

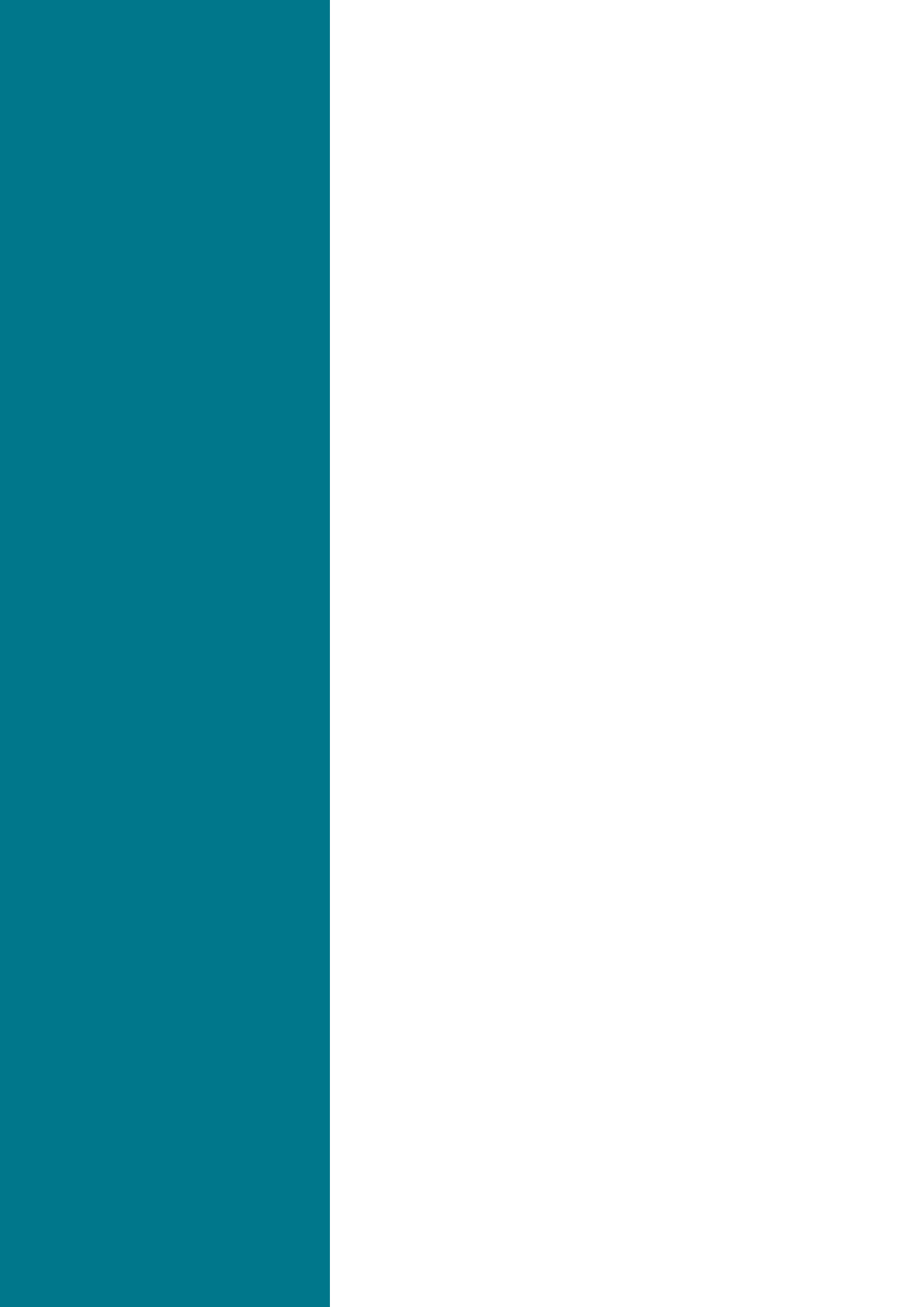
THIRD ANNUAL REPORT

of the President of the Residual Special Court for Sierra Leone



January 2016 – December 2016





THIRD ANNUAL REPORT

*of the President of the Residual
Special Court for Sierra Leone*



3rd



TABLE OF CONTENTS

Foreword	6
Introduction	8
The Chambers	10
The Office of the President	14
The Office of the Prosecutor (OTP)	16
The Registry	18
The Defence Office	24
Fundraising and Diplomatic Relations	27
Annexes	31



Justice Philip Waki

FOREWORD

The Secretary-General of the United Nations; António Guterres; The President of the Republic of Sierra Leone, Dr. Ernest Bai Koroma;

Your Excellencies,

May I take this first opportunity to congratulate Your Excellency, António Guterres, for your well-deserved appointment as the UN Secretary-General from 1st January 2017. Your immense experience in leadership gives hope of a better tomorrow for humankind. I also pay tribute to Your Excellency President Koroma for steadfastly steering your country through a most difficult and devastating period when it was struck by the Ebola virus. Our earnest prayer is for the gallant people of Sierra Leone to rise from the misfortunes of the past and to develop the country into a proud, strong and prosperous nation.

It is my honour and privilege to submit my third and last Annual Report as President, on the operations and activities of the Residual Special Court for Sierra Leone (RSCSL), covering the period 1 January 2016 to 31 December 2016.

The first two reports covered the transitional phase of the Court from its predecessor, the Special Court for Sierra Leone (SCSL). Guided by its constitutive Agreement and Statute, the Court is now firmly focused on its core mandate of ensuring that witnesses and victims are protected and supported; maintaining, preserving and managing all archival material for research and posterity, and ensuring that the enforcement of sentences of convicted persons continues to meet international standards. The Court is also well prepared, if and when called upon, to perform the *ad hoc* functions of reviewing convictions and acquittals; conducting contempt of court proceedings; holding the trial of fugitive Johnny Paul Koroma; providing defence counsel and legal aid; responding to national authorities with respect to claims for compensation; and preventing double jeopardy.

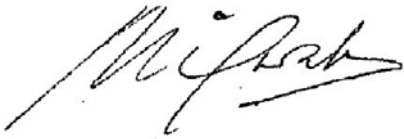
The year under review saw the sad death of one of the longest-serving Justices of Sierra Leone and a founding Judge of the Special Court for Sierra Leone (SCSL), The Hon. Justice Gelaga King. He was given a befitting farewell in his home country in April 2016 and his replacement, Justice Desmond Babatunde Edwards, was appointed in December 2016. The year also saw the demise of Alex Tamba Brima, one of the convicted prisoners, in Rwanda from natural causes. His remains were returned to Sierra Leone for interment in June 2016.

Eight convicted persons continue to serve their sentences in three countries: six in Rwanda, one in the United Kingdom and one in Sierra Leone on conditional early release. The Court firmly dealt with a violation of the terms of conditional release by the latter and the lessons learned led to appropriate amendments to the Practice

Direction on Early Release of Prisoners. Another prisoner made an application for early release which is under consideration. In all cases the Court, in conjunction with the respective prison authorities and the International Committee of the Red Cross (ICRC), has continued to ensure that the prisoners' welfare and conditions of imprisonment meet international standards.

The Third Plenary of Judges was held in Freetown, Sierra Leone in December 2016, and it was not only a happy reunion, but also an opportunity to re-examine and amend the Rules of Procedure and to ratify the new Practice Directions. A new President, Justice Renate Winter, and new Vice-President, Justice Elizabeth Nahamya, were elected at the plenary. I continue to be proud of the team of 16 Judges, the hard-working staff of the Court, and the Principals of the Court who have all dedicated themselves to ensure the achievement of its goals and aspirations.

Finally, Your Excellences, I return to the perennial subject of financial and budgetary support without which the operations of the Court will sadly come crashing down. I appreciate the timely efforts of the Oversight Committee and the approval of subvention funds by the UN which ensured smooth operations for the year under review. More efforts must, however, continue to be made for a lasting and dependable solution to the problem.



The Hon. Mr. Justice Philip Waki
President of Residual Special Court for Sierra Leone,
The Hague, the Netherlands

INTRODUCTION

The President of the Residual Special Court for Sierra Leone (Residual Special Court) issues this Third Annual Report (Third Report) pursuant to Article 26 (1) of the Statute of the Residual Special Court (Statute) which states:

The President of the Residual Special Court shall submit an annual report on the operation and activities of the Residual Special Court to the Secretary-General and to the Government of Sierra Leone.

The report provides an update on the Residual Special Court's work, including the fulfillment of its primary mandate, and reports on the major activities of all sections of the Residual Special Court, namely the Chambers, the Office of the Prosecutor and the Registry during the third year of its existence. It covers the period from 1 January to 31 December 2016.

PRIMARY MANDATE

The Residual Special Court was established pursuant to an Agreement dated 11 August 2010, between the United Nations and the Government of Sierra Leone on the Establishment of a Residual Special Court for Sierra Leone (the "Agreement"). The Agreement was ratified by the Sierra Leone Parliament on 15 December 2011 and signed into law on 1 February 2012.

Pursuant to Article 1(1) of the Agreement:

There is hereby established a Residual Special Court for Sierra Leone ("the Residual Special Court") to carry out the functions of the SCSL that must continue after the closure of the Special Court.

Article 1(1) of the Statute annexed to the Agreement sets out the competence of the Residual Special Court as follows:

The purpose of the Residual Special Court is to carry out the functions of the SCSL that must continue after the closure of the Special Court. To that end, the Residual Special Court shall: maintain, preserve and manage its archives, including the archives of the Special Court; provide for witness and victim protection and support; respond to requests for access to evidence by national prosecution authorities; supervise enforcement of sentences; review convictions and acquittals; conduct contempt of court proceedings; provide defence counsel and legal aid for the conduct of proceedings before the Residual Special Court; respond to requests from national authorities with respect to claims for compensation; and prevent double jeopardy.

Furthermore, pursuant to Article 1(2) of the Statute:

The jurisdiction of the Residual Special Court is limited to persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra



RSCSL Staff in Freetown

Leone since 30 November 1996. That is, the Residual Special Court shall have the power to prosecute the remaining fugitive Special Court indictee if his case has not been referred to a competent national jurisdiction, and to prosecute any cases resulting from review of convictions and acquittals.

The Residual Special Court continued to execute its mandate during the period under review. In line with its on-going functions which are managed by its small permanent offices in Freetown and The Hague, the Residual Special Court activities included maintenance, preservation and management of the archives, witness protection and support, assistance to national prosecution authorities and supervision of prison sentences. The *ad hoc* functions for which the Residual Special Court will convene if required include the trial

of Johnny Paul Koroma, review of convictions and acquittals, contempt of court proceedings, defence counsel and legal aid issues, claims for compensation and prevention of double jeopardy.

COMPOSITION AND STRUCTURE

In line with the Agreement, even though the Residual Special Court's principal seat remains in Freetown, it carries out its functions at an interim seat in the Netherlands with a sub-office in Freetown for witness and victim protection and support. During the reporting period, the Residual Special Court was funded partly by voluntary contributions from the international community, and partly by UN subvention funds.

Pursuant to Article 2 of the Agreement, the Residual Special Court maintained its composition

of the Chambers consisting of 16 Judges on a roster, including the President. The Prosecutor and the Registrar are the other principals. Sadly, Justice George Gelaga King passed away in London, UK on 5 April 2016. Justice Babatunde Edwards was appointed by the Government of Sierra Leone to take his place on the roster. Justice Edwards made his solemn declaration in Freetown pursuant to Rule 14 of the Residual Special Court Rules of Procedure and Evidence, and was sworn in on 1 December 2016.

The President and Judges continued to work remotely, or at the Court's principal or interim seats, as required.

THE CHAMBERS

JUDICIAL PROCEEDINGS

Alleged Violation of Terms of Conditional Early Release: Mr. Moinina Fofana

In early 2016, the President was seized pursuant to Article 12 (C) of the Practice Direction on Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone of a report from the Registrar on an alleged violation by convicted person Mr. Moinina Fofana (Mr. Fofana) of a special condition of his conditional early release. The special condition specifically stated that

“The applicant shall conduct himself honorably and peacefully in the community and shall not engage in secret meetings intended to plan civil unrest or join local politics”.

The Registrar’s report contained several attachments, including reports prepared by the Sierra Leone Police (SLP) and the Witness and Victims Section (WVS) of the RSCSL, as well as Annex E – Notice of Violation of Conditional Early Release Agreement – of the Practice Direction. The specifics of the alleged violation concerned Mr. Fofana’s alleged participation at a Youth Conference of the ruling All Peoples Congress (APC) party in Makeni, northern Sierra Leone, in November 2015.

On 9 March 2016, the President issued “Order for Detention and Transfer and for Hearing Pursuant to Article 12 (F) of the Practice Direction on the Conditional Early Release of Persons Convicted by the

Special Court for Sierra Leone”. He determined pursuant to Article 12 (F) of the Practice Direction that there was probable cause to believe that a violation had occurred, and designated Justice Vivian M. Solomon, pursuant to Article 13 (3) of the Statute of the Residual Special Court for Sierra Leone, to hear the matter. The President also directed the Prosecutor to prosecute the matter, the Principal Defender to represent Mr. Fofana, and the Registrar to set a preliminary hearing of same within seven days.

The President further ordered the Monitoring Authority, comprised of members of the SLP, and the relevant authorities of the Government of Sierra Leone to immediately detain Mr. Fofana and to transfer him to the custody of the Residual Special Court pending the hearing and determination of the matter.

On 16 March 2016, Justice Vivian M. Solomon sitting as Designated Judge opened the Preliminary Hearing in Freetown of the administrative matter of “Prosecutor v. Mr. Moinina Fofana: In the Matter of the Alleged Violation of the Terms of His Conditional Early Release”. At this hearing Mr. Fofana denied all of the allegations put to him. An application by his *pro bono* counsel for his temporary release from the custody of the Residual Special Court pending the continuation of the matter was denied by the Designated Judge, and the matter was adjourned to 18 March 2016.

On 18 March 2016, all allegations were again put to Mr. Fofana.

Mr. Fofana changed his plea and admitted the allegations. The Designated Judge ordered his release on the terms of the original conditional early release agreement with other conditions imposed pending the disposition of the matter. On 25 April 2016, Justice Vivian M. Solomon in her Disposition found that Mr. Moinina Fofana deliberately violated the terms of his conditional early release by attending a political conference in Makeni, northern Sierra Leone. She rejected the Defence argument that Mr. Fofana had not planned to attend the conference, citing his conflicting statements and his falsification of the police register in Bo, as evidence that he had planned from the outset to attend the conference and that “he intentionally deceived the Monitoring Authority to achieve this aim”. Justice Solomon found, however, that Mr. Fofana’s presence at the conference did not impede the continuing peace and security of Sierra Leone. In modifying the terms of his conditional early release, Justice Solomon considered Mr. Fofana’s admission of the allegations and his expression of remorse. For six months from the date of the Disposition, Mr. Fofana was ordered not to travel outside of Bo where he is serving the remainder of his sentence. At the expiration of this period, he is now under more stringent restrictions on his ability to travel outside his community. He will need to obtain advance written permission from the Registrar, and he must divulge his exact destination, the purpose of his travel, and his return date. On arriving at his destination, he must report to the designated monitoring agent in the area.

In addition to the restrictions on his travel, Mr. Fofana must report in person to the Monitoring Authority in Bo weekly instead of twice a month. The Monitoring

Authority and the Registrar are to conduct spot checks to ensure that he is present at authorized locations. Justice Solomon also ordered an intensive two-week training for Mr. Fofana on the modified conditions of his conditional early release, which was conducted by the Registrar. At the end of the training Mr. Fofana reaffirmed his understanding of the modified conditions of his release, including the modified special conditions. On 27 May 2016, the Registrar certified that Mr. Fofana had satisfactorily completed the training as ordered in the Disposition.

Justice Solomon also faulted the Monitoring Authority for failing to adequately enforce the conditions of Mr. Fofana’s conditional early release. She ordered the Registrar to enter into discussions with the Monitoring Authority to brief them on the modified special conditions and to engage them as to how they would ensure strict enforcement of the modified conditions in the future.

OTHER CHAMBERS ACTIVITIES

1st Quarter

The Principal Defender and the Defence Legal Associate were trained by Justice Shireen Avis Fisher and Justice Teresa Doherty on the provisions of the Practice Direction on Conditional Early Release of Persons Convicted by the SCSL during a two-day training session organized in London, United Kingdom. The purpose of the training was to enhance the capacity of the Defence Office to properly assist and represent Residual Special Court convicts on matters relating to conditional early release and to assist in the training of members of the Monitoring Authority.

Justice Renate Winter was invited

by a human rights organization in Tajikistan to teach about the Optional Protocol to the UN Convention on the Rights of the Child on Children in Armed Conflict, citing the jurisprudence of the SCSL as “best practice”. Justice Winter also dealt with the issue of children in armed conflict with the delegation of the Central African Republic to the UN Committee on the Rights of the Child, stressing on the jurisprudence of the SCSL concerning child soldiers, child victims and witnesses. She placed a special focus on child refugees who come from war-torn countries, and she emphasized that with respect to the issue of child marriage SCSL jurisprudence could be of great value. Other countries she engaged were Malawi, Georgia, United Kingdom, Bulgaria, Gabon, Nepal (former child soldiers) and Pakistan (child soldiers, child terrorists, child marriage).

Justice Doherty gave a public lecture at Cork University, where she is an Adjunct Professor, on the Special Court’s role in developing international criminal law and on the law of sexual violence in conflicts.

2nd Quarter

Justice Shireen Avis Fisher delivered a paper at the first plenary meeting of the 25th Anniversary Conference of the International Association of Women Judges (IAWJ) held in Washington, DC 26 - 29 May 2016 and attended by one thousand women judges from 82 countries. The topic of the paper was “Gender Sensitive Justice in International Courts”, and it highlighted the work of the Special Court, particularly on the crime of forced marriage. The meeting was also attended by Justice Teresa Doherty, who was unanimously elected chair of the International Judges Section of the IAWJ.

A chapter on the Residual Special Court's Practice Direction on the Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone, co-authored by Justice Fisher and Justice Teresa Doherty, was published by Elgar in the following volume: *Research Handbook on the International Penal System*, edited by Róisín Mulgrew, University of Nottingham, UK and Denis Abels, University of Amsterdam, the Netherlands.

Justice Doherty took part in a workshop in Tunis, Tunisia organized by the IAWJ on war crimes, sexual violence in conflict and the legal status of girls who join ISIS and who later return to their home countries. This involved discussions on national legislation, the Conventions on the Rights of the Child, and Special Court jurisprudence.

The Senior Legal Officer, Ms. Rhoda Kargbo, deputized the Registrar and made a statement on behalf of the Residual Special Court at the launch and popularization of the Sierra Leone Legal Information Institute (SierraLii) by the Hon. Chief Justice, Justice Charm, at the Bank of Sierra Leone Complex, Kingtom, on Thursday, 26 May 2016. SierraLii was established as a legacy project of the SCSL, conceived and managed by the Office of the Prosecutor until the SCSL closed. It is part of the emerging concept of free online access to legal information through the Lii movement – e.g. CANLii, Lii, AUSLii, AfricaLii, KenyaLii, SAFLii, etc.

The Senior Security Officer/Supervisor, Mr. Thomas Akinbobola, represented the Residual Special Court at a reception organized by the European Union in commemoration of the European Union Day.

3rd Quarter

Justice Renate Winter highlighted the issue of children (child soldiers and child marriage) at the UN Committee on the Rights of the Child with the delegations of Sierra Leone, South Africa, Cameroon and Bhutan.

Justice Teresa Doherty delivered a lecture in July 2016 at Leiden University (Netherlands) Summer School on Human Rights and Transitional Justice on “Gender Justice in the Field” speaking on the practical application of human rights treaties to trials on gender issues, and the investigation and prosecution of crimes of gender violence in the international tribunals and their application to domestic law.

4th Quarter

Plenary of Judges

The Residual Special Court President, Justice Philip Nyamu Waki, presided over the Third Plenary of Judges of the Residual Special Court, which was held on Thursday and Friday 1-2 December 2016 in Freetown, Sierra Leone. The Judges were welcomed to Freetown by the Deputy Minister of Justice, Arrow John Bockarie Esq., on behalf of the Government of Sierra Leone, and Justice Abdulai Charm, Chief Justice, on behalf of the national judiciary on the opening day of the plenary. The Judges elected Justice Renate Winter of Austria as President to succeed Justice Philip Nyamu Waki of Kenya, who had served as President since the Court commenced operations in 2014. They also elected Justice Elizabeth Ibamda Nahamya of Uganda and Justice Emmanuel Eku Roberts of Sierra Leone as Vice-President and Staff Appeals Judge, respectively. Justice Waki also formally welcomed

newly-appointed Judge Justice Desmond Babatunde Edwards to the Court.

The Judges reviewed a revised version of the Practice Direction on the Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone, which was then signed by the President, received briefings from court officials and deliberated on the 2016 Annual Report. They also considered a number of proposed amendments to the Rules of Procedure and Evidence and approved some of them, resulting in several changes to Rule 18 (Election of the President), Rule 19 (Functions of the President), Rule 20 (The Vice-Presidency), Rule 24 (Plenary Meetings of the Residual Special Court) and Rule 26 (Quorum and Vote). In particular, Rule 18 was amended to align the duration of the terms of office of the President and Vice-President to two years each for efficiency purposes. The incumbent Vice-President, Justice Jon Kamanda, was gracious enough to forego the remainder of his two-year term to ensure the smooth running of the Presidency in this regard. Rule 26 was also amended to allow for voting in absentia by written instructions to proxy at Plenary Meetings. Two working groups of three judges each were set up to consider a draft Code of Professional Ethics and Conduct for Judges and proposals for rule amendments submitted to the plenary with a view to making recommendations to a subsequent plenary.

Other 4th Quarter Activities

President Justice Philip Waki attended the official opening of the new premises of the branch of the Residual Mechanism for International Criminal Tribunals in Arusha, United Republic of Tanzania. The Vice-President of

Tanzania graced the occasion and the opening ceremony.

In December, Justice Renate Winter participated in an expert group meeting and presented a briefing note on “The Treatment of Children Recruited and Exploited by Terrorist and Violent Extremist Groups by the Justice System” at the UN Office on Drugs and Crime in Vienna. She was invited to speak about child victims, the Special Court’s witness protection programme, and its jurisprudence concerning child soldiers.

Justice Shireen Fisher and Justice Teresa Doherty were invited by UN Women in October 2016 to speak on issues concerning violence against women to Palestinian judges following Palestine’s ratification of several international human rights conventions. For security reasons the meeting took place in Jordan, and it was also attended by judges from Jordan, Morocco and South Africa. Justice Fisher spoke on gender sensitivity in international and national courts. Justice Doherty spoke on the application of international treaties in court cases. Both judges contributed to the general discussions on matters such as presentation of evidence, cultural attitudes and the barriers such issues presented in the protection of women and girls against violence and oppression.

OBITUARIES

Justice George Gelaga King, GORSL, passed away on 5 April 2016 in London, United Kingdom after several months of illness. The President of the Residual Special Court conveyed condolences and deepest sympathy to the family of Justice King on behalf of the Judges, the Oversight Committee, Principals and Staff of the Court. Justice King was laid to rest on Friday, 29 April 2016, after a well-attended civic ceremony and funeral service at the Wesley Methodist Church on Lamina Sankoh Street in Freetown. The funeral ceremonies were attended by the President of the RSCSL, Justice Philip Waki, the Vice-President, Justice Jon Kamanda, Justice Abdulai H. Charm, the Chief Justice of the Republic of Sierra Leone who is also a member of the Court, Justice Vivian Solomon, Justice Emmanuel E. Roberts, Prosecutor Brenda J. Hollis, Registrar Binta Mansaray, and other staff of the Residual Special Court.



Justice George Gelaga King

Justice King was appointed by the Government of Sierra Leone and was one of the five judges first appointed to the Special Court’s Appeals Chamber in 2002. He served as President of the Special Court for two terms and presided over the Court’s first and final appeal judgments handed down in the cases of the Armed Forces Revolutionary Council (AFRC) and Charles Ghankay Taylor, former President of Liberia. Prior to joining the Special Court for Sierra Leone, he served as President of the Sierra Leone Court of Appeal and the Court of Appeal of The Gambia. He served as Sierra Leone’s Ambassador to France, Spain, Portugal and Switzerland from 1974 to 1978, and was at the same time Sierra Leone’s Permanent Representative to UNESCO. Between 1978 and 1980 he served as Sierra Leone’s Ambassador and Permanent Representative to the United Nations. Justice King held a Bachelor of Laws degree from London University and was called to the Bar at Gray’s Inn, London. In 2007, he received Sierra Leone’s highest honour when he was named a Grand Officer of the Republic of Sierra Leone (GORSL).

Justice King was a legal giant both in the national and international legal spheres and will be remembered for his invaluable contributions to the groundbreaking jurisprudence of the Special Court for Sierra Leone. The Residual Special Court also notes with regret the passing of Mr. John Richard William Jones QC, former counsel for Mr. Charles Taylor, on 18 April 2016. The Registrar and other Residual Special Court representatives attended the late Mr. Jones’s memorial at the Hague Institute for Global Justice on 29 June 2016.



Justice Philip Waki

THE OFFICE OF THE PRESIDENT

JUDICIAL PROCEEDINGS

Alleged Violation of Terms of Conditional Early Release: Mr. Moinina Fofana

The President was seized pursuant to Article 12 (C) of the Practice Direction on Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone (Practice Direction) of a report from the Registrar on an alleged violation by convicted person Mr. Moinina Fofana (Fofana) of a special condition of his conditional early release as reported above in the Chambers section of this report.

Request for Questioning of Issa Sesay by Belgian International Rogatory Commission (Belgian Court)

The Registrar notified the President via memorandum of a request from the Belgian International Rogatory Commission seeking to take evidence from Mr. Issa Sesay pursuant to Paragraph 2 of the Practice Direction on the Procedure Following a Request to Take a Statement from a Person in the Custody of the Residual Special Court for Sierra Leone and of the Registrar's action in forwarding the request to Mr. Sesay and his counsel for their attention pursuant to Paragraph 4 of the Practice Direction. The President was further notified by the Registrar of Mr. Sesay's consent to give a statement before the Belgian Court pursuant to Paragraph 5 of the Practice Direction. In accordance with Paragraph 5 of the Practice Direction, the President instructed

the parties – the Prosecutor and Counsel for Mr. Sesay – to make representations concerning the request and the Registrar to do the same. Upon receipt of the representations from the parties, the President approved the request in accordance with Paragraph 5 of the Practice Direction on 18 March 2016, subject to certain conditions.

Death of Convicted Person Alex Tamba Brima

Following receipt of correspondence regarding the death of convicted person Alex Tamba Brima, medical reports and findings of inquests, *inter alia*, from the Residual Special Court and the Rwanda Correctional Services (RCS), the President indicated his satisfaction with the reports to the Registrar thereby bringing closure to the investigations on the death of the convicted person. Details surrounding his death are contained in the Registry section of this report below.

Application for Conditional Early Release – Allieu Kondewa

The President was seized of an application filed by convicted person Allieu Musa Kondewa for determination of his eligibility for consideration for conditional early release pursuant to Article 2 and Article 3 of the Practice Direction on the Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone.

On 2 December 2016, the President found that Allieu Musa Kondewa was eligible to be considered for conditional early release and



Justice Philippe Waki and Senior Legal Officer

ordered: (i) that the Registrar request Kondewa to provide the information required under Article 5(B) of the Practice Direction not later than 14 days from the filing of the decision, (ii) submission of information required by the Registrar pursuant to Article 5 (C) to 5 (H) of the Practice Direction within 30 days of his decision.

On 6 December 2016, the Registrar applied for an extension of time to 30 January 2017 to comply with the President's order. On 13 December 2016, the newly-elected President, Justice Renate Winter, granted the Registrar's request for extension of time, holding that she was satisfied that the extension was necessary to enable the Registrar to obtain and collate the volume and amount of information required pursuant to Articles 5 (C) to (H) of the Practice Direction. On 13 December, the Defence Office also filed a request for an extension of time to comply with the President's order, citing the unavailability of members of the communities in Allieu Kondewa's

requested areas of release during the festive season for the required consultations. On 14 December 2016, President Winter granted the Defence Office request for extension of time to 15 January 2017. A decision on the application was therefore still pending at the end of the reporting period.



Justice Renate Winter



Prosecutor Brenda Hollis

THE OFFICE OF THE PROSECUTOR

The Prosecutor discharged her statutory functions during 2016 both remotely and from the Residual Special Court offices in The Hague and Freetown. Her office in The Hague routinely responded to written correspondence and telephone inquiries, kept records of those inquiries, and coordinated with or supported other sections of the Court on general administrative matters. In addition, The Prosecutor's Office responded to requests for assistance from national prosecution authorities and conducted the case against Moinina Fofana for alleged violations of his Conditional Early Release Agreement. While in Freetown, she held diplomatic meetings with foreign missions, and joined other principals of the court to attend the funeral of the late Justice George Gelaga King. The Prosecutor continued with diplomatic meetings in The Hague.

THE PROSECUTOR'S DETAILED ACTIVITIES

From 7 March to 4 May, the Prosecutor worked from The Hague Office and from Freetown. She travelled twice to Freetown during this period to conduct the case against Moinina Fofana. Her visits to Freetown followed President Waki's Order dated 9 March 2016 directing the Prosecutor to prosecute Moinina Fofana for alleged violations of the conditions of his early release, after an investigation as reported in the Chamber's section of the report. The Prosecutor's role included reviewing the report and annexes prepared by the Monitoring Authority

which identified two additional potential violations, serving notice of these violations on Counsel for Mr. Fofana and the Designated Judge, identifying areas requiring further evidence and supervising the collection of that evidence, and appearing at the hearings. In addition, the Prosecutor and her Legal Adviser/Evidence Officer prepared and filed final submissions on the matter before the disposition hearing.

In Freetown, the Prosecutor worked with staff of the Witness and Victims Section, assessing security and support needs of victims and witnesses who were put at risk on account of their testimony in SCSL trials. She provided input regarding the content of assessment forms for victims and witness response.

Furthermore, the Prosecutor undertook outreach missions to Koribondo, Dodo, Ngandorhun and Tombodu in the south and east of Sierra Leone. In Freetown, she met with civil society and human rights activists who had comprised the Special Court's Interactive Forum (SCIF).

The Prosecutor paid visits to the European Union, United Kingdom and German diplomatic missions in Freetown. The visits were part of an extended programme of Residual Special Court diplomatic visits which she continued in The Hague. The Hague diplomatic visits covered 28 missions, spanning the two periods the Prosecutor worked in The Hague, 10-31 August and 23-29 September. The Prosecutor made some visits jointly with the

Registrar, and was at other times accompanied by her Legal Adviser/Evidence Officer. She updated ambassadors and heads of mission on the activities of the court in furtherance its mandate, and highlighted the need for supporting the Court's aspiration to secure sustained long term funding for its operations.

In The Hague, the Prosecutor worked with her Legal Adviser/Evidence Officer on a number of other activities in furtherance of her mandate, including research and preparation of draft submissions (*pro forma*), addressing issues to which the Prosecution could be required to respond in a motion for review of conviction or sentence; requesting that the Registrar re-serve on the Attorney-General and the Inspector General of Police of Sierra Leone certified copies of the indictment and arrest warrant against Johnny Paul Koroma with a request for assistance in locating and arresting him if he is found in Sierra Leone; drawing up suggested amendments to the Practice Direction on Conditional Early Release based on lessons learned from the Mr. Fofana matter; initiating planning for participating in proceedings relating to the pending application for conditional early release by Allieu Kondewa; and speaking to visiting post-graduate students from the London School of Economics (LSE).

In July, the Prosecutor presented two international criminal law lectures to law students at Washington University in St. Louis, Missouri, USA. In August, she attended the Tenth Humanitarian Law Dialogs in New York and the Nuremberg Principles Academy's commemoration of seventieth anniversary of the delivery of the Nuremberg Judgment.

The Prosecutor continued to carry out her statutory mandate during the rest of the period from home,

using email and teleconferencing to communicate with her Legal Adviser/Evidence Officer and the Registrar in The Hague.

ALLIEU KONDEWA'S APPLICATION FOR CONDITIONAL EARLY RELEASE

In early December, following the President's decision granting consideration to Allieu Kondewa's application for eligibility for conditional early release as reported in the President's Office section above, the Prosecutor received the Registrar's request to submit a report to the President pursuant to Paragraphs 5(E) and (G) of the Practice Direction. Consistent with her role in the process under Paragraph 5(E), the Prosecutor caused her Legal Adviser/Evidence Officer to travel to Sierra Leone on a two week mission to contact selected former Civil Defence Forces witnesses and victims and obtain their views on Kondewa's application. The information collected from the mission will be incorporated in the Prosecutor's report to be submitted to the President through the Registrar.

REQUEST FOR INFORMATION/ ASSISTANCE

The Prosecutor's Office received and responded to six new requests for information or assistance from national prosecution authorities during the period. In addition, it had at any given time a minimum of four follow-up requests to deal with from already completed tasks.

OTHER ACTIVITIES

The Prosecution Legal Adviser/Evidence Officer represented the Residual Special Court, at the request of the Registrar, at a solemn diplomatic event in The Hague, the signing of a book of condolence for

the late former UN Secretary-General, H. E. Boutros Boutros-Ghali, at the Embassy of the Arab Republic of Egypt.

He also participated in the Eleventh International Association of Court Administrators (IACA) Conference in The Hague, organized in collaboration with the ICTY, on 18-20 May 2016. Standing in for the Registrar, he did a presentation on "The Role of Outreach in Communicating the Work of International Courts", portraying the SCSL Outreach experience.

In July, he attended the International Criminal Tribunal for the former Yugoslavia's (ICTY) launching of its "Legacy Dialogues: Victims and Witnesses" at the Hague Institute for Global Justice. The Legacy Dialogues are intended to be a series of discussions on various themes depicting the ICTY's operations.

Also in July, the Prosecution Legal Adviser/Evidence Office participated in a roundtable meeting of experts and stakeholders at the invitation of the International Criminal Court (ICC) Prosecutor to discuss her Office's Draft Policy on Children.



Registrar Binta Mansaray

THE REGISTRY

In 2016, in accordance with Article 15 of the Statute of the Residual Special Court for Sierra Leone, the Registrar provided assistance to the respective organs and carried out the administration and servicing of the Residual Special Court, including undertaking the following activities between 1 January and 31 December 2016:

VICTIMS AND WITNESSES

Throughout the course of 2016, the Residual Special Court Witness and Victim Section (WVS) office in Freetown continued to actively monitor and provide support to over 100 former witnesses of the Special Court located in various regions of Sierra Leone and in other countries. After Sierra Leone was declared Ebola-free on 7 November 2015, albeit with the occurrence of two subsequent cases on 16 and 20 January 2016, WVS operated unabated throughout the country, as well as in Liberia and elsewhere in the sub-region.

The WVS further carried out a comprehensive assessment of each witness, including a psycho-social assessment and an evaluation of their support and security needs. The Registrar commissioned an expert, the former Chief of WVS of the Special Court, to oversee the assessment and carry out the relevant survey. The WVS also continued to maintain regular contact with states which accommodate relocated witnesses with respect to their legal status, entitlements and any requirements for extension of stay in the host state.

In the first quarter of 2016, WVS

also assisted with investigations into the allegations of a breach of conditional early release of a convicted person of the Residual Special Court as discussed in detail in this and in the Judicial Proceedings section, and consulted with witnesses to ensure that protective conditions in place had not been violated.

MAINTENANCE OF ARCHIVES AND COURT MANAGEMENT

During 2016, the Residual Special Court archivists continued with the maintenance of the Court's archives, including the process of identifying and correcting any gaps in the record. Archivists continue to archive all final documents and data from the Special Court and have established a system to enable the filing of Residual Special Court documents in real time to ensure efficient file management processes. Moreover, they completed the process of populating metadata fields in the software used by the Residual Special Court. The original archives of the Residual Special Court continue to be housed and maintained at the Dutch National Archives (DNA) in The Hague.

During the second half of 2016, the Residual Special Court completed the upgrade of its electronic records management software to an RM8 software system to facilitate the search function capacity of the Court's electronic record database. The upgrade was conducted pursuant to the recommendation of an information technology specialist appointed by the Registrar. Throughout the upgrade process, archivists have been coordinating with the specialist, the ICTY Infor-

mation Technology division, and the Mechanism for International Criminal Tribunals Archives and Records Management Section to draw from their experience in the implementation of the software.

ENFORCEMENT OF SENTENCES

The Residual Special Court continues to monitor the enforcement of sentences imposed by the Special Court, which are carried out through enforcement of sentences agreements with respective enforcement states.

During 2016, nine Special Court convicted persons continued to serve their sentences in three countries with seven persons in Rwanda, one person in the United Kingdom and one person in Sierra Leone on conditional early release. As discussed in this section and as mentioned in the President's Office section above, one of the seven prisoners in Rwanda died on 9 June 2016. Throughout the year, the Registrar provided regular updates to the Rwandan and United Kingdom authorities concerning the operations of the Residual Special Court and maintained an open line of communication with these authorities concerning the prisoners.

RWANDA

In Rwanda, the Registry continued to work closely with the Rwandan Correctional Services (RCS) to monitor the enforcement of sentences of the seven prisoners at Nyanza Prison (formerly Mpanza Prison). Through the Defence Office, the Residual Special Court continued to respond to specific requests from the prisoners.

During the first quarter of 2016, consultations were held with the Rwandan authorities concerning

the status of the Ebola virus and the resumption of family visits. The Rwandan authorities agreed to the resumption of family visits subject to a proper screening of the family members in Freetown prior to the visits. Pursuant to this agreement, the Residual Special Court facilitated the Ebola screening and travel of two groups of family members to visit Special Court prisoners in Nyanza Prison in March and April 2016.

In 2016, the Registry continued to liaise with the International Committee of the Red Cross (ICRC) to ensure that the conditions of imprisonment in Rwanda continue to meet international standards. The ICRC conducts annual visits to Rwanda to verify that the prisoners were being treated in accordance with international standards. The Registrar met with ICRC representatives to discuss their 2016 report and recommendations concerning prison conditions of the convicted persons in Nyanza Prison. The Registrar further worked with the RCS on the implementation of the recommendations contained in the most recent ICRC report.

DEATH OF CONVICTED PERSON, ALEX TAMBA BRIMA

On 1 May 2016, Alex Tamba Brima, serving his sentence in Rwanda, was admitted to King Faisal Hospital following a six-day history of pain in his legs and feet. Dr. Donald Harding, the Residual Special Court's medical consultant, was appointed to oversee matters relating to his illness, subsequently diagnosed as gangrene. Doctors advised Mr. Brima that due to the gangrene they would need to amputate his feet in order to save his life, a procedure available in Rwanda. Mr. Brima refused the treatment unless it were conducted in Europe or North America. Mr. Brima subsequently

died on 9 June 2016. On 13 June 2016, an autopsy was performed by the Rwandan authorities in Kigali, Rwanda, with representatives of the Residual Special Court and the Government of Sierra Leone in attendance. Mr. Brima's wife and his counsel were also present in Kigali. The cause of death was established as "thrombotic peripheral arterial disease with gangrene of both feet". The body of the late Mr. Brima was handed over to Residual Special Court representatives in Kigali on 18 June 2016 and repatriated to Freetown on the same date for transfer to his family and burial.

Following Mr. Brima's death, two inquests were submitted to the Registrar concerning Mr. Brima's death: The Registrar commissioned an inquest by the Residual Special Court, and the Rwandan authorities also submitted a report following an independent investigation. The team commissioned by the Registrar to perform the inquest comprised the Residual Special Court's adviser on prisons, its medical consultant, and the Principal Defender. The Government of Sierra Leone sent a representative to accompany the team. While conducting the inquest in Rwanda, the team further met with Rwandan prison authorities and Special Court prisoners to discuss conditions of imprisonment. A complete record of documents concerning Mr. Brima's death, including inquests, was subsequently submitted to the President. The President, upon review, confirmed that he was satisfied that Mr. Brima had died of natural causes. Mr. Brima was a former senior leader of the Armed Forces Revolutionary Council, serving a 50-year sentence for war crimes and crimes against humanity. He was found guilty on eleven counts, including for acts of terrorism, collective punishment, extermination, murder, rape, and the use of child soldiers.



Registrar Binta Mansaray

CONDITIONAL EARLY RELEASE APPLICATION OF CONVICTED PERSON, ALLIEU KONDEWA

On 21 September 2016, convicted person Allieu Kondewa, a former leader of the Civil Defence Forces, filed an application for consideration for eligibility for conditional early release after having served two-thirds of his twenty-year sentence. As reported in the Chambers section, on 2 December 2016 the President issued a decision granting the Application finding Mr. Kondewa to be eligible for consideration for conditional early release. In order to facilitate a determination of the matter, the President in his decision ordered the Registrar to provide the information required under Articles 5(B) to (H) of the Practice Direction on the Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone within certain prescribed time periods. The Registry is in the process of undertaking necessary investigations

to attain and collate the information pursuant to the aforementioned Articles. The outcome of the Application is anticipated in early 2017.

UNITED KINGDOM

Charles Taylor continues to serve his sentence at HMP Frankland in Durham, UK. In 2016, Mr. Taylor brought a number of issues to the attention of the Residual Special Court. The Registrar continued to coordinate as necessary with prison authorities and defence counsel on such issues and other matters relevant to his service of sentence, including hiring a medical officer to advise the Residual Special Court on matters concerning Mr. Taylor's health.

During the first quarter of 2016, Mrs. Taylor travelled to the UK to visit Mr. Taylor. Further, in the first quarter of 2016, the Registrar coordinated with prison officials in order to facilitate the Principal Defender's visit to the UK to pay a legal visit to Mr. Taylor and introduce himself.

In November 2016, the Registrar commissioned an annual visit to the UK by the court's adviser on prisons to meet with Mr. Taylor and prison authorities concerning matters relating to Mr. Taylor's service of sentence, including issues pertaining to Mr. Taylor's health.

SIERRA LEONE

Moinina Fofana continued to reside in Bo in Sierra Leone, where he has lived since his release from Nyanza Prison, Rwanda in March 2015 under the conditions required by his Conditional Early Release Agreement.

On 9 March 2016, the President issued an order for Mr. Fofana's detention and transfer to the Special Court and for a preliminary hearing following allegations that he had violated the terms of his conditional early release and a finding of probable cause to such effect as reported in the Chamber's section above. On 25 April 2016, pursuant to his admission of violation of the terms of

his early release, a Disposition was issued by Designated Judge Solomon ordering that he be released subject to further stringent and modified conditions. Mr. Fofana was ordered to undergo two weeks of intensive training on the modified conditions of his early release which the Registrar was directed to implement.

In light of the Monitoring Authority's failure to abide by the Monitoring Agreement, Justice Solomon also ordered the Registrar to contact the Monitoring Authority comprising the Sierra Leone Police, *to inter alia* address its failures with respect to Mr. Fofana, assess the manner in which it proposed to ensure strict future enforcement, and provide the Court with an update within 30 days.

In compliance with the Disposition, the Registrar organized Mr. Fofana's training concerning the modified conditions in collaboration with interested stakeholders. The Registrar also held meetings with representatives of the Monitoring Authority concerning its obligations of enforcement. During the meetings, the Monitoring Authority provided a number of undertakings to ensure future enforcement, including the participation of thirteen police officers who would undergo training on the modified conditions. The training took place from 4 to 18 May 2016, subsequent to which Mr. Fofana signed a modified Conditional Early Release Agreement in accordance with the applicable provisions of the Practice Direction. The Monitoring Authority also signed a revised Monitoring Agreement incorporating reference to the modified Conditional Early Release Agreement and its obligations in terms of the Disposition. The Registrar subsequently filed a full report to Justice Solomon on the steps taken to address the Monitoring Authority's failures to com-

ply with the Monitoring Agreement and its undertakings to ensure strict future enforcement of the modified conditions.

ASSISTANCE TO NATIONAL AUTHORITIES

In 2016, the Registry responded to four requests for assistance from national authorities during the course of the year. The majority of requests pertained to information concerning individuals accused of involvement in war-related crimes during the conflicts in Sierra Leone and Liberia, who were now present in the jurisdictions of the requesting authority pursuant to an asylum application or pursuant to other proceedings. One such example concerns the testimony provided by Issa Sesay on 6 July 2016, as reported in the President's Office section. Mr. Sesay was interviewed by the Belgian International Rogatory Commission via video-conference, pursuant to a request for Mr. Sesay's testimony. As previously reported, the request was submitted to the Residual Special Court in accordance with the Practice Direction on the Procedure Following a Request to Take a Statement from a Person in the Custody of the Residual Special Court for Sierra Leone. The interview was conducted following Mr. Sesay's agreement to be interviewed and the President's approval of the request, subject to certain specified conditions, including the presence of the Principal Defender to supervise the questioning. In accordance with the order of the President, arrangements were made for the Principal Defender to be present in Kigali to provide supervision during the interview. Mr. Sesay's *pro bono* counsel, Wayne Jordash, also advised Mr. Sesay via video-conference from the European Union office in Brussels.

THIRD PLENARY OF JUDGES

During the final quarter of 2016, the Registry was engaged in preparations for the Third Plenary of the Judges of the Residual Special Court, held in Freetown, Sierra Leone from 1-2 December 2016. In preparation for the Plenary, the Registry coordinated all logistical and administrative arrangements, including facilitation of travel, visas and accommodation for all attendees.

The Registrar presented submissions to the Plenary concerning proposed amendments to the Residual Special Court Rules of Procedure and Evidence for the Plenary's consideration in accordance with Rule 6 thereof.

STAFFING

While the Residual Special Court functions as a streamlined organization with minimal staffing requirements, its operations continue to require a diversity of skills and staff that make it difficult to manage the workflow of its mandate without additional assistance. As a result, the Registrar continues to retain the services of certain individuals who have previously worked for the Special Court at minimal or no cost except where required on an *ad hoc* basis. These include a Press Officer, a Detention Officer, Legal Officers, CITS Officers, Archivists, a Medical Officer in an advisory role (for medical issues with regards to prisoners) and interns, all of whom were briefly brought in to complete a variety of tasks and projects.

FULL-TIME STAFF

The Residual Special Court office in The Hague continues to be served by a small team consisting of: an Archivist, an Office Administrator, a

Registry Legal Officer, a Legal Officer, an Associate Legal Officer, a Finance Officer, and a Prosecution Legal Adviser/Evidence Officer. Residual Special Court staff positions in Freetown include three full-time Witness and Victim Protection staff, an Associate Defence Legal Officer, an Office Administrator and a cleaner. In New York, a Liaison Officer serves on a part-time basis.

STAFF ON A ROSTER

The Registry continues to maintain a roster of former Special Court staff, created pursuant to Article 15(4) of the Residual Special Court Statute, in addition to a roster of legal officers and defence counsel. The Registrar relied on these rosters during the course of the year to supplement staff resources as and when needed.

As a result of the on-going cooperation between the Residual Special Court and Brandeis University in the United States, the Residual Special Court accepted a student from the university as an intern in the second quarter of 2016. This was the Residual Special Court's third intern from Brandeis University.

FACILITIES

Residual Special Court Interim Seat in The Hague

The Residual Special Court continues to share its seat and administrative and technical platforms with the ICTY pursuant to a Memorandum of Understanding regarding administrative and technical arrangements between the respective institutions. Following the migration by the ICTY and the Mechanism for International Criminal Tribunals to the Umoja platform on 1 November 2015, and despite initial transitional and administrative difficulties that occurred as a result thereof, the



RSCSL staff meet visiting members of the Oversight Committee in The Hague

ICTY has continued to provide administrative support services to the Residual Special Court throughout 2016 on a cost reimbursable basis. Since the Residual Special Court does not have access to the Umoja platform, it procured the software application ‘Inventive Software’ from a Dutch vendor for the management of its transactions in the first half of 2016. The finance and budget officer, the office manager and a contractor worked with the vendor to set up the finance, human resource and other systems.

RESIDUAL SPECIAL COURT BRANCH OFFICE IN FREE- TOWN

In Freetown, the Residual Special Court continues to occupy a portion of the former Special Court site and still shares the site with the Law Reform Commission, the Sierra Leone Peace Museum, the Sierra Leone Law School, and other justice sector organisations.

PRACTICE DIRECTION AND ADMINISTRATIVE DOCUMENTS

During the course of the year, the Residual Special Court continued to develop its administrative framework and is still in the process of developing additional personnel policies to regulate various internal administrative matters.

In the second quarter of 2016, a training seminar on the implementation of the Practice Direction on the Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone was held in London by Justice Teresa Doherty and Justice Shireen Fisher. The Registrar facilitated the travel of the Principal Defender and Associate Defence Officer to attend the training. On 30 November 2016, a one-day refresher training on the Practice Direction took place in Freetown as reported in the Chamber’s section. The Registrar assisted in arranging the training.

During 2016, the Working Group on the Practice Direction conducted

extensive revisions on the Practice Direction. The Registry provided assistance to the Working Group’s activities during the review process. The Registry has also assisted Justice Fisher in finalizing the Special Court Jurisprudential Compilation: “Bearing the Greatest Responsibility, SCSL Select Jurisprudence”.

FINANCIAL SITUATION

Budget

The Residual Special Court’s approved budget for 2016 was in the sum of USD3,596,300. A UN subvention grant was received in the amount of USD2,438,500 to supplement the Court’s funding to sustain activities for the present year.

Audit

From 14 to 25 November 2016, the South African Auditor General conducted an on-site audit of the Residual Special Court’s 2015 accounts. The final report of the audit was pending at the end of the reporting period.



Principal Defender Ibrahim Yillah

DEFENCE OFFICE

During the period under review, the Defence Office continued to perform its functions in accordance with Rule 45 of the Rules of Procedure and Evidence of the Residual Special Court. The Defence Office maintains communication with all Residual Special Court convicts serving their prison terms in the UK and Rwanda, respectively. Moreover, the Office receives and implements legal instructions from the convicts in the forms of various filings submitted to the Court by the Office on behalf of various convicts. The Office serves as the channel of communication between the Registry and the convicts and in this regard submitted their various requests to the Registry. Part of the key duties this Office has undertaken during this reporting period is to facilitate communication between the convicts, their family members and their respective *pro bono* counsel.

UNITED KINGDOM – CHARLES TAYLOR

As part of the Office's responsibility to ensure that the rights of convicts are respected, the Principal Defender and his Associate Defence Counsel travelled to the United Kingdom on 6 January 2016. The purpose of the visit was for the Principal Defender to introduce himself to Mr. Charles Taylor since he assumed his duties and to address issues relating to his rights in prison. Together with Associate Defence Counsel, the Principal Defender met Mr. Taylor and they collectively discussed a wide range of issues, ranging from attorney-client privilege to the possibility of submitting an application for a review of his case. Mr. Taylor informed the team that his rights

have been respected but expressed concerns about the distance between the UK and Liberia where his family resides. He stated that this hampers his progress on monitoring the development of his children, and asked that the Office consider the possibility of submitting a fresh application to the Court to transfer him from the UK to Rwanda, given the close proximity of the latter to Liberia.

Mr. Taylor informed the Office that his wife visited him recently and the Principal Defender assured him of the Office's readiness to assist his family members with UK visa applications at any time. Mr. Taylor thanked the Defence Office and the Registrar for assisting his wife with the UK visa application process. The Principal Defender also met the Deputy Governor of the HMP Frankland, who assured the Office that the rights of Mr. Taylor would be respected at all times.

The visit to the UK was also used as an opportunity for Defence Office personnel to participate in a two-day training on the application of the provisions of the draft revised Practice Direction on Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone as reported in the Chamber's section. The Office benefitted immensely from this training. Upon return to Sierra Leone, the Principal Defender immediately provided a partial report to the Registrar about the visit, though certain aspects of the report were not submitted as they contained privileged communications between the Office and Mr. Taylor, who had not waived the privilege.



Justices Waki and Kamanda at Plenary

THE HAGUE

The Principal Defender and the Associate Defence Counsel travelled to The Hague to address outstanding matters related to defence confidential archives housed in the Dutch National Archives, including but not limited to the verification of the index of defence records. The Office personnel received briefings from officials of the Dutch National Archiving Centre, and the Office identified all confidential materials filed by the Defence and the location where Defence materials were stored.

RWANDA

As part of his duties, the Principal Defender travelled to Kigali on 4 July 2016. The Principal Defender visited Nyanza Prison and met with each of the convicts and the prison authorities. The convicts informed the Principal Defender that their rights are generally respected, a fact

confirmed by the prison authorities. The Principal Defender took the opportunity to inspect the food prepared for the convicts and the clinic facility at the Prison. The Principal Defender was satisfied with the quality of the food provided to the convicts and expressed similar sentiments with the state of the clinic.

REQUEST TO INTERVIEW CONVICTED PERSON ISSA SESAY BY THE BELGIAN AUTHORITIES

As reported in the President's Office and Registry sections, following a request from the Belgian International Rogatory Commission to interview Special Court convict Issa Sesay, the Principal Defender travelled to Kigali on the directions of the President of the Court in order to ensure that the rights of Issa Sesay were respected throughout the interview by the Belgian authorities. Issa Sesay cooperated with the Belgian authorities and the interview

was conducted in the presence of and with the full participation of the Principal Defender. The venue for the interview was the European Union Headquarters in Kigali, Rwanda.

VISIT OF FAMILY MEMBERS OF RESIDUAL SPECIAL COURT CONVICTS TO RWANDA

The Defence Office and the Registry facilitated the travel of family members of convicts to Rwanda. During the period under review, the first group of three family members departed Freetown in March 2016 for Rwanda and returned to Freetown in April 2016. The second group of four family members travelled to Rwanda at the end of April 2016 and returned to Freetown in May 2016. Mrs. Margaret Brima, Mr. Brima's wife, stayed in Rwanda till late June 2016 due to her husband's illness and subsequent death as reported in the Registry section of the report.

DEATH OF RESIDUAL SPECIAL COURT CONVICTED PERSON

Alex Tamba Brima

As already reported, the Principal Defender was present both in Rwanda and Sierra Leone at the events preceding and following the death of the late Mr. Alex Tamba Brima, who was hospitalised at King Faisal Hospital in Kigali, Rwanda. In particular, as reported in the Registry section, whilst in Kigali the Principal Defender, together with the medical doctor assigned by the Residual Special Court, engaged with the medical personnel in Rwanda and urged Mr. Brima to undergo the medical treatment recommended by the medical experts. Mr. Brima refused the treatment and passed away on 9 June 2016 in Rwanda. Prior to his death, Mr. Brima was in constant contact with his *pro bono* counsel, Mr. Melron Nicol-Wilson, who also travelled to join the Principal Defender and Residual Special Court personnel in Kigali. Defence personnel and *pro bono* counsel were present during the autopsy performed by the Rwandan authorities and during the inquest ordered by the Residual Special Court.

The Defence Office, in collaboration with the Registrar and *pro bono* counsel, worked with the family to ensure that Mr. Brima received a funeral.

CONDITIONAL EARLY RELEASE

Moinina Fofana

As reported previously, on 10 March 2016 the President issued an order for the arrest and detention of Mr. Moinina Fofana for alleged violation of the terms of his initial Conditional Early Release Agreement of 20 February 2015. At Mr. Moinina Fofana's request, the Principal De-

fender assigned a *pro bono* counsel to him in the person of Mr. Melron Nicol-Wilson. Together the Principal Defender and *pro bono* counsel provided legal advice and representation at the hearing until the conclusion of the matter by the Designated Judge, Justice Vivian Solomon. The Registry Section above contains details of the administrative hearing by the Designated Judge.

Allieu Kondewa

The Defence Office, in collaboration with Mr. Melron Nicol-Wilson, *pro bono* counsel for Mr. Kondewa, provided assistance to Mr. Kondewa in the preparation of his application for conditional early release in accordance with the Practice Direction on the Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone, submitted to the President on 1 October 2016. From October to December 2016, the Defence Office has been working with *pro bono* counsel on the conditional early release application of Mr. Allieu Kondewa. As of the date of submission of this report, the process is still ongoing. Following the granting of the Defence request for extension of time to file submissions pursuant to the Practice Direction on 14 December 2016, the Defence Office undertook investigations throughout the country in support of Allieu Kondewa's Application.

PLENARY SESSION

The Defence Office participated fully in the plenary session of the Residual Special Court held in Freetown from the 1- 2 December 2016. The Defence Office updated the Plenary about its activities in 2016 and also provided an indication as to its plans for 2017.

FUNDRAISING AND DIPLOMATIC RELATIONS

OVERSIGHT COMMITTEE

During 2016, the Oversight Committee and the Residual Special Court Registrar held a series of discussions concerning ongoing efforts to secure a means of sustainable funding for the Residual Special Court. The Registrar regularly participated in the Oversight Committee meetings via teleconference and the liaison officer in New York attended in person.

In May 2016, Mr. Giles Norman, the former chair of the Oversight Committee and representative of the Canadian Mission to the UN, Marcel van den Bogaard, representative of the Netherland's Mission to the UN, Helen Mulvein, Legal Counselor at the United Kingdom Mission to the UN, and Philomena Cleobury, Legal Officer, Office of Legal Affairs of the UN, visited the interim seat of the Residual Special Court in The Hague. During their visit, they met with the ICTY Registrar regarding services provided to the Residual Special Court. They also met with Residual Special Court staff and conveyed the Oversight Committee's support of their work.

During July and August 2016, the tenure of the representatives Giles Norman, Marcel van den Bogaard and John Abrogast, representative of the United States Mission to the UN, came to an end. The Residual Special Court expresses its deepest gratitude to these dedicated representatives for their valuable contributions to the ongoing operations and work of the Court. The new-

ly-appointed representatives of the respective missions are Catherine Boucher, chair and representative of the Canadian Mission, Emily Pierce, representative from the United States Mission, and Bart Paans, representative from the Netherland's Mission.

In November 2016, Ms. Boucher and Mr. Paans paid the Residual Special Court a courtesy visit to meet with the Registrar and staff of the Court and to receive an update on the Court's activities.

FUNDRAISING CHALLENGES

Throughout 2016, the Sierra Leonean Government, the UN Office of Legal Affairs and the Oversight Committee intensified efforts to secure a long-term funding solution for the Residual Special Court. The Chair of the Oversight Committee convened ongoing coordination meetings to facilitate discussions on the matter. A further appeal letter was sent by the UN Secretary General to member states to garner their support. Additionally, the Office of Legal Affairs has been holding internal consultations on this issue.

During the first quarter of 2016, the Registrar travelled to Sierra Leone to perform her functions from the Freetown sub-office. Whilst in Freetown, the Registrar met with officials from the Government of Sierra Leone, Civil Society, UN agencies, and local representatives of other governments, focusing on the challenges of the Residual Special Court and the need for further support.

During August and September 2016, the Residual Special Court continued to conduct intense and robust fundraising efforts. The Registry attended to all the logistical arrangements necessary to secure a total of 30 fundraising meetings largely attended by the Prosecutor during her two visits to The Hague during the aforementioned period. Some meetings were jointly attended by the Registrar and Prosecutor with heads and other representatives of diplomatic missions in order to brief them on the work and increase the profile of the Court and garner political and financial support.

In this regard, meetings were held with the United States of America, Russia, Brazil, Uruguay, Ukraine, Italy, Finland, Switzerland, Australia, Canada, the Netherlands, South Africa, Germany, United Kingdom, India, Venezuela, Japan, Ireland, Malaysia, New Zealand, Rwanda, Sweden, Norway, Egypt, Denmark, Belgium, Luxembourg and Austria.

Despite ongoing fundraising efforts, the Residual Special Court only received a contribution from Luxembourg in the sum of Eur 20,000 and a contribution from the Czech Republic in the sum of USD5,769,67 towards the operating budget for 2016. In the circumstances, efforts to secure a subvention for 2017 have continued throughout the second half of 2016.

In October 2016, pursuant to the request for subvention, the Registrar, via video teleconference (VTC), the Assistant Secretary-General for Legal Affairs and the Director of Programme Planning and Budget Division at the Department of Management's Office of Programme Planning, Budget and Accounts responded to questions from the ACABQ regarding the Residual Special Court budget. On 18 November 2016, the Registrar, via



Visit by Sierra Leone's Ambassador in Brussels

VTC, a representative from Office of Legal Affairs and the Director of Programme Planning appeared before the Fifth Committee to provide additional information on the Residual Special Court budget.

On 23 December 2016, the Fifth Committee authorised the Secretary-General to enter into commitments in an amount not to exceed USD2,800,000 to meet the projected Residual Special Court budget for the period from 1 January to 31 December 2017. The subvention was approved as a bridging mechanism with the expectation that the Secretary-General will report on the use of the commitment authority including updated information on the sustainable future financing of the court.

Moreover, ongoing consultations were held with the Canadian Mission in The Hague with a view to hosting a diplomatic briefing at the Canadian residence in January 2017. During December 2016, invitations were distributed to 58

diplomatic missions with a view to securing the attendance of the respective embassy representatives. The Residual Special Court expresses thanks to the former Chair of the Oversight Committee, Mr. Giles Norman, who facilitated the introduction with the Canadian Mission. The diplomatic briefing is scheduled to take place on 19 January 2017 and is intended to allow the Residual Special Court principals to reach out to a wider audience, brief the participants on the work of the court, and garner further political and financial support.

COOPERATION WITH STATES

The Residual Special Court continues to liaise with host states concerning matters relating to the enforcement of the respective headquarters agreements. Consultations were held with the Netherlands Ministry of Foreign Affairs in connection with the Residual Special Court Headquarters Agreement. The Upper House of Parliament of The Kingdom of The Netherlands

adopted the Treaty on the Seat of the Residual Mechanism for the Special Court for Sierra Leone on 2 December 2015, thereby ratifying the Court's Headquarters Agreement with the Netherlands. The Headquarters Agreement entered into force on 1 May 2016 following notification by both parties.

In addition to general ongoing cooperation throughout the course of the year, including pursuant to bilateral agreements, the Government of Sierra Leone assisted in specific activities conducted by the Residual Special Court. This assistance included the provision of robust security services by the Sierra Leone police during court hearings related to Mr. Fofana's violation of his Conditional Early Release Agreement. The Sierra Leone National Judiciary also provided the Residual Special Court with access to their National Fast Track Court, including assistance from court staff, during the hearing.

Throughout 2016, the Residual Special Court has further continued cooperation efforts with the UK and Rwanda pursuant to bilateral agreements regulating enforcement of sentences in the respective countries. In addition to this general cooperation, the Rwanda authorities facilitated the transfer and return of Mr. Sesay from the Nyanza Prison to the European Union premises in Kigali for the purposes of his interview with the Belgium Court on 6 June 2016, as mentioned earlier.

DIPLOMATIC AND OTHER EVENTS

During the first half of 2016, the Residual Special Court was repre-

senting the activities of the Residual Special Court and its challenges.

In September 2016, the Registrar and Prosecutor attended the Seventieth Anniversary of the Verdicts of the International Military Tribunal in Germany, during which lectures organised by the International Nuremberg Principles Academy were delivered on “Transitional Justice – Post-War Legacies”.

On 24 November 2016, the new High Commissioner for the Canadian Mission in Ghana paid a courtesy visit to the Residual Special Court sub-office during her visit to Freetown. A representative of the Court further attended the biennial



Visit of the Oversight Committee

sented at the Seventieth Anniversary Celebrations of the International Court of Justice.

The Registrar, Prosecution Legal Officer and Registry Legal Officer further met with students from Osaka University and the London School of Economics and Political Science, and briefed them on the ac-

global conference of the International Peace Research Association (IPRA) held in Freetown from 27 November – 1 December 2016, and delivered a keynote address on the theme of “Transitional Justice in Post-Conflict Environments”.

ANNEX I

Overview of the 2016 Budget

To manage the non-judicial residual functions and the judicial and other proceedings, the budget for the Residual Special Court's operations for 2016 is (USD3,596,300). Further breakdown of the 2016 figure is as follows: permanent staffing costs (USD1,887,100); income tax liability (USD120,000); and operational costs (USD1,422,300). The operational costs include ICTY administrative support services (USD379,700) and the annual cost for enforcement of sentences of the 7 SCSL convicted persons in Nyanza Prison, Rwanda (USD110,000).

A 5% contingency of this amount (USD166,900) has been factored into the budget.

Non/Judicial and Judicial

Requirements by object of expenditure - Non Judicial & Judicial Proceedings

(United States dollars)

Object of expenditure	Non Judicial	Judicial	Total Budget
Posts (gross)	872,300	177,400	1,049,700
Other Staff Cost	293,600	335,300	628,900
Salary to Judges	88,000	120,500	208,500
Consultants and Experts	30,000	-	30,000
Witness Costs	80,000	-	80,000
Travel - Witness	10,000	78,800	88,800
Travel	110,800	135,700	246,500
Contractual services	521,600	31,700	553,300
General Operating Expenses	180,100	72,800	252,900
Conditional Early Release	0	38,800	38,800
Supplies and Materials	17,000	-	17,000
Acquisition of Furniture and Equipment	5,000	-	5,000
Tax Liability	120,000	-	120,000
Enforcement	110,000	-	110,000
Contingency	121,900	45,000	166,900
	2,560,300	1,036,000	3,596,300

ANNEX II

Residual Special Court Judges and Personnel	South Africa	1
Nationalities 2016		

	United States of America	1
--	--------------------------	---

JUDGES

Austria	1
---------	---

Botswana	1
----------	---

Canada	1
--------	---

Ireland	1
---------	---

Kenya	2
-------	---

Samoa	1
-------	---

Sierra Leone	7
--------------	---

Uganda	1
--------	---

United Kingdom	1
----------------	---

United States of America	1
--------------------------	---

Total	17
-------	----

	Total	14
--	-------	----

CONTRACTORS

Canada	2
--------	---

Pakistan	1
----------	---

Sierra Leone	9
--------------	---

United Kingdom	2
----------------	---

United States of America	5
--------------------------	---

	Total	19
--	-------	----

	Grand Total	53
--	--------------------	-----------

PRINCIPALS

Sierra Leone	2
--------------	---

United States of America	1
--------------------------	---

Total	3
-------	---

STAFF

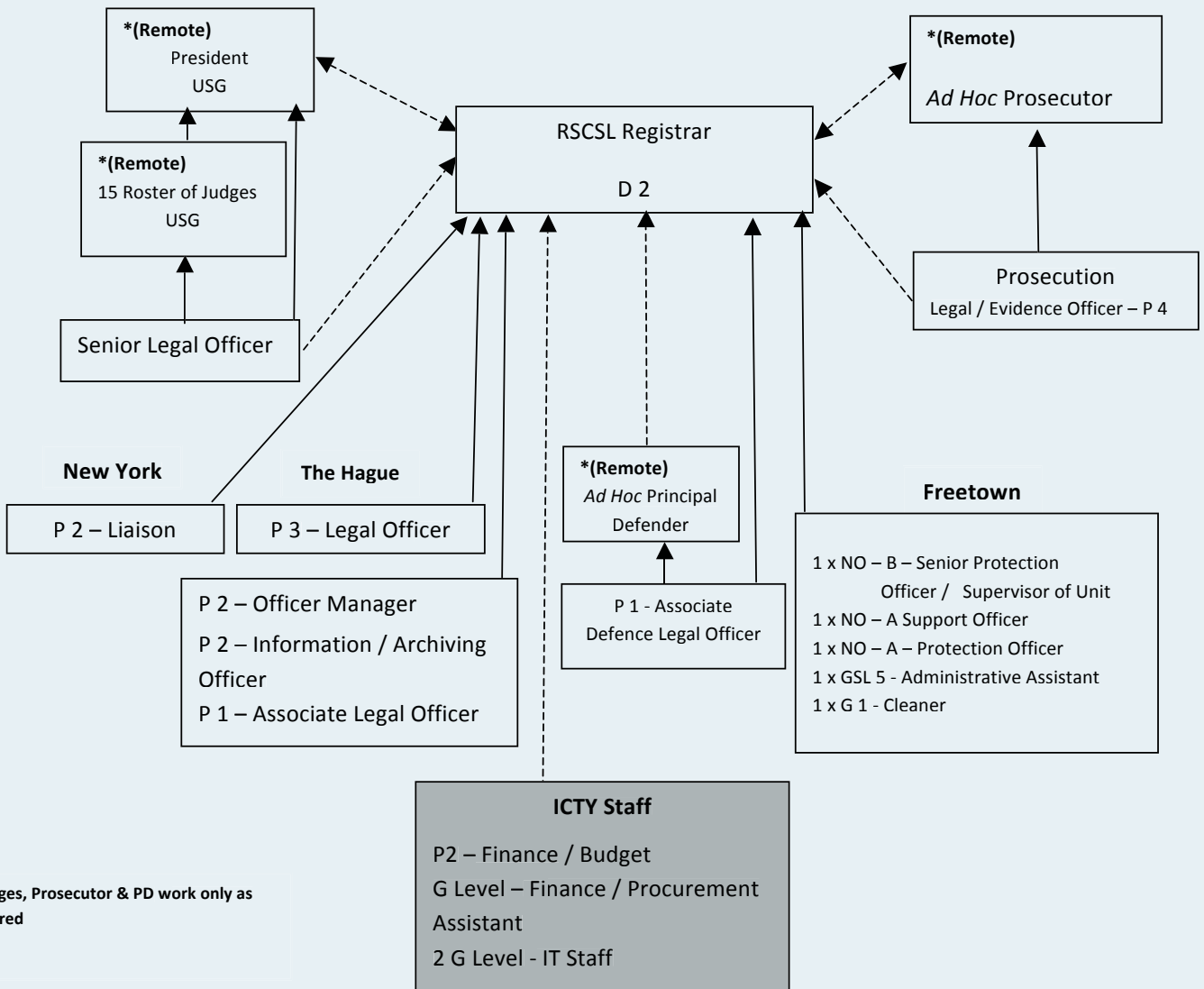
Germany	1
---------	---

Saint Lucia	1
-------------	---

Sierra Leone	10
--------------	----

ANNEX III

RESIDUAL SPECIAL COURT FOR SIERRA LEONE (RSCSL) ORGANOGRAM (2016)



Residual Special Court for Sierra Leone

Jomo Kenyatta Road, Freetown, Sierra Leone

Churchillplein 1, 2517 JW, The Hague
P. O. Box 19536, 2500 CM The Hague

www.rscsl.org

