

Case No. SCSL-2004-15-T  
THE PROSECUTOR OF  
THE SPECIAL COURT  
V.  
ISSA SESAY  
MORRIS KALLON  
AUGUSTINE GBAO

THURSDAY, 20 JULY 2006  
9.50 A.M.  
TRIAL

TRIAL CHAMBER I

Before the Judges:	Bankole Thompson, Presiding Pierre Boutet Benjamin Mutanga Itoe
For Chambers:	Ms Candice Welsch Mr Matteo Crippa
For the Registry:	Mr George Thomas
For the Prosecution:	Mr Peter Harrison Mr Alain Werner Ms Shyamala Alagendra
For the Principal Defender:	Ms Haddijatou Kah-Jallow Mr Mohamed Haidara (intern)
For the accused Issa Sesay:	Mr Wayne Jordash Ms Sareta Ashraph Ms Chantal Refahi Mr Jared Kneitel
For the accused Morris Kallon:	Mr Shekou Touray Mr Melron Nicol-Wilson Ms Sabrina Mahtani
For the accused Augustine Gbao:	Mr Andreas O'Shea Mr John Cammegh

1 [20JUL06A - MD]

2 Thursday, 20 July 2006

3 [The accused present]

4 [Open session]

09:44:20 5 [Upon commencing at 9.50 a.m.]

6 PRESIDING JUDGE: Learned counsel, good morning. Before we  
7 proceed with the substantive business of the day, we would like  
8 to read a considered statement of the Bench of this Chamber, in  
9 response to Defence submissions on statement of the  
09:44:57 10 Secretary-General of the United Nations during his visit to this  
11 country.

12 On 5 July 2006, when we resumed sitting, during the morning  
13 session, Mr Wayne Jordash, learned counsel for the first accused  
14 Issa Sesay indicated that he had been delegated by all counsel  
09:45:25 15 for the Defence teams in the RUF case to protest and to move this  
16 Chamber to issue a statement about a speech delivered by H E,  
17 Mr Kofi Annan, Secretary-General of the United Nations, during a  
18 briefing held while visiting the Special Court complex on 3 July  
19 2006.

09:45:52 20 The grievance on which Mr Jordash grounded his submission  
21 is that Mr Kofi Annan, by referring to the accused persons on  
22 that occasion, as criminals who have done lots of damage to this  
23 country and terrorised the population, has contravened the rights  
24 of the accused persons under Article 17 of the statute.

09:46:22 25 On the substance of Mr Jordash's submission that this Trial  
26 Chamber distances itself by a Chamber statement from H E Kofi  
27 Annan's comments so that it might prevent the Chamber from  
28 further damage to its standing in the international community as  
29 a result of the said comments we issue the statement for the



1 record.

2 It is the considered opinion of the Chamber that the role  
3 of the Secretary-General of the United Nations is that of chief  
4 executive of that organisation. The Chamber recognises that in  
09:47:05 5 that capacity the Secretary-General has the authority to make  
6 political statements.

7 What he says politically cannot properly be the subject of  
8 comment by Judges of the international judiciary.

9 However, what is absolutely clear, is that the Judges of  
09:47:27 10 the international judiciary are not bound by political statements  
11 made by the chief executive of the United Nations or by member  
12 States of the United Nations.

13 In the specific context of the Special Court for Sierra  
14 Leone, an international criminal tribunal, Articles 12.1 and 13.1  
09:47:51 15 of the statute of the Court envisage a clear separation of powers  
16 between the executive organ of the United Nations as an agent of  
17 the international community and the Special Court as a judicial  
18 organ vested with jurisdiction to try international crimes.

19 Article 12.1 provides that and I quote: "The Chambers  
09:48:18 20 shall be composed of not less than eight or more than 11 Judges,  
21 independent Judges." Article 13.1 secures and guarantees the  
22 independence of the Judges in these terms. "The Judges shall be  
23 persons of high moral character, impartiality and integrity who  
24 possess the qualifications required in their respective countries  
09:48:46 25 for appointment to the highest judicial offices. They shall be  
26 independent in the performance of their functions and shall not  
27 accept or seek instructions from any government or any other  
28 source."

29 In the light of the foregoing observations this Chamber



1 wishes to emphasise that it is not bound by political statements  
2 in the execution of its judicial mandate. Emanating from any  
3 source whatever concerning the alleged guilt or innocence of  
4 persons charged with crimes before the Special Court.

09:49:27 5 Furthermore, this Chamber wishes to state that it has not  
6 accepted nor received or sought instructions from any government  
7 or any other source including the United Nations on the two  
8 trials it is handling.

9 As an addendum to this statement Honourable justice  
09:49:52 10 Benjamin Mutanga Itoe, in addition to adhering to the content of  
11 this Chamber statement, expresses the view that the following  
12 paragraph should also form part of this statement issued by Trial  
13 chamber I and I quote: "Learned counsel Mr Jordash also alluded  
14 to comments which he characterised as being deeply offensive in  
09:50:19 15 that the Secretary-General is alleged to have referred to Charles  
16 Taylor in that speech as a powerful war lord. In this regard  
17 Honourable Justice Itoe we would like to observe that learned  
18 counsel, Mr Jordash, has no locus standi to raise issues relating  
19 to Charles Taylor trial in this Chamber because neither himself  
09:50:45 20 nor his colleagues who have mandated him have the right to  
21 represent Mr Taylor. Nor is this Chamber seized of the Taylor  
22 trial."

23 Honourable Justice Bangali Thompson and Honourable Justice  
24 Pierre Boutet, do not address this issue.

09:51:09 25 Prosecution, let's proceed with the business of the day.

26 MR HARRISON: We were going to call TF1-371. I thought  
27 Mr Cammegh might like to make a comment before the witness came  
28 in. We are content to do it with the witness here. I will leave  
29 it to Mr Cammegh to indicate his preference.



1           PRESIDING JUDGE: Mr Cammegh.

2           MR CAMMEGH: I am grateful Your Honour. TF1-371, is as we  
3 know the last witness for the Prosecution in this case and not  
4 without reason.

09:51:46 5           PRESIDING JUDGE: When you say "we," do you speak for  
6 yourselves because we don't, we are not here to pry, so when you  
7 say "we know", are you saying collectively or the Defence team.

8           MR CAMMEGH: I think the Court understands.

9           JUDGE BOUTET: There is another witness.

09:52:03 10          PRESIDING JUDGE: I am not sure about that that's why I say  
11 if you are saying we the Defence that is fine. Proceed anyway.

12          JUDGE BOUTET: Mr Cammegh, there is another expert witness  
13 coming next week.

14          MR CAMMEGH: Yes. The final witness to finish in this room  
09:52:16 15 will be TF1-371. As I think the Court was aware, he will finish  
16 in cross-examination.

17          PRESIDING JUDGE: No, I am not sure about that, let's not  
18 argue.

19          MR CAMMEGH: It's a trite point.

09:52:31 20          PRESIDING JUDGE: Move on.

21          MR CAMMEGH: The major point is this. It's not without  
22 reason that TF1-371 has been left 'til last because the ambit of  
23 his evidence encompasses the whole case involving the RUF.  
24 [Redacted], 371 is the only witness.

09:52:48 25          JUDGE BOUTET: Mr Cammegh, I think we are not in closed  
26 session.

27          MR CAMMEGH: Are we not.

28          PRESIDING JUDGE: No, not at all. We are in a public  
29 session.





1 JUDGE BOUTET: I just urge you and ask that this name be  
2 deleted from the record because we have not moved into closed  
3 session yet.

4 PRESIDING JUDGE: So perhaps we should straightaway have  
09:53:08 5 the technology adjusted to move into closed section since the  
6 witness, according to our decision, will be testifying in closed  
7 session. It would be appropriate for you to make these comments  
8 in case you want to delve further into the evidence as disclosed  
9 to you.

09:53:30 10 MR CAMMEGH: It's probably wise because I'm going to  
11 describe 371 in the course of these comments. He maybe  
12 identified, perhaps it's right we move now to closed session.

13 PRESIDING JUDGE: Courtroom officer, please advise that we  
14 revert to closed session.

15 [At this point in the proceedings, a portion of the  
16 transcript, pages 17 to 82, was extracted and sealed under  
17 separate cover, as the session was heard in camera.]

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WITNESSES FOR THE PROSECUTION:

WITNESS: TF1- 371 7

EXAMINED BY MR HARRISON 7