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SCSL-2004-14-PT  
(6824-6826)

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**THE TRIAL CHAMBER**

Before: Judge Bankole Thompson, Presiding Judge  
Judge Benjamin Mutanga Itoe  
Judge Pierre Boutet  
Registrar: Mr. Robin Vincent  
Date: 25 May 2004

**THE PROSECUTOR**

**Against**

**SAM HINGA NORMAN  
MOININA FOFANA  
ALLIEU KONDEWA**

**CASE NO. SCSL-2004-14-PT**

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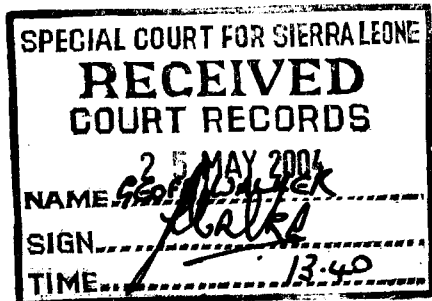
**MOININA FOFANA  
REQUEST FOR EXTENSION OF TIME TO FILE PRE-TRIAL BRIEF**

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Office of the Prosecutor:  
Mr. Luc Côté, Chief of Prosecutions  
Mr. James Johnson  
Mr. Charles Caruso

Defence Office:  
Mr. Ibrahim Yillah

Defence Counsel:  
Mr. Michiel Pestman  
Mr. Victor Koppe  
Mr. Arrow John Bockarie



1. By Order of 22 March 2004 the Trial Chamber ordered the Defence for Mr. Moinina Fofana to file a pre-trial brief two weeks before the beginning of the trial<sup>1</sup>. The Defence for Mr. Fofana hereby requests an extension of time in which to file its pre-trial brief until two weeks before the opening of the Defence case.
2. The Defence is unable to file its pre-trial brief at the present time as the case against Mr. Fofana has yet to be made clear:
  - (i) There is no definitive indictment. A decision on the Prosecutor's Motion to amend the indictment, filed on 9 February 2004, is awaited from the Trial Chamber<sup>2</sup>.
  - (ii) The jurisdictional basis of the case has yet to be confirmed. Six motions challenging the jurisdiction of the court are pending before the Appeals Chamber<sup>3</sup>, in addition to a motion to recuse one of the Appeals Chamber judges<sup>4</sup>.
  - (iii) The details of the Prosecution case are unclear due to the heavy redaction of all but twelve of the Prosecution witness statements disclosed so far. A decision on this issue as well as on other protective measures is awaited from the Trial Chamber<sup>5</sup>.
3. These issues need to be resolved before the Defence can file its pre-trial brief. Any brief filed before these issues are resolved would have to be of so general a nature as to be of little help to the Trial Chamber.

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<sup>1</sup> Trial Chamber, Order for the Filing of Defence Pre-Trial Briefs, 22 March 2004.

<sup>2</sup> Prosecution, Request for Leave to Amend the Indictment against Samuel Hinga Norman, Allieu Kondewa and Moinina Fofana, 9 February 2004; in addition, if an amendment to the indictment is allowed, the Defence will have the opportunity to file preliminary motions against the new charges (Rule 50 (B) (iii)).

<sup>3</sup> Mr. Hinga Norman, Mr. Fofana, intervening, Preliminary Motion based on Lack of Jurisdiction (Child Recruitment), 26 June 2003; Mr. Fofana, Preliminary Defence Motion on Lack of Jurisdiction: Illegal Delegation of Powers by the United Nations, 14 November 2003; Mr. Fofana, Preliminary Defence Motion on Lack of Jurisdiction: Illegal Delegation of Jurisdiction by Sierra Leone, 14 November 2003; Mr. Fofana, Preliminary Defence Motion on Lack of Jurisdiction: Nature of the Armed Conflict, 14 November 2003; Mr. Kondewa, Defence Motion based on Lack of Jurisdiction: Establishment of Special Court Violates Constitution of Sierra Leone, 7 November 2003; Mr. Kondewa, Defence Motion based on Lack of Jurisdiction/Abuse of Process: Amnesty Provided by the Lomé Accord, 7 November 2003.

<sup>4</sup> Mr. Hinga Norman & Mr. Fofana, Motion to Recuse Judge Winter from Deliberating in the Preliminary Motion on the Recruitment of Soldiers, 24 March 2004.

<sup>5</sup> Prosecution, Motion for Modification of Protective Measures for Witnesses, 4 May 2004.

4. The Defence submits that the most logical moment for submission of a pre-trial brief after the start of the trial is before the commencement of its own case but after the close of the case for the Prosecution. This is the moment foreseen in the Rules for the Defence to file details of its case (Rule 73 *ter*).
5. The Defence therefore asks for an extension of time in which to file its pre-trial brief until two weeks before the opening of the Defence case.

COUNSEL FOR THE ACCUSED

  
Mr. Michiel Pestman