</sup> The corollary to the rule must mean that the Presidency is the proper forum to whom any purported requests for clarification should be directed. However, the Motion has not been addressed to the Pre-Appeals Judge<sup>21</sup> in her capacity as President of the Special Court; instead, it seeks clarification from the Pre-Appeals Judge, acting on the behalf of the Appeals Chamber, pursuant to Rule 109. Such an understanding is confirmed by the Scheduling Order which contains no references to the President of the Special Court.

14. The Motion should, consequently be dismissed for not being properly before the Appeals Chamber.

(ii) *No Conflict Exists between the Practice Direction on Grounds of Appeal and the Practice Direction on Dealing with Documents in The Hague*

15. The Defence submits that there exists no conflict between the provisions of the Practice Direction on Grounds of Appeal and those of the Practice Direction on Dealing with Documents in The Hague. Perceiving a conflict where none exists is another basis for dismissing of the Motion.<sup>22</sup>

16. The “legislative history” of paragraphs 20 and 26 of the Practice Direction on Grounds of Appeal (as outlined in Section II above), especially the inclusion in both paragraphs of explicit reference to Article 7 of the Practice Direction on Dealing with Documents in The Hague, confirms what the plain meaning of both provisions are: namely, that as concerns the filing of the “Book of Authorities,” the parties shall be guided by Article 7 of the Practice Direction on Dealing with Documents in The Hague.

17. While the entire Practice Direction on Grounds of Appeal is specific to appellate submissions, generally, its provisions import by specific invocation, Article 7 of the Practice Direction on Dealing with Documents in The Hague, in respect to the filing of the “Book of Authorities.” It is clear that, in respect of that particular issue, the parties are to defer to, and rely

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<sup>20</sup> See, *Rules of Procedure and Evidence of the Special Court for Sierra Leone*, as amended on 31 May 2012 (“Rules”), Rule 107.

<sup>21</sup> See Rule 109.

<sup>22</sup> See Motion, paras. 4 -5, suggesting that there is a conflict between paras. 16, on the one hand, and paras. 20 and 26, on the other hand, of the Practice Direction on Grounds of Appeal, insofar as the latter two paragraphs invoke Article 7 of the *Practice Direction on Dealing with Documents in The Hague*.

on (be guided by) the more specific provisions of Article 7 of the Practice Direction on Dealing with Documents in The Hague.<sup>23</sup> Viewed in this way, there exists no conflict between paragraph 16 and paragraphs 20 and 26 of the Practice Direction on Grounds of Appeal.

18. The maxim concerning the principle of specialty, *lex specialis derogate generali*, easily comes to mind at this juncture, with its import being that where “an action is legally regulated both by a general provision and by a specific one, the latter prevails as most appropriate, being more specifically directed towards that action. Particularly in case of discrepancy between the two provisions, it would be logical to assume that the law-making body intended to give pride of place to the provision governing the action more directly and in greater detail.”<sup>24</sup>

19. In the present circumstances, the Defence submits that paragraphs 20 and 26 of the Practice Direction on Grounds of Appeal, and consequently, Article 7 of the Practice Direction on Dealing with Documents in The Hague are the more specific provisions in relation to the Book of Authorities *vis-à-vis* paragraph 16 of the Practice Direction on Grounds of Appeal which is the more general provision that must yield.

20. Such a conclusion is warranted by reflecting on the purposes and spirit behind the general requirement in paragraph 16<sup>25</sup> that the Book of Authorities include excerpts of every referenced material, including Special Court and *ad hoc* tribunals’ case law, and the more specific provisions of Article 7 of the Practice Direction on Dealing with Documents in The Hague, which explicitly exempts the attachment of excerpts of decisional law, etc., from the Special Court and the *ad hoc* tribunals, to filed written submissions, where proper citations and URLs have been provided.<sup>26</sup>

21. These provisions were aimed at striking a proper balance between providing all documents relevant to an appeal to the Appeals Chamber by way of the Book of Authorities and burdening the Appeals Chamber with an over-sized filing with attached excerpts from the organic documents of the Special Court and the *ad hoc* tribunals, as well as their decisional law, despite the ease of obtaining such materials over the Internet.

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<sup>23</sup> See, paras. 20 and 26, Practice Direction on Grounds of Appeal.

<sup>24</sup> *Prosecutor v. Kupreškić et al.*, Case No. IT-95-16-T, Judgement, 14 January 2000, para. 684. Also see *Prosecutor v. Blaskić*, Case No. IT-95-14-T, Decision on Trial Chamber I on the Defence Motion to Dismiss, 3 September 1998, p. 5; *Prosecutor v. Tadić*, Case No. IT-94-1-A, Decision on Appellant’s Motion for the Exclusion of Time-Limit and Admission of Additional Evidence, 15 October 1998, para. 44.

<sup>25</sup> See, para. 16, Practice Direction on Grounds of Appeal.

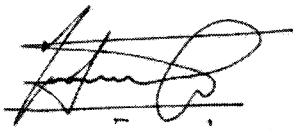


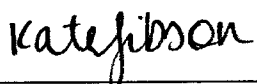
<sup>26</sup> See, Article 7(B), (D) and (E), Practice Direction on Dealing with Documents in The Hague.

22. Indeed, and were the Prosecution's literal reading of paragraph 16 to obtain, the Prosecution would have been required to provide excerpts for each page of the Judgement<sup>27</sup> and Sentencing Judgement<sup>28</sup> that it refers to in its Appellant's Submissions in its Book of Authorities.<sup>29</sup> The Prosecution's Appellant's Submissions was already over-sized at 957 pages (including the Book of Authorities) when filed on 1 October 2012, and the Defence's submission was even more voluminous at 1056 pages,<sup>30</sup> that requiring the parties to add pages of materials referred to from the Special Court and the *ad hoc* tribunals would not necessarily further the purpose, nor be consonant with the spirit, behind the relevant provisions of both Practice Direction on Grounds of Appeal and the Practice Direction on Dealing with Documents in The Hague.

#### IV. CONCLUSION

23. For the foregoing reasons, the Motion should be denied in its entirety.

Respectfully submitted,

			
<b>Morris Anyah</b>	Eugene O'Sullivan	Christopher Gosnell	Kate Gibson
<b>Lead Counsel for</b>	Co-Counsel for	Co-Counsel for	Co-Counsel for
<b>Charles G. Taylor</b>	Charles G. Taylor	Charles G. Taylor	Charles G. Taylor

Dated this 8<sup>th</sup> Day of October 2012, The Hague, The Netherlands

<sup>27</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1283, Judgement, dated 18 May 2012, filed 30 May 2012 ("Judgement"); see, also, *Prosecutor v. Taylor*, SCSL-03-01-T-1284, Corrigendum to Judgement Filed on 18 May 2012, 30 May 2012 ("Judgement Corrigendum").

<sup>28</sup> *Prosecutor v. Taylor*, SCSL-03-01-T-1285, Sentencing Judgement, 30 May 2012 ("Sentencing Judgement").

<sup>29</sup> *Prosecutor v. Taylor*, SCSL-03-01-A-1325, Prosecution's Appellant's Submissions with Confidential Sections D & E of the Book of Authorities, 1 October 2012 ("Appellant's Submissions").

<sup>30</sup> *Prosecutor v. Taylor*, SCSL-03-01-A-1326, Appellant's Submissions of Charles Ghankay Taylor, 1 October 2012 ("Defence Appellant's Submissions").



## List of Authorities

### SCSL

*Rules of Procedure and Evidence of the Special Court for Sierra Leone*, as amended on 31 May 2012.

Practice Direction on the Structure of Grounds of Appeal before the Special Court, as amended on 23 May 2012.

Practice Direction on the Structure of Grounds of Appeal before the Special Court, adopted on 1 July 2011.

Practice Direction on dealing with Documents in the Hague - Sub-Office, as amended on 25 April 2008.

*Statute of the Special Court for Sierra Leone*, annexed to the *Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone*, 16 January 2002.

### *Prosecutor v. Taylor, SCSL-03-01-A*

*Prosecutor v. Taylor, SCSL-03-01-A-1330, Scheduling Order for Response and Reply Regarding the 'Prosecution Motion Seeking Clarification of the Practice Direction on the Structure of Grounds of Appeal before the Special Court,'* 5 October 2012.

*Prosecutor v. Taylor, SCSL-03-01-A-1327, Prosecution Motion Seeking Clarification of the Practice Direction on the Structure of Grounds of Appeal before the Special Court,* 3 October 2012.

### *Prosecutor v. Taylor, SCSL-03-01-T*

*Prosecutor v. Taylor, SCSL-03-01-T-1285, Sentencing Judgement,* 30 May 2012.

*Prosecutor v. Taylor, SCSL-03-01-T-1284, Corrigendum to Judgement Filed on 18 May 2012,* 30 May 2012.

*Prosecutor v. Taylor, SCSL-03-01-T-1283, Judgement, dated 18 May 2012, filed 30 May 2012.*

### *Prosecutor v. Sesay et al., SCSL-04-15*

*Prosecutor v. Sesay et al., SCSL-04-15-T-718, Decision on Defence Request for Clarification on Rule 98 Decision,* 2 March 2007.

**ICTY**

*Prosecutor v. Kupreškić et al.*, Case No. IT-95-16-T, Judgement, 14 January 2000.  
<http://www.icty.org/x/cases/kupreskic/tjug/en/kup-tj000114e.pdf>

*Prosecutor v. Tadić*, Case No. IT-94-1-A, Decision on Appellant's Motion for the Exclusion of Time-Limit and Admission of Additional Evidence, 15 October 1998.  
<http://www.icty.org/x/cases/tadic/acdec/en/81015EV36285.htm>

*Prosecutor v. Blaškić*, Case No. IT-95-14-T, Decision on Trial Chamber I on the Defence Motion to Dismiss, 3 September 1998.  
<http://www.icty.org/x/cases/blaskic/tdec/en/80903DC15077.htm>

# Public Annex B

First Version of the  
Practice Direction on Grounds of Appeal



**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**

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**PRACTICE DIRECTION ON THE STRUCTURE OF GROUNDS OF APPEAL BEFORE  
THE SPECIAL COURT**

**PREAMBLE**

The President of the Special Court for Sierra Leone (“Special Court”);

**CONSIDERING** the Statute of the Special Court (“Statute”) as annexed to the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone, signed on 16 January 2002; and in particular Article 20 of the Statute which provides that the Appeals Chamber shall hear appeals from persons convicted by the Trial Chamber or from the Prosecutor on a procedural error, an error on a question of law invalidating the decision, or an error of fact which has occasioned a miscarriage of justice;

**CONSIDERING** the Rules of Procedure and Evidence of the Special Court (“Rules”); in particular Rules 111, 112 and 113 which deal with the procedure for filing of written submissions by the Parties in appeals from final judgement;

**PURSUANT** to Rule 107 of the Rules and after consultation with the Vice-President;

**HEREBY** issues this Practice Direction in order to establish a procedure for the structuring of grounds of appeal and written submissions in appellate proceedings before the Special Court, and

**STATES** that this Practice Direction shall apply exclusively to appeals from final judgments of a Trial Chamber

## I. FORMAL REQUIREMENTS

### The Appellant's Notice of Appeal

1. A party seeking to appeal from a judgment or sentence of a Trial Chamber ("Appellant") shall file and serve upon the other parties, in accordance with the Statute and the Rules, a written Notice of Appeal containing in the following order:
  - (a) the date of the final judgment or sentencing judgment as well as the case number
  - (b) the specific provision of the Rules pursuant to which the Notice of Appeal is filed;
  - (c) the grounds of appeal, stating clearly in respect of each ground of appeal the substance of the alleged error;
  - (d) an identification of the finding, decision or ruling challenged in the judgment with specific reference to the page and paragraph numbers;
  - (e) an identification of any other order, decision or ruling challenged with specific reference to the date of its filing, and/or transcript page;
  - (f) the precise relief sought
2. Where a procedural error is alleged, such as would affect the fairness of the trial, the Appellant shall state in what manner the error has occasioned a miscarriage of justice.
3. Where an error of law is alleged in a ground of appeal, the Appellant shall state what error has been made in point of law and in what manner the error invalidates the decision.
4. Where an error of fact is alleged, the Appellant shall state in what manner the error of fact has occasioned a miscarriage of justice.
5. Where a misdirection either of law or of fact or of mixed law and fact is alleged in a ground of appeal, the Appellant shall state in what manner the Trial Chamber misdirected itself and where the misdirection occurred in the judgment;

### The Appellant's Submissions

6. After having filed a Notice of Appeal, the Appellant shall file, in accordance with the Statute and the Rules, an Appellant's Submission, containing the following, with the appropriate titles and in the order herein indicated:
  - (a) a table of contents with page references;
  - (b) an introduction containing a statement of the subject matter, the specific provision of the Rules pursuant to which the Appellant Submissions is filed, the date of the impugned Judgment as well as the case number; and the date of any interlocutory filing or decision relevant to the appeal;
  - (c) a statement of the issues presented;
  - (d) the arguments in support of each ground of appeal containing the contentions of the Appellant on the issues presented and the reasons therefore; with precise references to the authorities relied upon;
  - (e) the conclusion and relief sought.
7. The Appellant shall not group disparate arguments, each pertaining to a substantial issue under a single ground of appeal

8. The Appellant shall not group allegations of error or misdirection relating to disparate issues under a single ground of appeal.
9. The Appellant shall not repeat in a disproportionate manner, the same arguments in numerous grounds of appeal.
10. The Appellant shall present a holistic and comprehensive ground of appeal. Division of a ground of appeal into “subs-grounds” is impermissible.
11. The Appellant shall maintain a respectful and decorous tone in his/her submissions

*The Respondent's Submissions*

12. The opposite party (“Respondent”) shall file in accordance with the Statute and the Rules a Respondent’s Submission, containing the following, with the appropriate titles and in the order herein indicated:
  - (a) a table of contents with page references;
  - (b) an introduction containing a statement of the subject matter, the specific provision of the Rules pursuant to which the Respondent’s Submissions is filed and the date of any interlocutory filing or decision relevant to the appeal;
  - (c) a statement on whether or not the ground of appeal is opposed and arguments in support thereof;
13. The statements and arguments must be set out and numbered in the same order as in the Appellant’s Submissions and shall be limited to arguments made in response thereto.

The Respondent shall maintain a respectful and decorous tone in his/her submissions

*Submissions in Reply*

14. An Appellant may file, in accordance with the Statute and the Rules, Submissions in Reply, limited to arguments in reply to the Respondent’s Submissions, set out and numbered in the same order as in previous Submissions.

*The Book of Authorities*

15. The parties’ Submissions shall be accompanied by a “Book of Authorities” setting out clearly all authorities relied upon.
16. The Book of Authorities shall be numbered consecutively and shall include a table of content describing each document, including the date and reference.
17. The Book of Authorities shall include a legible copy of the pages of or excerpts from every referenced material including case law, statutory and regulatory provisions from the Special Court, international tribunals and national sources to which the parties actually refer in the parties’ submissions or intends to refer in the parties’ oral arguments.

18. Authorities not in the official language of the Special Court shall be translated accordingly.
19. A party may object to a translation by filing no later than XXX days from the filing of the Book of Authorities the translation which he/she contends is the correct translation instead of the translation challenged.
20. In the filing of the Book of Authorities, the parties shall be guided by Article 7 of the Practice Direction on Filing Documents before the Special Court, adopted on 27 February 2003, as amended on 16 January 2008.
21. Failure to file the Book of Authorities prescribed above shall not bar the Appeals Chamber from rendering a judgment, a decision or an order as it sees fit in the appeal.

Additional Evidence

22. A party applying to present additional evidence must do so by way of motion, in accordance with the Rules, stating:
  - (a) the specific Rule by which the application is made;
  - (b) a precise list of the evidence sought to be presented;
  - (c) an indication of the specific finding of fact made by the Trial Chamber to which the additional evidence is directed;
  - (d) the reasons and supporting evidence relied on to establish that the proposed additional evidence was not available at trial as required by that Rule
  - (e) the arguments in support of the requirement that the admission of the requested additional evidence should be in the interest of justice
23. The relevant documents and exhibits, where applicable, shall be translated into the working language of the Special Court.
24. Where a party is authorised by the Appeals Chamber to present additional evidence, then the requirements of this Practice Direction apply *mutatis mutandis*.

**II. GENERAL REQUIREMENTS**

25. The parties shall refer to and comply with the Practice Direction on Filing Documents before the Special Court for Sierra Leone, adopted on 27 February 2003, as amended on 16 January 2008, for the general requirements for filing of written submissions, including the filing of authorities.
26. In accordance with the Rules, the time limits prescribed under this Practice Direction shall run from but shall not include, the day upon which the relevant document is filed. Should the last day of a time prescribed fall upon a non-working day of the Special Court it shall be considered as falling on the first working day thereafter.
27. The provisions of this Practice Direction are without prejudice to any orders or decisions that may be made by a designated Pre-Hearing Judge or the Appeals Chamber in particular with regard to the variation of time limits.

### III NON-COMPLIANCE WITH THE REQUIREMENTS

28. Where a party fails to comply with the requirements laid down in this Practice Direction, or where the wording of a filing is unclear or ambiguous, a designated Pre-Hearing Judge or the Appeals Chamber may in its discretion decide upon an appropriate sanction, which can include an order for clarification or re-filing. The Appeals Chamber may also reject a filing or dismiss submissions therein.

This Practice Direction shall enter into force on 1 July 2011.



Justice Jon M. Kamanda  
President, Special Court for Sierra Leone





**SPECIAL COURT FOR SIERRA LEONE**  
DOKTER VAN DER STAMSTRAAT 1 • 2265 BC LEIDSCHENDAM • THE NETHERLANDS

PHONE: +31 70 515 9701 or +31 70 515 (+Ext 9725)

Court Management Section – Court Records

**CONFIDENTIAL DOCUMENT CERTIFICATE**

This certificate replaces the following confidential document which has been filed in the Confidential Case File.

Case Name: **The Prosecutor – v- Charles Ghankay Taylor**  
Case Number: **SCSL-03-01-A**  
Document Index Number: **1332**  
Document Date: **08 October, 2012**  
Filing Date: **08 October, 2012**  
Document Type: **Public with Confidential Annex A and Public Annex B**  
Number of Pages: Number from: **2646-2649**

- Application
- Order
- Indictment
- Response**
- Motion
- Correspondence

Document Title:

**Public with Confidential annex A and Public annex B Defence response to Prosecution motion seeking clarification of the practice direction on the structure of grounds of appeals before the Special Court**

Name of Officer:

Samuel Fornah