



Case No. SCSL-2003-01-A

THE PROSECUTOR OF
THE SPECIAL COURT
V.
CHARLES GHANKAY TAYLOR

Monday, 18 June 2012
10.30 a.m
STATUS CONFERENCE

APPEALS CHAMBER

Before the Judges:

Justice Shireen Fisher, Presiding

For Chambers:

Mr Kamran Choudhry
Ms Melissa Ruggiero
Ms Jesenka Residovic
Ms Caroline Stone
Ms Hannah Tonkin

For the Registry:

Ms Fidelma Donlon
Ms Zainab Fofanah
Ms Rachel Irura

For the Prosecution:

Ms Brenda J Hollis
Mr Nicholas Koumjian
Mr Mohamed A Bangura
Ms Ula Nathai-Lutchman

**For the accused Charles Ghankay
Taylor:**

Mr Morris Anyah
Mr Christopher Gosnell
Ms Kate Gibson
Mr Michael Herz
Ms Alexandra Popov
Ms Szilvia Csevar
Mr Issac Ip
Ms Yael Vias Gvirsman
Ms Carly Lenhoff
Mr James Tamba Kamara

1 Monday, 18 June 2012

2 [Status Conference]

3 [Open Session]

4 [Accused Present]

10:31:58 5 JUSTICE FISHER: Please be seated.

6 THE REGISTRAR: The Special Court for Sierra Leone is
7 sitting in an open session for a Status Conference in the case of
8 the Prosecutor versus Charles Ghankay Taylor.
9 President Justice Shireen Fisher presiding.

10:32:15 10 JUSTICE FISHER: Good morning. I'm Justice Fischer. I am
11 the Judge that has been designated by the Appeal Panel to hear
12 the motion for extension of time in this matter, and for your
13 further information, I will be your Pre-Hearing, Pre-Appeal Judge
14 once Notices of Appeal have been filed.

10:33:24 15 I'll take appearances now.

16 MS HOLLIS: Good morning, Your Honour. For the Prosecution
17 this morning, Brenda J. Hollis, Nicholas Koumjian, Mohamed A.
18 Bangura, and Ula Nathai-Lutchman.

19 JUSTICE FISHER: Thank you very much.

10:33:24 20 MR ANYAH: Good morning, Madam President.

21 JUSTICE FISHER: Good morning.

22 MR ANYAH: Good morning, counsel for the Prosecution.

23 Appearing for the Defence this morning myself,

24 Morris Anyah. To my immediate left is co-counsel

10:33:24 25 Mr Christopher Gosnell. To the left of Mr Gosnell is co-counsel
26 Ms Kate Gibson. Behind us are our legal assistants, Mr Michael
27 Herz, Ms Alexandra Popov, Ms Szilvia Csevar, Mr Isaac Ip, and
28 Ms Yael Vias Gvirsman. We're joined by an intern from Brandeis
29 University in Waltham, Massachusetts, Ms Carly Lenhoff. Last but

1 not least is the our team administrator, Mr James Kamara.

2 JUSTICE FISHER: Good morning, Mr Taylor. You may remain
3 seated.

4 Mr Taylor, I have read the letter that you sent to the
10:34:01 5 Principal Defender requesting this Mr Anyah represent you during
6 the appeal stage. Are you happy with his appointment and with
7 the team that he has put together?

8 THE APPELLANT: Yes, I am, Your Honour.

9 JUSTICE FISHER: You main remain seated, Mr Taylor, that's
10:34:23 10 fine. Have you had an opportunity to confer with him about any
11 possible appeals that might be filed on your behalf?

12 THE APPELLANT: Yes, I have, Your Honour.

13 JUSTICE FISHER: And have you also had an opportunity to
14 communicate with your lawyers regarding any problems that you may
10:35:19 15 be having in detention?

16 THE APPELLANT: Preliminarily, yes. Not in total, but to
17 an extent, yeah. I will be following up, because there are some
18 additional issues.

19 JUSTICE FISHER: Okay. And you will take those up with
10:35:19 20 your counsel?

21 THE APPELLANT: That is correct.

22 JUSTICE FISHER: Okay. And are you satisfied so far with
23 the advice and the help that they've been giving you?

24 THE APPELLANT: Most definitely.

10:35:19 25 JUSTICE FISHER: Thank you, Mr Taylor.

26 Okay, we're here on a couple of matters, this being a
27 status conference. The matter that actually gives me
28 jurisdiction under 116 is the motion that has been filed by the
29 Defence for an extension of time to file the Notice of Appeal.

1 Now, Mr Anyah, I have, of course, read your motion. Did
2 you want to add anything by way of further submission?

3 MR ANYAH: Just a few remarks, Madam President. We met
4 with the Prosecution this morning before court. We also met with
10:35:34 5 the Prosecution on the 1st of June. There is consensus between
6 the parties about the necessity for an extension. That is not in
7 dispute. I'm referring now to the Notice of Appeal.

8 The issue that divides us is how much time should be
9 granted as -- I mean, Your Honour finds that good cause does
10:35:56 10 indeed exist. We have proposed, as you know from the motion,
11 five additional weeks. That takes us to the 19th of July. The
12 Prosecution agrees to the extent of three additional weeks, to
13 the 5th of July.

14 Now, what I would add additionally for your consideration,
10:36:14 15 and I don't think this is reflected in our motion, the next
16 largest judgement by the Special Court for Sierra Leone is the
17 RUF judgement and it was 834 pages long. Our judgement is three
18 times the length of that judgement. And it the not just the
19 length of the judgement. We have to focus also on the complexity
10:37:24 20 of the issues.

21 This case for one accused has a judgement that is 2.539
22 pages. The longest judgement before the ICTY,
23 Prosecutor v. Sainovic, also known as Milutinovic at the time it
24 was issued, that judgement is 1.743 pages, I believe, in length.
10:37:24 25 The longest judgement at the ICTR in the Butare trial,
26 Prosecutor v. Nyiramasuhuko, I believe it is, that judgement was
27 1.748 pages. So we have an unprecedented situation here.

28 Added to the equation is the new Practice Direction on the
29 structure of grounds of appeal. This is really focused on the

1 notice really, because the manner in which we frame our grounds
2 of appeal has to be consistent with that Practice Direction. It
3 makes things more complicated, if I might say so, without
4 elaborating further. And not to pre-judge issues given that
10:37:48 5 Your Honour also sits on the panel that will adjudicate the
6 merits, but this is a complex factual case, and legally as well.
7 The period of the indictment runs for six years, but the evidence
8 that was led covers a time frame that easily encompasses 13 to 14
9 years. So it's a very complex case with an extraordinarily long
10:38:14 10 judgement, and for all of those reasons we feel there is good
11 cause and that it is in the interest of justice to grant us the
12 additional time we request.

13 Now, in other cases more significant time has been given
14 for the preparation of the notice. I referred to Sainovic. In
10:38:35 15 Sainovic, the ICTY Rules call for 30 days for the notice. The
16 ICTY Appeals Chamber in Sainovic gave an additional 60 days for
17 the notice. In Nyiramasuhuko, the ICTR Appeals Chamber, also
18 with a 30-day deadline, gave an additional 60 days to five of the
19 six accused in that case. The seventh -- or the sixth accused
10:39:26 20 was given 90 days because they had French-speaking counsel.

21 So what we ask for, an additional 35 days, we feel is
22 entirely reasonable and justified, and we pray that Your Honour
23 grants it to us.

24 Thank you.

10:39:26 25 JUSTICE FISHER: Thank you, Mr Anyah.

26 Does the Prosecution wish to respond?

27 MS HOLLIS: Very briefly, Your Honour. We certainly agree
28 with the Defence that some addition is appropriate in this case.
29 We view the complexity of the case as primarily factual as

1 opposed to legal complexity. We do note that from the time the
2 written judgement was issued, both parties have the opportunity
3 to review that judgement. We also note, however, that there were
4 changes to that judgement, including paragraph numbers, that
10:40:02 5 required some very close review once the corrected judgement was
6 re-issued.

7 In our view, the three weeks additional is more than double
8 the time that is normally given and would be appropriate in this
9 case.

10:40:13 10 In relation to Sainovic and many of the cases at the ICTY,
11 those cases were also burdened by the requirement that the
12 judgements be translated into a language that the convicted
13 person understood. That is not the case here. And further, that
14 often consultations with counsel had to go through interpreters
10:41:25 15 which also linked in those consultations and made the logistics
16 of arranging those consultations more difficult.

17 So again, we agree that more time, and substantially more
18 time, is necessary, but we believe that three weeks would more
19 than adequately serve the interest of justice in this case.

10:41:25 20 Thank you.

21 JUSTICE FISHER: Okay. Thank you.

22 I have a couple of concerns with the extension, with either
23 extension. I'm certainly not unsympathetic to the fact that it's
24 an extraordinarily long judgement. We also have had to read an
10:41:25 25 extraordinarily long judgement, but here are my two concerns:
26 One is that the -- by not having the Notice of Appeal yet filed,
27 it puts both the Court and Mr Taylor in an awkward jurisdictional
28 position. The Pre-Hearing Judge cannot be appointed until the
29 Notice of Appeal has been filed, the theory, I suppose, being

1 that until the Notice of Appeal has been filed there is no
2 appeal, and, therefore, there is no point in being seized.

3 The second thing -- and that's under Rule 109. Under
4 Rule 102(A) the execution of the judgement is in effect until the
10:42:05 5 Notice of Appeal is filed. So Mr Taylor is essentially in
6 execution of judgement, although I have stayed the period as
7 opposed to granting a motion, an interim motion, for delay of
8 filing of extension of time for the Notice of Appeal.

9 That's -- that's my concern. It's a technicality, but it's
10:42:27 10 one that does cause me some concern.

11 Secondly, all of the arguments that you have made for
12 extending time for the Notice of Appeal, with the exception, I
13 suppose, of the length of the judgement in terms of having read
14 it since you will have already read it by the time you file your
10:43:25 15 notice, are going to apply for every filing. I mean, it is
16 complex and that's going to impact on when your submissions are
17 due and most likely your responses and your replies. And so in
18 calculating what -- how much time to give at this end, I really
19 need, and I think we all need, to have some certainty as to how
10:43:25 20 much time you're going to be needing overall.

21 So although that is beyond the scope of the actual motion,
22 I wonder if you could give me some sense of what you think the
23 time-frame should be. And in order to assist you with this, I've
24 had my legal officers prepare a chart which shows the various
10:43:32 25 alternatives, and I'd ask that perhaps we can share that with
26 counsel at this point.

27 And I wonder -- Mr Anyah, first of all, I would note,
28 although I'm certainly not going hold you to it, but I would note
29 just for the record that according to the order of the

1 Principal Defender, you had implied or stated to her that you had
2 hoped that there would not need to be an extension for filing of
3 the Notice of Appeal, and at that point, presumably -- well,
4 according to Mr Taylor's letter, you already knew that the
10:44:13 5 judgement was going to be fairly extensive. As I say, I'm not
6 going to hold you to it, and obviously you've changed your mind,
7 but I do that in mind.

8 MR ANYAH: Madam President, may I briefly state a brief
9 response to what you just said.

10:44:28 10 JUSTICE FISHER: Sure.

11 MR ANYAH: I am not sure which communication,
12 Madam President, you're referring to. I don't know if it is a
13 briefing by the Principal Defender to Your Honours, but what I
14 recall stating in any communication to the Principal Defender or
10:45:29 15 the Registrar of the court is that there would be no unnecessary
16 or unreasonable delays. This is how I phrased it. I did not
17 speak out of those terms.

18 JUSTICE FISHER: Okay.

19 MR ANYAH: So that might be a source of some
10:45:29 20 misunderstanding. Thank you.

21 JUSTICE FISHER: I was referring to her order of the 3rd of
22 May, 2012, where she says:

23 "Considering that both Mr Taylor and his appeals counsel
24 Mr Anyah have informed the Registry that, bearing in mind the
10:45:29 25 volume of evidence in this trial and the date of sentencing
26 already set by the Trial Chamber, no legal reason exists for
27 appeals team not to be brought on board now, so -- as lead
28 counsel Anyah does not want to apply for an extension of time for
29 the filing of the initial grounds of appeal."

1 That's what I was relying on.

2 MR ANYAH: I appreciate that, but the Principal Defender
3 prepares and files these documents, and we were not -- we were
4 not consulted as to the language of the document. Thank you.

10:45:45 5 JUSTICE FISHER: Okay. So she left out the word
6 "unreasonable delay."

7 MR ANYAH: It would have been preferable if she had
8 included it.

9 JUSTICE FISHER: I understand.

10:45:52 10 MR ANYAH: Thank you.

11 JUSTICE FISHER: If you take a look at the chart, you'll
12 see how the two extensions that have been requested will affect
13 the deadline, the deadlines of other milestones toward the
14 appeal. And I wonder, are the parties at this time prepared to
10:46:20 15 give the Court some idea as to whether or not you're going to be
16 asking for additional extensions?

17 MR ANYAH: Yes, Madam President. In our discussions with
18 the Prosecution this morning and indeed through e-mail exchanges
19 last week, we conveyed to the Prosecution what we estimated to be
10:47:26 20 the additional time we would need for the Rule 111 appellant's
21 brief. Our communication on Friday last week as well as now is
22 that we would need 90 additional days. That is 90 in addition to
23 the 21 days provided for in Rule 111 to file the Defence
24 appellant's brief. And to the extent you wish to hear
10:47:26 25 submissions on the justification for that, I could be heard now
26 or at a time convenient for Your Honour.

27 JUSTICE FISHER: Let's just wait for a moment. Let me
28 check with the Prosecutor.

29 You've had this conversation. What is your position on

1 that?

2 MS HOLLIS: Thank you, Madam President. And before I state
3 that position, Madam President, for whatever import it may have
4 in relation to your concern about jurisdiction, the Prosecution
10:47:51 5 will be appealing.

6 JUSTICE FISHER: Thank you.

7 MS HOLLIS: We will give the specifics at a later date, but
8 we will appeal.

9 JUSTICE FISHER: Thank you.

10:47:51 10 MS HOLLIS: So that you have notice of that.

11 In relation to the filing of the appeal brief, we certainly
12 have discussed delay with the Defence. We believe that the
13 Defence can show good cause for delay. We are not in agreement
14 again on the time, and we believe that 60 days total, total, for
10:48:11 15 a delay in the filing of the appeal brief would be significant
16 and would be appropriate. And we say that because the work that
17 you do in preparing your notice is really also a part of
18 preparing the substantive brief itself. It translates into your
19 substantive pleading. And that work on the notice begins as soon
10:49:26 20 as you receive the written judgement on the merits, and
21 sentencing you fold in later. So we believe an additional
22 60 days -- or excuse me, a total of 60 days for the appeal brief
23 in addition to some additional time for the notice would be more
24 than adequate in this case. So we are in agreement on the need
10:49:26 25 for delay.

26 we also are of the view that should delays be granted, they
27 should be equal for the Prosecution and the Defence, and
28 primarily our reason for that is if we have similar issues and
29 one party is given longer delay than the other, they, in effect,

1 have two opportunities to respond. They can fold in arguments on
2 their appeal brief and then they can respond again.

3 We have more of a concern about delay for the responses,
4 but I believe we will get to that, because we agree with
10:49:31 5 Your Honours that this will flow down the line in terms of
6 delays. Thank you.

7 JUSTICE FISHER: Okay. Thank you. So just so I'm clear on
8 this, you're suggesting a total of 60 days, which would include
9 the 21 days that are already provided under the Rule?

10:49:56 10 MS HOLLIS: That is correct.

11 JUSTICE FISHER: And you're suggesting 90 days in addition
12 to the 21 days under the Rule or a total of 90 days?

13 MR ANYAH: A hundred and eleven days total. So 90 days in
14 addition to the 21 days.

10:50:02 15 JUSTICE FISHER: And I take it you intend to appeal.

16 MR ANYAH: Yes, Madam President, we do intend to appeal.

17 JUSTICE FISHER: Okay. I wonder if the counsel would be
18 willing to file something within the next 24 hours titled "Notice
19 of Appeal" simply indicating that you have an intention to appeal
10:50:27 20 so that we can perhaps move on to the stage where we can get out
21 of 116 -- or, as -- in terms of my qualification to sit here and
22 move on to 109. Would counsel be willing to do that?

23 MR ANYAH: Madam President, that -- that legally might pose
24 difficulties to file a document titled "Notice of Appeal" so as
10:51:25 25 to authorise Your Honour to perform certain functions. That
26 would not be our preferred way of proceeding. I think the fact
27 that you're designated and President of the Court empowers you to
28 rule on these issues pre the filing of a Notice of Appeal. I
29 particularly don't see the issue you referred to in Rule 109 as

1 posing any impediment to Your Honour's oversight of the case
2 pending the Notice of Appeal.

3 JUSTICE FISHER: Okay. I was just trying to come up with a
4 fix, but if you would prefer not to, you're under no obligation
10:51:29 5 to do so.

6 MR ANYAH: Thank you.

7 MS HOLLIS: If we may address that.

8 JUSTICE FISHER: Yes.

9 MS HOLLIS: We would suggest that perhaps if it was
10:51:36 10 entitled "Notice of Intention to Appeal" and would simply say
11 that we do intend to appeal, it would not be a Notice of Appeal
12 per se, and it would cover any concerns that Your Honour has
13 based on the plain language of the Rule, but we would certainly
14 be willing to do that if Your Honour would wish it.

10:51:52 15 JUSTICE FISHER: Mr Anyah?

16 MR ANYAH: That would be fine with us if it is so
17 designated.

18 JUSTICE FISHER: All right. Thank you. And the parties
19 agree that that would give the President of the Court power to --
10:52:07 20 under Rule 109 to appoint a Pre-Hearing Judge?

21 MR ANYAH: Yes, we agree.

22 MS HOLLIS: Yes.

23 JUSTICE FISHER: Okay. Great. Thank you.

24 I suppose it is premature to ask you how much more time you
10:52:21 25 think you might need on respondent's briefs.

26 MR ANYAH: Madam President, just to be heard on some of the
27 observations made by learned counsel opposite regarding the
28 appellant's brief, the Prosecution, I understood counsel to say,
29 has asked for an equal amount of time as granted the Defence.

1 JUSTICE FISHER: Mm-hmm.

2 MR ANYAH: And I believe the Prosecution has indicated an
3 additional 39 days would be appropriate to bring the total amount
4 of days to 60.

10:53:27 5 Now, the basis for us seeking 90 additional days is indeed
6 comparative analysis to other cases in like circumstances, if I
7 might say so, before other Tribunals in this field. You know, in
8 Sainovic, the Defence were given an additional 40 days. This is
9 in addition to the 75 days that the ICTY Rules allow. So the
10:53:28 10 total there was 115 days for the filing of the appellant's brief.
11 In Nyiramasuhuko in the ICTR, the brief was [indiscernible] due
12 75 days, and they were given an extra 60 days, and that brings
13 the total to 135 days. That is for five of the six accused. The
14 sixth accused was given an extra 90 days to file his appellant's
10:53:50 15 brief which brought the total to 165 days.

16 The ICTY and ICTR schedules we say are reasonable and
17 should be applicable to a case of this size and magnitude,
18 although emanating from the Special Court, notwithstanding the
19 differences between our Rules and theirs. No other Special Court
10:54:09 20 case comes even close given the size of the judgement vis-a-vis
21 this case. And there's the additional factor that we always have
22 to consult with our client. You know, it is one thing for the
23 Prosecution to work from their office and come up with grounds of
24 appeal and the appellant's brief. We have to, on a weekly basis,
10:54:28 25 go and consult with our client. We do so by telephone, we do so
26 in person, and it is taxing, and it is tedious, and it is
27 time-consuming. So these are facts that we hope the Court bears
28 in mind when it decides on what time might be reasonable under
29 the circumstances.

1 I will say about the notice that -- and this is in response
2 to a remark by Your Honour about how is the notice different from
3 the appellant's brief or the brief in response or the brief in
4 reply. The notice is important, and the need for additional
10:55:27 5 time, because it allows us to prepare very focused grounds of
6 appeal. Ultimately, this is a time-saving exercise for the Court
7 and everybody involved. If we were given less time on the
8 notice, what Your Honour would find is a litany of grounds of
9 appeal, not well-researched, some of which may be without merit,
10:55:27 10 and we hope to avoid this. If given sufficient time to prepare a
11 proper notice, we will have focused and precise and concise
12 grounds of appeal, and this makes everybody's life easier in the
13 long-run.

14 So those are the observations would I make in respect of
10:55:51 15 those issues.

16 With respect to the respondent's brief given Your Honour's
17 question, if I may proceed.

18 JUSTICE FISHER: Please.

19 MR ANYAH: I would say for us a reasonable time would be 60
10:55:52 20 days in addition to the 14 days those provided. That brings it
21 to a total of 84 days.

22 We bear in mind that the Prosecution might ask for the same
23 or more time than that given our discussions with the
24 Prosecution. They appear to require more time for the response.
10:56:19 25 But our view is that 60 additional days to the 14 days would be
26 appropriate in the circumstances of this case, again, drawing
27 from other cases and what time had been provided to other accused
28 in like circumstances.

29 JUSTICE FISHER: Okay. Thank you.

1 Ms Hollis.

2 MS HOLLIS: Thank you, Your Honour. We don't believe in
3 the other courts there were like circumstances in the sense that
4 it was very important for the Defence that the judgement be
10:57:28 5 translated into a language that the accused understood, or as
6 with the Prosecution, it was in a language they understood from
7 the beginning. We do not have that issue here, so we don't think
8 that it was a like situation in the other courts.

9 We also note that in the other courts, with Sainovic and
10:57:28 10 other cases, the Office of the Prosecutor was fully staffed and
11 fully functioning. This Office of the Prosecutor has downsized
12 along with everyone else, so there is not a large disparity in
13 terms of resources that would make it easier for us to move
14 forward more expeditiously than the Defence.

10:57:37 15 So we believe for those reasons, as well as to ensure that
16 the side with the longer delay does not get an unfair advantage
17 through that delay, that the delay should be the same. And we
18 are looking now to verify this, but I believe the practice in
19 these courts has been to give equal delays to both parties. So I
10:57:58 20 think that if my recollection of these cases is correct, we have
21 not elected to follow the other courts in this regard perhaps for
22 the reasons I have mentioned.

23 In regard to the response, this is really an area of
24 speculation for us. Both parties have been reading the
10:58:21 25 judgement, working on our notice, and so are able, I believe
26 today, to give you informed estimates about the appeal brief
27 itself, but the response times will be totally dependent upon the
28 complexity and number of issues that are raised in the notice, as
29 well as the character of the arguments that are put forth in the

1 appeal brief proper.

2 JUSTICE FISHER: Mm-hmm.

3 MS HOLLIS: So we think that perhaps pure speculation would
4 be of less assistance to Your Honour and to the Appeals Chamber
10:59:28 5 in relation to response and reply.

6 In general, however, we would suggest to you that we
7 believe that there will be good cause for some extensions of time
8 for the response and perhaps the reply, but again, to give any
9 kind of informed estimate, we would be unable to do so today.

10:59:28 10 JUSTICE FISHER: Okay. Fair enough. Thank you.

11 MS HOLLIS: We do suggest to Your Honour that we should
12 perhaps be looking at time that is equal for almost equal to the
13 time for the appeal briefs themselves.

14 JUSTICE FISHER: Okay.

10:59:28 15 MS HOLLIS: But again, beyond that we cannot be of
16 assistance today.

17 JUSTICE FISHER: Okay. Thank you. I understand your
18 position.

19 MR ANYAH: Madam President, if I may just make a quick
10:59:36 20 observation.

21 JUSTICE FISHER: Sure.

22 MR ANYAH: I've referred to Sainovic, and I've just been
23 told by my learned friend Mr Gosnell that in Sainovic the Court
24 did not grant additional time on the basis of delay caused by
10:59:51 25 translation of the document to a language the accused
26 understands. They went ahead with the English version of the
27 judgement, and the briefing schedules were determined bearing in
28 mind that only the English version was available, but the parties
29 were allowed leave to supplement their notice once it was

1 translated to B/C/H. And so are this case might be viewed in the
2 same light as Sainovic.

3 Now, the Prosecution's request for -- or the Prosecution's
4 submission that generally the Prosecution is granted the same
11:00:28 5 amount of time as the Defence, that's not reflected in the
6 research we have found.

7 JUSTICE FISHER: In this Court?

8 MR ANYAH: No, in other courts.

9 JUSTICE FISHER: I think her position was that in this
11:01:28 10 court equal time has been provided to both sides.

11 MR ANYAH: Very well. I will have to verify that to speak
12 more to it.

13 JUSTICE FISHER: Okay. Thank you. I've put -- since the
14 parties have brought up the new Practice Direction, I would like
11:01:28 15 to direct people's attention to it at this point. And I think,
16 Mr Anyah, you're quite right, that it does require more
17 specificity than we have required in the past. And let me just
18 say that the Appeals Chamber feels very strongly that this
19 direction needs to be complied with, and it will, in fact,
11:01:28 20 implement the sanctions at the conclusion of this Practice

21 Direction, which is either returning the document for amendment
22 or striking it altogether if there is not compliance, and because
23 of that, I think it's very important that we all understand from
24 the outset what the expectations are. So I would -- in
11:01:51 25 connection with your Notices of Appeal, I would direct your
26 attention to paragraphs 1 through 5 but in addition, I would
27 direct your attention to paragraphs 7, 8, 9 and 10 regarding
28 appellant's submissions, because the Notice of Appeal and the
29 appellant's submissions have to match. So when you're looking at

1 constructing your Notices of Appeal, you need to be sure that you
2 comply with or you prepare your outline of your case to comply
3 with 7, 8, 9 and 10 of the submissions or we're going to be --
4 we're going to have problems. And I'm willing, at this point, if
11:02:33 5 anyone has any questions about that or wants to discuss it
6 further, this is your opportunity.

7 MR ANYAH: Madam President, there are a number of issues
8 that could be raised in respect of this Practice Direction.

9 JUSTICE FISHER: One thing we aren't going to talk about is
11:03:23 10 disregarding it. It's past -- my predecessor has signed it.
11 It's the law of the case. So don't bother arguing that you don't
12 like it if you don't like it. I just want to make sure everyone
13 understands it.

14 MR ANYAH: Well, we just wish to state on the record that
11:03:23 15 we hoped we had been consulted, because it is not to interfere
16 with the jurisdiction of the President of the Court, but at this
17 time this was prepared and circulated, the parties were not
18 consulted and there were some issues we brought to the attention
19 of one of the legal officers. I remember writing a e-mail last
11:03:38 20 year pointing out some issues with the Practice Direction that we
21 hoped would be considered, and then some revisions were done this
22 May and we appreciate that. They incorporated some of the
23 suggestions. But be that as it may, it is, as you say, the
24 governing principle.

11:03:56 25 One question arises with respect to number 10, which reads:
26 "The appellant shall present a holistic and comprehensive
27 ground of appeal. Division of a ground of appeal into
28 sub-grounds is impermissible."

29 Madam President, many times errors might have a cumulative

1 effect that leads one, for example, to allege an unfair trial, if
2 you will. Now, the way this is framed, it seems to us that
3 identifying the various errors that one might say cumulatively
4 resulted in an unfair trial might run afoul of this provision of
11:04:39 5 the Practice Directive which suggests that sub-grounds should not
6 be included into a ground of appeal.

7 Disparate errors in a judgement can collectively lead to a
8 viable ground of appeal. Now, whether we delineate sub-grounds
9 in a particular ground or we present it as a whole, it will be
11:05:23 10 implicit in the ground of appeal that it is on the basis of
11 several sub-grounds of appeal. And so this is a concern, and
12 perhaps when there's a concrete example Your Honour will be able
13 to pass on it more appropriately, but I must say that this
14 particular provision of the Practice Direction might pose some
11:05:24 15 challenges to us.

16 JUSTICE FISHER: Okay. We have in mind that it may be
17 challenging. As to consultation, this was raised at a Plenary
18 where the Prosecutor and the Principal Defender were present,
19 expressed views not unlike your own, and it was -- there were
11:05:52 20 responses which were, I believe, taken into consideration. I
21 wasn't President at the time. So there was what we consider to
22 be an effective consultation process. It doesn't mean, though,
23 that we ended up -- the President ended up agreeing with what
24 that consultation suggested.

11:06:13 25 I think in regard to number 10, of course it will be
26 factually dispositive, but I think what these Rules were meant to
27 do is to address form, not substance. So, for example, if your
28 ground of appeal is that because of an accumulation of unfair or
29 improper findings the total result was an unfair trial that

1 should be taken into consideration in terms of perhaps revising
2 or revoking the conviction, there is one ground of appeal. The
3 fact that you have specified what the various reasons for that
4 ground may be, as long as you don't say sub-ground (a)
11:07:29 5 sub-ground (b), sub-ground (c) and make additional arguments, I
6 think you will be within the Rule. Again, this addresses form --
7 the form of your argument rather than the substance of your
8 argument. So we aren't in any way suggesting that we are
9 curtailing what you can argue. We are simply saying as a matter
11:07:31 10 of form, make sure each appeal point stands on its own without
11 having to go into additional points.

12 I don't know if that helps at all, but I just wanted the
13 record to be very clear that we are not in any way impacting on
14 what you can argue, only the manner in which you can present it
11:07:52 15 to the Court.

16 MR ANYAH: We're grateful for the clarification. Thank
17 you.

18 JUSTICE FISHER: Anything else regarding the Rules? Okay.
19 Very good.

11:08:04 20 MS HOLLIS: No, Your Honour.

21 JUSTICE FISHER: All right. Ladies and gentlemen, I have a
22 clear idea now, I think, of where you're coming from and what you
23 need, and I am going to take the matter under advisement, and
24 I'll issue an order. The order coming out of this proceeding
11:08:34 25 will be only as to the motion for extension of time to file
26 Notices of Appeal; however, I will have in mind the other
27 information you've given me about further extensions, and I don't
28 want this to be last of the argument regarding further extensions
29 since you weren't given an opportunity to provide written

1 submissions or prepare for those arguments.

2 So having that in mind, I'll give you a decision on the
3 motion itself, and we'll move into the next stage once I receive
4 your Notice of Intention to Appeal.

11:09:29 5 MS HOLLIS: Your Honour, there is one additional matter I
6 would like to inquire about if Your Honour is in a position to
7 respond to it today, and that is if Your Honours on the
8 Appeal Chamber have given thought to a summer recess and if you
9 have decided whether or not there will be a summer recess. It
11:09:33 10 would impact possibly the date of filings, but more significantly
11 for our staff. It would also allow them to determine if they can
12 take any leave-time and when that might be.

13 JUSTICE FISHER: Okay. I think it's very unlikely that we
14 will have a summer recess. Even if we did have a summer recess,
11:09:53 15 it would not impact on the filing dates, and so I think given
16 the -- given the amount of work that we have ahead of us that a
17 summer recess would not be an appropriate -- appropriate message
18 to send out to ourselves or the world generally. So, no, there
19 won't be a summer recess.

11:10:19 20 MR ANYAH: Madam President, there is one other issue you
21 might wish to reflect upon or hear from us about and that has to
22 do with the page limitations that apply to appellant's and
23 respondent's briefs.

24 JUSTICE FISHER: Are you prepared to address that now?

11:10:36 25 MR ANYAH: Yes, we are.

26 JUSTICE FISHER: Okay.

27 MR ANYAH: well, the governing principle is a document from
28 2008. The Practice Direction on dealing with documents in The
29 Hague sub-office currently provides for a hundred pages or 3.000

1 words.

2 JUSTICE FISHER: Yes.

3 MR ANYAH: For both the appellant's brief and the brief in
4 response, the respondent's brief.

11:11:24 5 JUSTICE FISHER: Yes.

6 MR ANYAH: In our discussions with the Prosecution this
7 morning, we discussed this issue, and we suggested that from the
8 Defence's perspective for the appellant's brief, we would be
9 requesting in the vicinity of 300 pages for the appellant's
10 brief. Now, in prior cases before the Special Court, the Defence
11 has been granted up to 150 pages, for example in the RUF case,
12 for the appellant's brief.

13 JUSTICE FISHER: Mm-hmm.

14 MR ANYAH: And for the respondent's brief, I think an
11:11:29 15 reasonable page limitation for us would be about 150 pages, 50
16 pages in addition to the 100 pages. And in speaking with the
17 Prosecution, they seemed to say that about 200 pages for the
18 appellant's brief would be acceptable as reasonable to them. So
19 these are the indications we have for this particular issue. At
11:11:54 20 the appropriate time, we will be making an application for an
21 extension, and we will be asking for something in the vicinity of
22 300 pages.

23 JUSTICE FISHER: Okay. I understand your position. Thank
24 you.

11:12:06 25 MR ANYAH: Thank you.

26 JUSTICE FISHER: Is the Prosecution in a position to make
27 an estimate of how much they will need? Is 200 accurate?

28 MS HOLLIS: In relation to the appellant's brief, again
29 we're of the view that additional pages would be required. We

1 think that up to 200 pages would be reasonable. On one hand, of
2 course it's important for Your Honours to have fully developed
3 arguments; on the other hand, the fewer pages, the more focused
4 you have to be in your arguments. So there is a balance. We
11:12:39 5 think more than 200 pages would not be required in this case.

6 In relation to respondent's brief, again until we see the
7 Notice of Appeal and the substantive brief, we would really not
8 be in a position to speak to that.

9 JUSTICE FISHER: Okay. Thank you. Any other issues?

11:13:30 10 well, I want to thank you for all coming in this morning.
11 I know that it's not usual to have Status Conferences for
12 appeals, but I think they're helpful. They're certainly helpful
13 to the Court. If the parties feel that an additional
14 Status Conference is necessary, please file the appropriate
11:13:30 15 pleading and we will consider it.

16 And, Mr Taylor, are you satisfied that you understand what
17 happened in today's proceeding?

18 THE ACCUSED: Yes, I am Your Honour.

19 JUSTICE FISHER: Okay. Very good. In that case, court is
11:13:33 20 adjourned.

21 [Whereupon the Status Conference adjourned
22 at 11.13 a.m.]

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