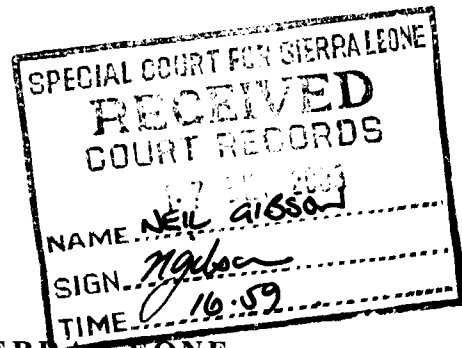


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SCSL-2003-08-PT  
(1750-1752)



**SPECIAL COURT FOR SIERRA LEONE**

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**THE TRIAL CHAMBER**

**Before:** Judge Bankole Thompson, Presiding Judge  
Judge Pierre Boutet  
Judge Benjamin Mutanga Itoe

**Registrar:** Robin Vincent

**Date:** 17<sup>th</sup> of September 2003

**The Prosecutor against**

**Samuel Hinga Norman**  
(Case No.SCSL-2003-08-PT)

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**ORDER PURSUANT TO RULE 72 (E)**

**DEFENCE PRELIMINARY MOTION ON LACK OF JURISDICTION: CHILD  
RECRUITMENT**

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**Office of the Prosecutor:**  
Luc Côté, Chief of Prosecutions

**Defence Counsel:**  
Mr. James Blyden Jenkins-Johnston  
Mr. Sulaiman Banja Tejan-Sie

**THE SPECIAL COURT FOR SIERRA LEONE (“the Special Court”)**

**SITTING** as the Trial Chamber (“the Chamber”), composed of Judge Bankole Thompson, Presiding Judge, Judge Pierre Boutet, and Judge Benjamin Mutanga Itoe;

**SEIZED** of the Defence Preliminary Motion of the 26<sup>th</sup> day of June 2003 on Lack of Jurisdiction: Child Recruitment (“the Preliminary Motion”), in relation to count 8 of the Indictment against **Samuel Hinga Norman** (“the Accused”);

**CONSIDERING** the Prosecution’s Response to “the Preliminary Motion” dated the 7<sup>th</sup> day of July 2003 (“the Response”);

**CONSIDERING** the Order on the Defence Request for Extension of Time within which to File Defence Reply to Prosecutor’s Response to Defence Preliminary Motions of the 17<sup>th</sup> day of September 2003;

**CONSIDERING** the Defence Reply to “the Preliminary Motion” of the 14<sup>th</sup> day of July 2003 (“the Reply”);

**CONSIDERING** the entire provisions of Rule 72 of the Rules of Procedure and Evidence (“the Rules”);

**CONSIDERING**, in particular, the provisions of Rule 72 (E) of “the Rules” which provide that “the Chamber” shall refer to the Appeals Chamber for a determination as soon as practicable any preliminary motion which raises a serious issue relating to jurisdiction;

**CONSIDERING** that the Defence “Preliminary Motion” objects the jurisdiction of “the Special Court” to try “the Accused” on Count 8 of the Indictment;

**CONSIDERING** that Count 8 indicts “the Accused” for conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities or other serious violations of international humanitarian law, an offence punishable under Article 4 (C) of the Statute of the Special Court (“The Statute”), which is an integral part of the Agreement dated the 4<sup>th</sup> day of January, 2002 between the United Nations and the Government of Sierra Leone, setting up “the Special Court”;

**CONSIDERING** that “the Accused” submits that Article 4 (C) of “the Statute” violates the principle of *nullum crimen sine lege* in that according to him, the crime of child recruitment was not part of customary international law at the time relevant to the indictment;

**GIVEN** that “the Accused”, in light of the above, argues that “the Special Court” lacks jurisdiction to try him for an offence under Article 4 (C) of “the Statute”;

**THE CHAMBER**

**FINDS** that the foregoing submissions raise a serious issue relating to the jurisdiction of “the Special Court” to try “the Accused” on Count 8 of the Indictment that has been preferred against him;

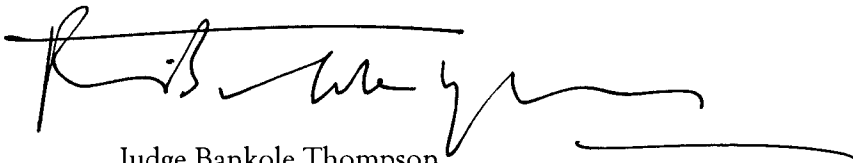
**AND THEREFORE, PURSUANT TO RULE 72 (E) OF THE RULES,**

**REFERS** this Defence “Preliminary Motion”, together with the Prosecution’s “Response” and the Defence “Reply” thereto, to the Appeals Chamber of “the Special Court” for determination;

**ORDERS** that the reference of this Motion to the Appeals Chamber shall not operate as a stay of the trial of “the Accused”;

Done in Freetown, this 17<sup>th</sup> day of September 2003

The Trial Chamber



Judge Bankole Thompson  
Presiding Judge

