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SPECIAL COURT FOR SIERRA LEONE

THE PRESIDENT OF THE SPECIAL COURT FOR SIERRA LEONE

Before: Justice Renate Winter, President

Acting Registrar: Binta Mansaray

Date: 12 August 2009

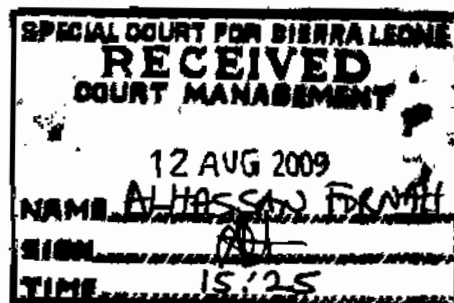
PROSECUTOR	Against	MOININA FOFANA (Case No.SCSL-04-14-ES)
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CONFIDENTIAL

**ORDER DESIGNATING STATE IN WHICH MOININA FOFANA
IS TO SERVE HIS SENTENCE**

Office of the Prosecutor:
Stephen Rapp
Joseph Kamara

Defence Office:
Claire Carlton-Hanciles



I, RENATE WINTER, President of the Special Court for Sierra Leone (“Special Court”);

NOTING the Judgment rendered by the Appeals Chamber on 28 May 2008 in the ease of *Prosecutor v. Moinina Fofana and Allieu Kondewa*, Case No. SCSL-2004-14-A, in which Moinina Fofana was sentenced to 15 years of imprisonment, subject to credit being given for the period already spent in detention;

PURSUANT to Article 22 of the Statute of the Special Court, Rule 103(B) of the Rules and paragraphs four to six of the Practice Direction for Designation of State for Enforcement of Sentence, issued 10 July 2009 (“Practice Direction”);

CONSIDERING that, pursuant to Article 22 of the Statute of the Special Court, imprisonment shall be served in Sierra Leone unless circumstances require that imprisonment be served in any of the States which have concluded with the International Criminal Tribunal for Rwanda or the International Criminal Tribunal for the former Yugoslavia an agreement for the enforcement of sentences, and which have indicated to the Registrar of the Special Court their willingness to accept convicted persons, or any other States with which the Special Court may conclude similar agreements;

CONSIDERING that, on 9 June 2008, the President of the Republic of Sierra Leone communicated to the Registrar that the Government of Sierra Leone is not in a position and is not willing to take custody of persons convicted by the Special Court in the fulfillment of the Court's mandate, and further communicated on 24 April 2009 that the Government's commitment to the sustenance of peace both in Sierra Leone and in the sub-region as well as the weakness in institutional arrangements in Sierra Leone preclude the enforcement of sentences imposed by the Special Court in Sierra Leone;

CONSIDERING the “Agreement between the Government of the Republic of Rwanda and the Special Court on the Enforcement of Sentences of the Special Court,” that was signed on 18 March 2009 and which entered into force on 11 August 2009, concerning the enforcement of sentences passed by the Special Court;

CONSIDERING the confidential internal memorandum of 4 August 2009, submitted to me by the Acting Registrar within the terms of paragraph three of the Practice Direction and listing the States in which Moinina Fofana may serve his sentence;

CONSIDERING that the Government of the Republic of Rwanda has indicated to the Registry its willingness to enforce Moinina Fofana's sentence;

NOTING that Special Court is seeking to enter an agreement with another State for the enforcement of Allieu Kondewa's sentence, and may request, pursuant to Article 9 of the Agreement, the transfer of the convicted person to another State or to the Special Court at any time;

HAVING CONSIDERED all of the factors enumerated in the Practice Direction, including the family situation of Moinina Fofana;

FOR THE FOREGOING REASONS

DECIDE that Moinina Fofana shall serve his sentence in the Republic of Rwanda;

INVITE the Acting Registrar to officially request the authorities of the Republic of Rwanda to enforce the sentence of Moinina Fofana and, should the Government of the Republic of Rwanda accede to this request, so inform and take all necessary measures to facilitate the transfer of Moinina Fofana to the Republic of Rwanda;

ORDER that Moinina Fofana remain in the Special Court's custody while awaiting his transfer to the Republic of Rwanda; and

INSTRUCT the Registry of the Special Court to lift the confidential status of the present Order once the transfer of Moinina Fofana to the Republic of Rwanda has been completed and **ORDER** that this Order shall thereupon and henceforth be considered a public filing.

Done this 12th day of August 2009 at Freetown, Sierra Leone.



Hon. Justice Renate Winter
President of the Special Court for Sierra Leone

