

Case No. SCSL-2004-14-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
SAM HINGA NORMAN
MOININA FOFANA
ALLIEU KONDEWA

TUESDAY, 25 MAY 2005
9.33 A.M.
STATUS CONFERENCE

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding
For Chambers:	Ms Sharelle Aitchison Ms Roza Salibekova
For the Registry:	Mr Neil Gibson Ms Maureen Edmonds
For the Prosecution:	Mr James C Johnson Mr Kevin Tavener Ms Bianca Suciu
For the Principal Defender:	Ms Elizabeth Nahamya
For the accused Sam Hinga Norman:	Dr Bu-Buakei Jabbi Mr Ibrahim Yillah Mr Kingsley Belle (legal assistant)
For the accused Moinina Fofana:	Mr Arrow Bockarie Mr Victor Koppe Mr Andrew Ianuzzi
For the accused Allieu Kondewa:	Mr Charles Margai Mr Yada Williams Mr Ansu Lansana Mr Martin Michael (legal assistant)

1 [HN250505A-JM]

2 Wednesday, 25 May 2005

3 [Status Conference]

4 [Open session]

09:32:48 5 [The accused not present]

6 [On commencing at 9.33 a.m.]

7 PRESIDING JUDGE: Good morning, all, and welcome to this
8 status conference. I would call first for the appearance of the
9 parties. The Prosecution.

09:34:21 10 MR JOHNSON: For the Prosecution, James Johnson,
11 Kevin Tavener, and Joseph Kamara.

12 PRESIDING JUDGE: Thank you. For the first accused. Open
13 your mic, please.

14 MR JABBI: I almost forgot about how to do it. For the
09:34:41 15 first accused, Dr Bu-Buakei Jabbi, Ibrahim Yillah, and
16 Kingsley Belle.

17 PRESIDING JUDGE: Is Yillah here in Court? Hiding in the
18 back.

19 MR YILLAH: Yes, Your Honour.

09:35:05 20 PRESIDING JUDGE: Sorry. For the second accused Fofana.

21 MR KOPPE: Good morning, Your Honour. Mr Andrew Ianuzzi,
22 Mr Arrow Bockarie, and myself Victor Koppe.

23 PRESIDING JUDGE: Thank you. And for the third accused,
24 Kondewa.

09:35:35 25 MR WILLIAMS: May it please Your Lordship, Yada Williams,
26 Ansu Lansana, and Martin Michael.

27 PRESIDING JUDGE: Thank you.

28 Any particular issue? I note for the record that no
29 accused are present in Court at this particular time. And do I

1 take it that there is nothing to raise about the conditions of
2 detention? Counsel for the first accused.

3 MR JABBI: Thank you, Your Honour. My Lord, I believe that
4 there are some problems about the conditions of detention which
09:36:07 5 still need attention. It is believed we have not been able to,
6 as counsel, to inspect the conditions of detention. But it is
7 really, for example, that there is very limited physical exercise
8 facilities there, especially a gym and the usual facilities in a
9 gym.

09:36:40 10 PRESIDING JUDGE: But wasn't it an issue that was raised
11 before? I thought the question of exercise facility or room or
12 equipment was an issue that was raised -- it may not have been by
13 you, but I thought it had been raised at a previous --

14 MR JABBI: I believe so.

09:36:58 15 PRESIDING JUDGE: Have you or the first accused raised it
16 with the chief of detention and/or the Registrar? Because as you
17 know, this is -- I'm inquiring of problems that may have been
18 solved if they had been raised through the appropriate channel.
19 So the channel is not the Court, per se; it's the chief of
09:37:16 20 detention if there is a problem. If it doesn't resolve in any
21 action to your satisfaction, then it can be brought to the
22 attention of the Registrar. The Court is not essentially running
23 the detention, as you know.

24 MR JABBI: Yes, indeed, My Lord. My Lord, I believe the
09:37:37 25 first accused has raised these issues with the detention
26 officials. But the time lag in resolving some of the issues, and
27 even the likelihood of some of them being resolved at all has not
28 been satisfactory.

29 PRESIDING JUDGE: Very well. Any other matter to -- that's

1 all you wish to raise --

2 MR JABBI: On the detention.

3 PRESIDING JUDGE: On the detention. Yes, that's what we're
4 talking about.

09:38:15 5 Counsel for the second accused, any comment?

6 MR KOPPE: No, thank you.

7 PRESIDING JUDGE: Counsel for the third accused?

8 MR WILLIAMS: We don't have any issues to raise, My Lord.

9 PRESIDING JUDGE: Thank you.

09:38:30 10 I note that the chief of detention is present in the Court.

11 Mr Chief of Detention, do you have any comment to make about what
12 has just been raised? Or you'd rather not.

13 MR WALLACE: The issue of physical exercise has been
14 something which has been ongoing. It is my understanding that
09:38:43 15 there is no intention from the court to build a gymnasium as
16 such. There is some physical exercise equipment currently there,
17 and there's additional exercise equipment on order.

18 All I can say is that one of my international staff is a
19 qualified PTI, remedial sports injury therapist. He has set
09:39:12 20 individual exercise plans for each of the detainees. He is
21 adamant, and I accept his expert advice, that a gymnasium is not
22 required for someone to keep physically fit. The detainees then
23 choose either to follow his advice or not.

24 PRESIDING JUDGE: Thank you, Mr Chief of Detention. I
09:39:33 25 would ask you to look into the issue that was raised more
26 specifically by the first accused. Obviously, this is not an
27 issue raised by the second or third accused. But they may have a
28 specific requirement for him, if Detention may look into that,
29 and then report back. I appreciate your comment and your

1 assistance.

2 MR WALLACE: I will do so.

3 PRESIDING JUDGE: Thank you very much.

4 Have you been given a copy of the agenda or at least the
09:40:09 5 main issue on the agenda this morning? You have none of that.

6 Mr Prosecutor, you seem to be puzzled by my question.
7 Normally, we give at least a copy highlighting the key matters I
8 want to raise this morning.

9 For the next issue on my agenda is directed to the
09:40:44 10 Principal Defender. I know this is -- the Principal Defender
11 is -- the office is represented this morning by the Acting
12 Principal Defender if I'm not mistaken or the Deputy Principal
13 Defender. Good morning.

14 Would you open your mic, please.

09:41:15 15 MS NAHAMYA: Good morning, Your Honour. My name is
16 Elizabeth Nahamya.

17 PRESIDING JUDGE: And you are the acting or the deputy or
18 both?

19 MS NAHAMYA: Well, I'm both now. I'm actually the deputy.
09:41:27 20 But in the absence of the substantive head, I'm the acting.

21 PRESIDING JUDGE: My question to you is an outstanding
22 issue that has been on the agenda now for at least -- this is the
23 third status conference that I have it on the agenda. It has to
24 do with the role of the Principal Defender. The outgoing
09:41:51 25 Principal Defender had promised a document that would
26 explain -- I say a document. In fact, more report on the roles
27 and responsibilities that the Principal Defender performs for the
28 Court and before the Trial Chamber pursuant to Rule 45. So I
29 have been asking for that and waiting for that report, as I say,

1 for some time. But I do appreciate that you've just assumed
2 these functions, and you may not be quite familiar with that.
3 But I would like to hear from you in any event.

4 MS NAHAMYA: Yes, indeed, Your Honour. I'm actually
09:42:31 5 surprised by this at this moment because I just got the agenda.
6 However, I will endeavour to get the report to you, you know, as
7 soon as possible if I know the exact restrictions, what exactly
8 you need, because our mandate is spelled out in Rule 45. But if
9 you need -- if she promised to give you a report, then I might
09:42:59 10 need some more details on that.

11 PRESIDING JUDGE: I had explained that at the previous
12 status conference. I don't have the transcript with me this
13 morning about that. But certainly Mr Yillah was at all of these
14 status conferences and is certainly aware of some of the
09:43:13 15 background. And I suggest he might be of assistance to you in
16 this respect.

17 But if you need further assistance or guidance, you can
18 speak to our legal advisor, and they will certainly seek to help
19 you out in this respect. So it is really to see how Rule 45 is
09:43:29 20 to be applicable in these kind of circumstances and how far, and
21 what role, and so on. So in other words, the applicability of
22 Rule 45 is a process as it is ongoing. So that's essentially
23 what it was all about.

24 MS NAHAMYA: We're obliged, Your Honour.

09:43:47 25 PRESIDING JUDGE: Thank you very much.

26 So in the next item on the agenda is trial preparation and
27 logistics. Pursuant to the Trial Chamber's order of the 18th of
28 April 2005 detailing the judicial calendar for the CDF trial,
29 this fifth trial session is to run from the 25th of May 2005 to

1 the 24th of June 2005. And in this respect, because we are
2 getting to the end of the Prosecution case, at least that's the
3 way it sounds and it feels, and we'll get a little bit more on
4 that when I address the issue with the Prosecution, I would like
09:44:43 5 to raise with the Defence the issue of motion on judgement of
6 acquittal.

7 So I'm raising the issue. It is not necessarily to
8 indicate that it is justified or not. I'm just raising the issue
9 to say to you that if you are intending to raise any such issue
09:45:01 10 and make such a motion, you should get ready by now because we
11 would like to proceed with this if applicable and if required the
12 soonest. So we would like to -- I should also indicate that at
13 the last -- in this respect, at the last plenary session that we
14 had a few weeks ago, there had been some discussion on this
09:45:31 15 matter. And there was a proposal by the Principal Defender's
16 office as to the timeline that should be allowed to do this.

17 One of the proposals by the Principal Defender's office,
18 and I'm saying that just as an indication of some timelines, not
19 that any firm decision was taken on that, but the Principal
09:45:53 20 Defender suggested that a month preparation after the close of
21 the Prosecution's case would be sufficient for the Defence to be
22 able to present any such motion if required.

23 So I would like to see that shorter than a month, but I'm
24 quite prepared to listen to any suggestion, constructive
09:46:21 25 suggestions that the Defence may have at this particular moment.
26 Bearing in mind, obviously, I will talk to the Prosecution after
27 that. But if there is such a motion presented and introduced,
28 this is something that has to be presented by the Defence. So
29 that's why I'm talking to the Defence first.

1 Mr Jabbi.

2 MR JABBI: Thank you, My Lord. My Lord, we are in support
3 of the proposal for a specified timeline to be indicated in
4 respect of Rule 98 in particular. The principal reason is that
09:47:04 5 there is quite an amount of evidence and complexity of issues,
6 and also there is the question of the stayed elements. We don't
7 yet know what decision is going to be taken on those.

8 PRESIDING JUDGE: On what, you say?

9 MR JABBI: The stayed portions of evidence.

09:47:31 10 PRESIDING JUDGE: I really don't follow you on that. But
11 anyhow, carry on. We'll see.

12 MR JABBI: Our point is that ample time would seem to be
13 required after close of Prosecution's case to fully deal with the
14 question of judgement -- of possible judgement of acquittal and
09:47:55 15 any related applications.

16 PRESIDING JUDGE: I take it from your comments that you
17 intend to make such an application.

18 MR JABBI: At this stage, My Lord --

19 PRESIDING JUDGE: At this stage.

09:48:08 20 MR JABBI: -- we have not ruled out that possibility. We
21 have not taken a firm decision on it. But we are considering it
22 very actively.

23 PRESIDING JUDGE: When you say you need -- if I may again
24 press upon you, when you say you will need some time, I agree
09:48:24 25 that the Defence will need some time. But what do you mean by
26 "time"? And that's why I'm raising this issue this morning,
27 because we are still in May, and it's unlikely, at least based on
28 the information I can get from the last witness list produced by
29 the Prosecution, that we are likely to get about the end of June.

1 I mean, that is a rough estimate on my part. But let's say we go
2 to the end of June in the Prosecution's case, so that makes it a
3 month from now to that time. After that time, how much time do
4 you feel might be required in your case if you are to --

09:49:08 5 MR JABBI: My Lord, as you indicated in your opening
6 summary with the suggestion from the Principal Defender's office,
7 we think a month after June 24 would be completely sufficient.

8 PRESIDING JUDGE: Very well. And I would like, before you
9 sit down, Dr Jabbi, to hear you as well, but I'll do the same
09:49:30 10 with your colleagues. But it's just that you are representing
11 the first accused, so you are the first one in the order to be
12 asked these questions. We have not issued yet the firm direction
13 in this respect, and we will in the coming days, and that's why
14 I'm raising these matters with all counsel.

09:49:51 15 It is likely as well that we will ask that the -- a brief
16 be prepared, a written submission. What we're thinking of doing
17 after that, once the brief has been submitted - obviously the
18 Prosecution will have their turn - and then we're planning to
19 have some oral submission, but very focussed. In other words, if
09:50:21 20 you address in your brief all charges and all counts and we feel
21 after reading your brief that you should be heard on one aspect
22 at the oral session, we may just ask you to speak about issue X
23 rather than the whole of it. But that's basically the way we're
24 seeing it at this particular moment.

09:50:43 25 So do you have any comments on that, Dr Jabbi?

26 MR JABBI: My Lord --

27 PRESIDING JUDGE: First about the written briefs.

28 MR JABBI: -- is that in respect of the possible
29 application for a judgement --

1 PRESIDING JUDGE: Of acquittal?

2 MR JABBI: -- of acquittal?

3 PRESIDING JUDGE: Yes.

4 MR JABBI: Yes, My Lord. We will be prepared to provide a
09:51:11 5 brief within the time frame that we are proposing. My Lord, I
6 want to draw attention to one problem in the Norman Defence team.

7 PRESIDING JUDGE: Yes.

8 MR JABBI: We are quite severely constrained in respect of
9 number of counsel dealing with the matters. We were lucky to
09:51:47 10 have Mr Ibrahim Yillah of the Principal Defender's office
11 assigned to us. But quite some other demands are also made upon
12 him, and there are times when we are not able to have his
13 assistance because he's committed in other directions.

14 I really would think that perhaps a further beefing up of
09:52:20 15 the Norman Defence team in terms of counsel would be extremely
16 helpful.

17 PRESIDING JUDGE: At this juncture, I am not in a position
18 to say yes or no. Obviously your demand has to be addressed to
19 the Principal Defender, and the Principal Defender's office will
09:52:39 20 assess your application in due course to see if they can be of
21 any assistance to you. However, I could and should add to what
22 you've just underlined that - and that could form part of your
23 report, Madam Principal Defender - is I was certainly under the
24 impression that once Mr Yillah had been designated and assigned
09:53:04 25 to the team of the first accused, that that was essentially his
26 duty and his functions, as such. I'm not trying here to say how
27 the Principal Defender's office is to be managed, but I thought
28 that because of the particular circumstances that existed and
29 because, by exception, one of your counsel had been assigned

1 specifically to that team, that that was essentially his work.
2 And if he had spare time, then it could be used for some other
3 purposes, but his main function would be dedicated to the first
4 accused.

09:53:38 5 MS NAHAMYA: Yes, Your Honour. I would like to put it on
6 record that actually since Mr Yillah was appointed to the Norman
7 team, whenever the trial is on, he has to work on the case
8 continually, and he's not even duty counsel for Fofana or Kondewa
9 as he was before. I'm very surprised by Dr Jabbi's submission
09:54:00 10 now because every counsel -- every team is allowed to put in
11 their request for extra assistance, and we'll look into it when
12 they bring us the request.

13 PRESIDING JUDGE: I would ask you to please look into this
14 matter to try to provide them with assistance if you assess that
09:54:16 15 they require this assistance at this time. But I hope with this
16 statement, Dr Jabbi, will clarify some of the issue. Clearly
17 what it means is during the trial, obviously Mr Yillah is
18 assigned to your team exclusively, but I took your comments to be
19 in between trials.

09:54:33 20 MR JABBI: Yes, Your Honour.

21 PRESIDING JUDGE: Please discuss this with the Principal
22 Defender --

23 MR JABBI: I will take it up with her, My Lord.

24 PRESIDING JUDGE: We'll see what we can do. Thank you.

09:54:41 25 Mr Koppe.

26 MR KOPPE: Your Honour, we are well underway with preparing
27 our written briefs on the matter. And the period of time of two
28 weeks does not seem unreasonable to us. We are very in favour of
29 a speedy trial. So if it is judged by you at one point that two

1 weeks' time should be sufficient, we have no objection to that at
2 this point.

3 PRESIDING JUDGE: The other issue raised, Mr Koppe, is the
4 format or the forum, as I say. We're moving in the direction of
09:55:25 5 asking Defence counsel to produce a brief stating their position
6 with respect. And again, my comments should not be understood to
7 mean that you shall file such a motion. If you feel that you
8 should file, that's fine.

9 MR KOPPE: No, we have already made the decision that we
09:55:40 10 will file such a motion.

11 PRESIDING JUDGE: That's fine.

12 MR KOPPE: And we actually do prefer to submit a written
13 brief, although it would be helpful to receive guidance on length
14 of such a brief because we have at this stage no idea of how that
09:55:59 15 should be. So that's -- we will seek your guidance on that as
16 well. But two weeks, that's fine.

17 PRESIDING JUDGE: Thank you.

18 Mr Williams.

19 MR WILLIAMS: My Lord, the one-month period suggested by
09:56:18 20 the Principal Defender's office is adequate and reasonable in our
21 opinion.

22 PRESIDING JUDGE: What about two weeks as --

23 MR WILLIAMS: My Lord, no. I don't know where my learned
24 friend -- where he got the two weeks from. No mention was made
09:56:39 25 of two weeks this morning.

26 PRESIDING JUDGE: I think I know where it's from, because
27 he has been associated with ICTY. They don't have two weeks;
28 they have two days.

29 MR WILLIAMS: My Lord, between the close of the

1 Prosecution's case and the next session, we will have three
2 months to play with. We come back in September. If they close
3 in June, it means there is July, August --

4 PRESIDING JUDGE: That's two months.

09:57:01 5 MR WILLIAMS: Two months, My Lord. So I think the 30-day
6 period is more than adequate, My Lord, and is reasonable in the
7 circumstances.

8 PRESIDING JUDGE: Your time estimate of two months
9 is -- that's right. But you have to appreciate that if we give
09:57:22 10 the Defence a month, we have to give some time to the Prosecution
11 to file their response to your brief. And after that, we have to
12 assess and determine and make a decision on those applications.

13 So in order for the Court to do that, we need to have all
14 the information available at some given time. And as I say, we
09:57:41 15 intend to come back in open court for a very short session, maybe
16 a day, to hear some oral arguments on specific matters. So
17 that's the way we are looking at it. And we are concerned with
18 trying to move ahead. So it takes us to some time in September
19 before we have everything in. And that's why we're trying to see
09:58:10 20 how we can move ahead.

21 So that's basically -- I have not made a decision -- we
22 have not made a decision, Mr Williams, as to whether it's two
23 weeks, three weeks, or a month. That's why I'm canvassing this.
24 So your position is a month would be sufficient. But again, as I
09:58:28 25 say, you've heard counsel for the second accused. They say
26 they're already in preparation of their application. So I can
27 only urge you to move ahead and start working on that matter now.
28 If you wait until the end of June, you may run out of time, too.
29 Maybe a month will not be sufficient.

1 MR WILLIAMS: As My Lord pleases.

2 PRESIDING JUDGE: But I'm not telling you how to do your
3 case. I'm just telling you that time will come fast.

4 MR WILLIAMS: As Your Honour pleases.

09:58:56 5 PRESIDING JUDGE: What about the written briefs,
6 Mr Williams? Any objection?

7 MR WILLIAMS: No, My Lord. That is acceptable to us,
8 My Lord.

9 PRESIDING JUDGE: Okay. Thank you very much. Mr Johnson
09:59:09 10 for the Prosecution.

11 MR JOHNSON: Well, Your Honour, first I'd just like to
12 comment on one thing that counsel for the third accused
13 mentioned, was that the expectation that we would be back in
14 session in September. I certainly hope that's the case. But we
09:59:26 15 would urge you to produce a calendar for this fall as quickly as
16 possible so that we could start anticipating what this fall will
17 look like and how the sessions will run this fall.

18 Secondly, as we have indicated before, we certainly have
19 every expectation and hope that we can close the Prosecution case
09:59:45 20 within this session. We believe that we'll be able to do so, and
21 we're certainly working towards that objective. I won't make an
22 absolute commitment to you today, but that looks like we will be
23 able to do that and we anticipate doing that.

24 Given that, the Prosecution would seek obviously as short a
10:00:02 25 time period as possible for motion of acquittal and those
26 submissions to move along. As you yourself has indicated, the
27 other two tribunals have a very short time period leading up to a
28 motion of acquittal. You said two days. I was thinking seven
29 days, but I don't have the Rules in front of me. But I believe

1 they are no more than seven days for the other two tribunals. I
2 believe they are done on oral submissions and oral decision. And
3 the Prosecution would, again --

4 PRESIDING JUDGE: We're likely not to go that route, if
10:00:32 5 this is what you want to argue.

6 MR JOHNSON: Well, certainly, that would certainly be the
7 position that the Prosecution would most support, that again it
8 move along as expeditiously as possible. Again, our preference
9 would be to see oral submissions and oral decision. But if that
10:00:52 10 is not the case, again we would like to see as an abbreviated a
11 procedure as possible.

12 If you're talking 30 days for submissions for Defence and
13 then a reasonable time for submissions for Prosecution, now you
14 may very well be into the August recess, which means that the
10:01:07 15 Prosecution's submissions may not be -- given the recess and a
16 reasonable time for Prosecution submissions after Defence, by the
17 time the recess comes into play, that means Prosecution
18 submissions may not be in until after the recess depending on the
19 amount of time given. So now we're looking at September for an
10:01:27 20 oral hearing of some type, and we're looking at some time after
21 that before a decision comes out. And we're looking then at the
22 Defence case starting some point after that.

23 And so again, all I can really do is reiterate the
24 Prosecution position that we would like to see as short a time as
10:01:50 25 possible so we can get -- if indeed the Prosecution is able to
26 close their case in June - we hope to - that we can get on with
27 this and get on with the Defence case at the earliest possible
28 moment.

29 So absent -- absent -- if you don't go the route of an oral

1 motion and oral arguments and oral decision and we do go the
2 route of written briefs, then again we ask that it be as short as
3 possible, short a time as possible. We would certainly lean
4 towards the two weeks mentioned by the counsel for the second
10:02:32 5 accused and a reasonable time for the Prosecution thereafter to
6 respond.

7 PRESIDING JUDGE: What's a reasonable time for the
8 Prosecution?

9 MR JOHNSON: Maybe possibly one week, Your Honour.

10:02:43 10 PRESIDING JUDGE: If the Defence is given a month, you
11 would be satisfied with a week?

12 MR JOHNSON: If Defence is given a month, I think
13 we're -- not speaking for the -- two weeks, Your Honour.

14 PRESIDING JUDGE: I'm just asking you the question
10:02:58 15 so -- I'm not trying to put you on the spot.

16 MR JOHNSON: No. No, I understand.

17 PRESIDING JUDGE: If a week is sufficient to do, why do you
18 need two weeks?

19 MR JOHNSON: If Defence is given two weeks, we could easily
10:03:08 20 have our submissions in a week. If you're looking at a month for
21 Defence submissions, I mean, we're of course going to try and
22 prepare as much ahead of time as well. We will try and be as
23 prepared as we can for Defence submissions, but I think I would
24 look at two weeks, then, in that event, Your Honour.

10:03:28 25 PRESIDING JUDGE: Just to insert your calendar mathematics,
26 if we go with a month and two weeks, we are before the summer
27 recess.

28 MR JOHNSON: I would have to look at the calendar. I don't
29 know if we're before the summer recess.

1 PRESIDING JUDGE: I think the summer recess is from the
2 12th of August.

3 MR JOHNSON: Certainly, we will be. Yes, Your Honour. But
4 then again, we're looking at the potential for any oral arguments
10:03:56 5 to be after the recess.

6 PRESIDING JUDGE: Maybe. We'll have to see how
7 that's -- thank you very much, and I appreciate your assistance
8 in this.

9 The next issue on the agenda is the witness issue. I know,
10:04:13 10 Mr Prosecutor, you filed a day or so ago, 23 May, a new revised
11 list of Prosecution witnesses. And it would appear by my count
12 that you -- based on that list, on the call list, that you are
13 intending to call 16 more witnesses, not including therein the
14 two expert -- the two additional experts. Am I accurate in my
10:04:49 15 calculation?

16 MR JOHNSON: Yes, Your Honour. That's correct. We have,
17 with the good-cause additions, 18 additional witnesses. We're
18 looking at possibly we may be able to take a few off of that, and
19 we'll know as the session gets underway. But at the most, 18.

10:05:06 20 PRESIDING JUDGE: At the most, 18.

21 MR JOHNSON: Yes, Your Honour. That includes the
22 good-cause additions from yesterday.

23 PRESIDING JUDGE: Yes. Because as I say, my own
24 calculation, based on what you have produced and looking at those
10:05:18 25 that have -- that do not have asterisks as such, it would seem
26 that my count comes to 16. And that 16 includes one expert
27 already, and the two new additions, so that makes it 18.

28 MR JOHNSON: Yes, Your Honour.

29 PRESIDING JUDGE: We have issued the recent decision, that

1 is, on 23 May, the same day you filed your revised list, where
2 the decision was that the evidence sought to be admissible on
3 some aspect has been decided not to be admissible. Will that
4 have an impact on the witness list as well?

10:06:18 5 MR JOHNSON: No, Your Honour, it will not. Because as I
6 believe we indicated in our motion, these witnesses do have other
7 evidence that -- to testify to, and so they will still be called.

8 PRESIDING JUDGE: Thank you.

9 So I would like to ask you again, Mr Johnson, where we are
10:06:53 10 with the expert and the disclosure of reports and so on. I know
11 we're getting very tight in the days required for disclosure as
12 such. But I do understand that you had disclosed now the report
13 of the first expert that you intend to call and the additional
14 two. There was indication yesterday that the reports had been
10:07:17 15 filed. Am I right?

16 MR JOHNSON: Yes, Your Honour. Reports were filed and
17 disclosure made to all three counsel for the accused.

18 PRESIDING JUDGE: And that was done as of yesterday.

19 MR JOHNSON: I'm sorry, Your Honour?

10:07:29 20 PRESIDING JUDGE: It was done as of yesterday?

21 MR JOHNSON: Yes. Yes, Your Honour.

22 PRESIDING JUDGE: On one of these reports, we note that the
23 Prosecution has filed confidentially Annex B to the military
24 expert witness report. And it has been submitted to the Court
10:07:55 25 Management as confidential. I'd like to hear about that; and if
26 it is the intent to file that confidentially, you should be
27 prepared to justify with reasons as to why it should be
28 confidential.

29 MR JOHNSON: Yes, Your Honour. I believe it was parts C

1 and D, not B, Your Honour, that were filed --

2 PRESIDING JUDGE: I thought it was Annex B. But whatever.
3 If there has been a part that has been filed, whether it's B or
4 D, my question is why is it that you have to file a portion of
10:08:37 5 that report confidentially and what justification, if any, do you
6 have? Because as you know, we have issued a direction in the
7 past that before a document is to be filed and could be accepted
8 as being confidential, there must be specified reasons and
9 justification for it. So that's really my issue.

10:08:52 10 MR JOHNSON: Yes, Your Honour. I understand. Yes,
11 Your Honour, we did file two parts of the military expert's
12 reports confidentially. We did that because there are references
13 in those two parts to other witnesses who have testified before
14 this Tribunal and references in those parts that could identify
10:09:11 15 other witnesses that have testified before this Tribunal. And so
16 we filed those two parts confidentially to avoid identification
17 of those witnesses who are otherwise protected by our protection
18 order.

19 PRESIDING JUDGE: I'll ask you to put that in writing and
10:09:31 20 file that with Court Management as well so we know on file that's
21 the reason why it was filed confidentially.

22 MR JOHNSON: Certainly, Your Honour.

23 PRESIDING JUDGE: Thank you.

24 There is one additional witness that is likely to come in
10:09:48 25 this session. This is the Prosecution investigator, Mr Gbekie.
26 We had ordered that this investigator be called at some given
27 time. We have heard some other investigators, but there's still
28 that investigator remaining. Is there any indication as to when
29 the OTP is to make this witness available?

1 MR JOHNSON: My intention is just to coordinate with the
2 three Defence counsel and arrange for that witness to come in.
3 Of course, his schedule is very busy with the position he
4 maintains with the Sierra Leone Police Force. So I'm going to
10:10:33 5 coordinate with Defence so that we bring him in at the start of
6 one day and just work him in at the start of a day and get him
7 in -- hopefully next week. I want to get it done.

8 PRESIDING JUDGE: That's fine. I just want to make sure
9 that we take the necessary steps so we don't get caught at the
10:10:47 10 end with this witness sort of outstanding.

11 MR JOHNSON: No, Your Honour. We want to get it done as
12 quickly as possible.

13 PRESIDING JUDGE: Thank you.

14 MR JOHNSON: Perhaps, Your Honour, we've moved off of
10:10:58 15 experts and I would like to move back to that if I could for just
16 a minute.

17 Your order told us to call these two in the last week of
18 the session. We had hoped and anticipated to call these two --
19 it would be the second-to-the-last week, the week of the 13th. I
10:11:14 20 think that's what we indicated in our request to you last week to
21 make disclosure and file the reports. These witnesses have very
22 busy schedules. The week of the 13th is the week that they can
23 come. They both have commitments the next week. Saleem from
24 Witness Protection has been working very hard on their travel
10:11:35 25 arrangements and that, of course, too, just putting together the
26 travel arrangements for them from where they're coming from is
27 very difficult. And he has been working towards the week of the
28 13th.

29 I just request that we be allowed to call them the week of

1 the 13th instead of the week of the 20th. I'm not sure that --
2 we can go back to them again. They've already indicated to us
3 that they can't come that week, that they have to be back on that
4 week. And we can certainly go back to them and ask them again,
10:12:02 5 but I'm afraid the answer may very well be the same.

6 PRESIDING JUDGE: Thank you. I will look into this. I
7 cannot give you an answer now. So I'll have to look at the file
8 and see what it is. I do recall that you had indicated somewhere
9 in that documentation the week of the 13th. But I can only say I
10:12:21 10 don't know at this time. We'll take your comments in due
11 consideration.

12 MR JOHNSON: Okay. I only ask that we address this issue
13 as quickly as possible because again, travel reservations,
14 et cetera, are difficult. Thank you, Your Honour.

10:12:36 15 PRESIDING JUDGE: Thank you.

16 Another issue on my agenda is the issue of child witness.
17 On the 14th of April the Chamber issued an order on disclosure
18 and characterisation of the age of Witness TF2-080 whereby we
19 ordered the Prosecution to disclose immediately to all Defence
10:13:10 20 teams the statements and briefing notes relating to that witness
21 that were in their possession and any information they may have
22 in relation to the age of the witness in question.

23 Have you done so, and what have you disclosed? And if you
24 have not disclosed, when do you intend to disclose?

10:13:26 25 MR JOHNSON: We have disclosed all the statements and
26 everything that we have for that witness. We have made
27 disclosure on that. And on the -- and we filed, I believe it was
28 on the 2nd of May, two different reports from independent
29 individuals trying to ascertain the age of that child.

1 PRESIDING JUDGE: Which is the second part of the order --

2 MR JOHNSON: Yes, Your Honour.

3 PRESIDING JUDGE: Okay. And when does the Prosecution
4 intend to call that witness? I haven't checked to see if it is
10:14:06 5 on the witness list. I presume so.

6 MR JOHNSON: Yes, Your Honour. I believe that is the 12th
7 witness of the session.

8 PRESIDING JUDGE: So this is number 12 of the session.

9 MR JOHNSON: Of the session. Witness Number 73 on the
10:14:25 10 witness order that we filed. I think that works out to be the
11 12th witness of the session.

12 PRESIDING JUDGE: So you have disclosed the witness order
13 of calling to the Defence already?

14 MR JOHNSON: Well, we filed the witness order, Your Honour.
10:14:46 15 I assume that it came to Defence by way of normal Court
16 Management filings, yes, Your Honour.

17 PRESIDING JUDGE: Very well. Thank you.

18 We're now looking at the pending motions and decisions. As
19 you may have appreciated in the last few days, we have issued
10:16:01 20 decisions that we hope will allow the process to move ahead. And
21 we have indicated in some cases that a reasoned decision will
22 follow, but the main and key decisions have been issued. So
23 there's not -- the one on the admissibility of evidence was
24 issued, as I say. And the Prosecution request for leave to call
10:16:27 25 additional witnesses and orders for protective measures has also
26 been issued on the 24th of May granting leave to the Prosecution
27 to have the military expert and expert, child-witness soldiers,
28 to the revised witness list. And in that scenario, again, we
29 stated that we will follow with a reasoned decision.

1 There will remain a few motions pending, but we shall be
2 dealing with those shortly. But the pending motions will not
3 affect the preparation in this particular session as I can see.

4 So Mr Defence counsel, we have issued and filed, again, I
10:17:20 5 think - I'll have to check with Court Management and the legal
6 advisor - if the consequential order has been filed this morning.
7 I think it has. This is the consequential order to the decision
8 of the Appeals Chamber about the amendment to the indictment for
9 the first accused. So that was filed this morning. And I'm told
10:17:50 10 that has not been served yet. But it should be available to
11 counsel in the next -- right after this session is over.

12 So, Mr Defence counsel for the first accused, any other
13 matter you wish to raise at this particular moment?

14 MR JABBI: My Lord, there was a motion by the Prosecution
10:18:18 15 against the first accused for contempt.

16 PRESIDING JUDGE: Yes, still pending.

17 MR JABBI: Which was fully responded to.

18 PRESIDING JUDGE: It is still pending.

19 MR JABBI: Thank you, My Lord.

10:18:32 20 PRESIDING JUDGE: No, no. We have not forgotten. It is
21 still there. And yes, it has been responded to, and it is for
22 the Chamber to act upon it.

23 MR JABBI: Thank you, My Lord.

24 PRESIDING JUDGE: Mr Koppe, any other comment? No.
10:18:46 25 Mr Williams?

26 MR WILLIAMS: None, My Lord.

27 PRESIDING JUDGE: Mr Johnson?

28 MR JOHNSON: Yes, Your Honour, just one other issue on
29 witnesses. On the witness order that we filed, also on that

1 witness order, there are two witnesses that are also coming in
2 from out of country. Those would be Witnesses Number 72 and
3 Witness Number 76, William Haglund, the other expert. We will
4 coordinate with Defence on the dates that they're coming in, and
10:19:17 5 we're just asking that with the Court's indulgence that we tried
6 to estimate where they will fall into the witness order, where
7 they would be when -- where we would be when they arrived in
8 country.

9 But what we're requesting is that regardless of the witness
10:19:31 10 order we published, they will be here on certain dates. So we
11 would like to insert them into the witness order on the dates, of
12 course, that they are in country, because again their schedules
13 are tight, too. We will, of course, coordinate with the Defence
14 and let them know the exact dates that they will be in country so
10:19:47 15 that we can insert them into the witness order at that time
16 because it may fall outside of the order we published. We tried
17 to get it as close as we could estimate.

18 PRESIDING JUDGE: Well, I can only say and encourage you to
19 speak to your colleagues on the Defence Bench and tell them with
10:20:04 20 as much notice ahead of time what's happening so they are not
21 taken by surprise in any way, shape, or form, even though you may
22 have disclosed the reports. Still it is important for them for
23 their own preparation that they have -- that they are being given
24 as much notice as possible of the day. I mean, you will know as
10:20:23 25 the trial moves ahead how it is fitting with what you're
26 expecting at this time. So I cannot tell you more than that.

27 MR JOHNSON: Absolutely, Your Honour. We'll know probably
28 their flight details within the next day or so, so we'll pass
29 that along to Defence and work out a day so that everyone knows.

1 PRESIDING JUDGE: Mr Johnson, just one clarification for my
2 own sake. Are you saying that Haglund is Number 76, and this is
3 the list of order of the call of witnesses. But the list you
4 filed with the Court on Monday, on 23 May, with the call list,
10:21:02 5 the same witness appears as Number 77. So I just want to make
6 sure that we're using the same list to talk of the same
7 witnesses.

8 MR JOHNSON: Thank you, Your Honour. We'll look at that
9 and make any corrections. We'll look at that, but the list that
10:21:25 10 you have, that list that we filed on Monday is -- the witnesses
11 are listed in sequential order by their pseudonym, whereas the
12 list that we filed with the witness order that we filed for the
13 Court is listed as the order they testify. So that may be the
14 distinction there or the confusion.

10:21:43 15 PRESIDING JUDGE: Okay. So the list, and we're
16 talking -- we're not talking the list that you filed on Monday.
17 The one dealing with the sequence of witnesses to be called.

18 MR JOHNSON: The list with the sequence of the witnesses
19 was filed two weeks ago or so, Your Honour.

10:21:57 20 PRESIDING JUDGE: Okay. Thank you very much.

21 Any other matter that, the first accused, you wish to
22 raise? No. Mr Koppe? No. Mr Williams? No. Thank you.

23 Prosecution?

24 MR JOHNSON: Nothing, Your Honour.

10:22:13 25 PRESIDING JUDGE: So that concludes the status conference
26 of this morning. And we shall be back in court tomorrow morning
27 at 9.30.

28 MR YILLAH: May it please Your Honour.

29 PRESIDING JUDGE: Yes.

1 MR YILLAH: I apologise for getting up late. My Lord,
2 Your Honour spoke about preparing briefs, but I was just
3 wondering whether in your direction that you will be giving
4 regarding the length of time required you would also be giving
10:22:37 5 directions regarding the length -- the length of the brief.

6 PRESIDING JUDGE: That's what Mr Koppe has raised, and I
7 said we will be addressing that. Obviously, we want that as
8 concise as possible. But we will give some directions as to what
9 is to be done.

10:22:52 10 MR YILLAH: As My Lord pleases.

11 PRESIDING JUDGE: I thank you very much. Court is
12 adjourned.

13 [Whereupon the Status Conference adjourned at
14 10.23 a.m.]

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