



## **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 judgement 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.

A handwritten signature in blue ink, appearing to read "Jon Kamanda", is centered on the page. The signature is fluid and cursive, with a prominent initial "J" and a long, sweeping underline.

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