

**ANNOTATED LEADING CASES OF
INTERNATIONAL CRIMINAL TRIBUNALS**

VOLUME XXI

**THE SPECIAL COURT FOR SIERRA LEONE
2004–2006**

André KLIP and Göran SLUITER (eds.)



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Annotated Leading Cases of International Criminal Tribunals

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PREFACE

This is the twenty-first volume in the series ‘Annotated Leading Cases of International Criminal Tribunals’ and contains the most important decisions of the Special Court for Sierra Leone (SCSL) from 18 September 2004 up to and including 25 May 2006. It is the second volume in the series containing decisions of the SCSL.

At the time of writing this preface, the SCSL has finalised all its trials in Freetown, Sierra Leone; the convicted persons were transferred very shortly after their convictions were upheld on appeal, to serve their sentences of imprisonment in Rwanda. The strange situation now presents itself that a Court that was specifically designed to hold trials within the society most concerned, i.e. Sierra Leone, will finalise its last trial, the Taylor case, in The Hague. That trial has not even reached the appellate level. Therefore, we are uncertain when we can finalise publication of leading cases for this particular court, which is expected to be the second contemporary international(ised) tribunal to finalise its mandate, after the Special Panels for East Timor. Having said this, we will endeavour to follow up shortly after this second volume on the SCSL with a third volume.

The present volume is in its approach and structure similar to the previous volumes. Thus, the book contains the full text of all the decisions and judgements, including separate, concurring and dissenting opinions, as well as annexes to the decisions. As with the previous volumes, the editors have ensured that the decisions are fully identical to the *written* original text, as issued by the SCSL Press and Information Office and which bears the signatures of the Judges. We are aware that more and more decisions are available on the internet. However, only the written decisions bearing the signatures of the Judges can be considered as authoritative versions. In the course of our editorial work on this and previous volumes, we have discovered inconsistencies between the written original version of the decision and the internet version, if the latter is available at all. Much of our editorial efforts involve ensuring that the texts in this series are identical to the written original version.

We could only include the full text of the decisions in this volume by reducing their original format. Still, we wanted the reader to be able to identify the page number of the original text, which is throughout the text put in brackets []. We are again very happy that a number of scholars in the field of international criminal law were prepared to write interesting and stimulating commentaries regarding the decisions.

A few words regarding the selection of decisions may give the user insight into our working method. In principle, we select all final judgements. In addition, we publish decisions taken at any stage of the procedure that are important for other reasons: because they deal with a specific legal question, because they are representative of a specific type of decision, or because they enter new legal waters. Of course, we cannot publish all decisions. As a result, we may not publish decisions in which issues have been decided in a way similar or identical to a decision that has already been selected.

The decisions are presented in different parts and under different headings.

Part 1, ‘Preliminary Matters’, includes decisions on matters regarding the indictment (1).

Part 2 deals with procedural matters. Under different headings it contains a wide array of procedural decisions: provisional release (2), judicial notice (3), disclosure, confidentiality and on-site investigations (4), witnesses (5), admissibility and presentation of evidence (6), trial in the presence of the accused (7), relations with States (8), counsel (9), contempt, false testimony and misconduct (10) and scope of appeal (11).

Part 3, ‘Judgement and Sentencing’, is a regular heading in our series, but is, as far as the SCSL is concerned, only covered in this volume by three decisions on a motion for a judgement of acquittal (12). The next volume on the SCSL will contain ‘real’ judgements, which are by definition included in this series, because of their importance, both from a factual and legal perspective.

Part 4, ‘Post Conviction or Acquittal Issues and Detention Matters’ may seem an odd heading in light of the foregoing. We have opted to place detention matters in a separate part after having dealt with trial proceedings. In this volume, we have included two decisions regarding treatment of detainees (13).

We owe acknowledgements to many persons without whom we could not have completed this twenty-first volume. These include the Press and Information Office of the SCSL, which offered generous assistance in obtaining all the hard copies of decisions. Our publisher Intersentia, in particular Hans Kluwer, Tom Scheirs and Isabelle van Dongen, facilitated our work. We also acknowledge the work of our (former) student assistants, Thom Dieben, Mariam Pathan (Maastricht) and Robbert-Jan Winters (Amsterdam), who assisted with the corrections of the text and without whom we would not be able to publish this series. The Netherlands School of Human Rights Research stimulated our work. Professor Steven Freeland from the University of Western Sydney, Australia, offered tremendous help by correcting our English. Last but not least, we wish to thank the distinguished authors for their commentaries on the decisions.

We hope that this volume will contribute to the further dissemination of the important work of the SCSL and that it will provide access to its decisions to practitioners, academics and students.

André Klip and Göran Sluiter

Maastricht/ Amsterdam, December 2009