

**AGREEMENT
BETWEEN
THE SPECIAL COURT FOR SIERRA LEONE
AND
THE GOVERNMENT OF FINLAND
ON THE ENFORCEMENT OF SENTENCES
OF THE SPECIAL COURT FOR SIERRA LEONE**

THE SPECIAL COURT FOR SIERRA LEONE, established by the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone signed on 16 January 2002 (hereinafter “the Special Court”) and

THE GOVERNMENT OF FINLAND (hereinafter “the Requested State”),

RECALLING Article 22 of the Statute of the Special Court annexed to the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone, according to which imprisonment of persons sentenced by the Special Court shall be served in Sierra Leone; or if circumstances so require, in any State that has concluded with the International Criminal Tribunal for Rwanda or the International Criminal Tribunal for former Yugoslavia an agreement for the enforcement of sentences and which has indicated to the Special Court its willingness to accept convicted persons; or alternatively, in any State with which the Special Court has concluded similar agreements;

RECALLING United Nations Security Council Resolution 1470 (2003), adopted on 28 March 2003, which urges all the States to cooperate fully with the Special Court;

NOTING the willingness of the Requested State to enforce sentences imposed by the Special Court;

RECALLING the widely accepted international standards governing the treatment of prisoners, including the Standard Minimum Rules for the Treatment of Prisoners approved by ECOSOC resolutions 663 C (XXIV) of 31 July 1957 and 2067 (LXII) of 13 May 1977, the Body of Principles for the Protection of all Persons under any Form of Detention or Imprisonment adopted by General Assembly resolution 43/173 of 9 December 1988, the Basic Principles for the Treatment of Prisoners adopted by General Assembly resolution 45/111 of 14 December 1990, and the Recommendation Rec(2006)2 of the Council of Europe Committee of Ministers to member states on the European Prison Rules;

IN ORDER to give effect to the judgements and sentences of the Special Court;

HAVE AGREED as follows:

Article 1

Purpose and Scope of the Agreement

This Agreement shall regulate matters relating to or arising out of all requests to the Requested State to enforce sentences imposed by the Special Court.

Article 2

Procedure

1. A request to the Requested State to enforce a sentence shall be made by the Registrar of the Special Court (hereinafter "Registrar"), with the approval of the President of the Special Court.
2. The Registrar shall provide the following documents to the Requested State when making the request:
 - a. a certified copy of the judgement;
 - b. a statement indicating how much of the sentence has already been served, including information on any pre-trial detention;
 - c. when appropriate, any medical or psychological reports on the convicted person, any recommendation for his or her further treatment in the Requested State and any other factor relevant to the enforcement of the sentence; and
 - d. certified copies of identification papers of the convicted person in the possession of the Special Court.
3. The Requested State shall transmit the request and all communications relating to matters provided for in this Agreement to the competent national authorities.
4. The competent national authorities of the Requested State shall promptly decide upon the request of the Registrar, in accordance with national law, and inform the Registrar in writing of its decision whether or not to accept the convicted person.

Article 3

Enforcement

1. In enforcing the sentence pronounced by the Special Court, the Requested State shall be bound by the duration of the sentence.
2. The conditions of imprisonment shall be governed by the laws of the Requested State, subject to the supervision of the Special Court, as provided for in Articles 7 to 9 and paragraphs 2 and 3 of Article 10 below.
3. The conditions of imprisonment shall be consistent with the widely accepted international standards governing treatment of prisoners; in no case shall such

conditions be more or less favourable than those available to prisoners convicted of similar offences in the Requested State.

4. When a convicted person is eligible for a prison programme or benefit available under the national law of the Requested State which may entail some activity outside the prison facilities, the Requested State shall communicate that fact to the Registrar of the Special Court, together with any relevant information or observation, to enable the Special Court to exercise its supervisory function.

Article 4

Transfer of the convicted person

1. The Registrar shall make appropriate arrangements for the transfer of the convicted person from the Special Court to the competent authorities of the Requested State. Prior to his or her transfer, the convicted person will be informed by the Registrar of the contents of this Agreement.
2. If, after the transfer of the convicted person to the Requested State, the Special Court, in accordance with its Rules of Procedure and Evidence, orders that the convicted person appears in a proceeding before it, the convicted person shall be transferred temporarily to the Special Court for that purpose, conditioned upon his or her return to the Requested State within the period decided by the Special Court.
3. The Registrar shall transmit the order for the temporary transfer of the convicted person to the national authorities of the Requested State. The Registrar shall ensure the proper transfer of the convicted person from the Requested State to the Special Court and back to the Requested State for the continued imprisonment after the expiration of the period of temporary transfer decided by the Special Court. The duration of the temporary transfer shall be deducted from the overall sentence to be served in the Requested State.

Article 5

Non-bis-in-idem

The convicted person shall not be tried before a court of the Requested State for acts constituting a crime falling within the jurisdiction of the Special Court, for which he or she has already been tried by the Special Court.

Article 6

Rule of speciality

1. The convicted person in the custody of the Requested State shall not be subject to prosecution, punishment or to extradition to a third State for any conduct engaged in prior to that person's transfer to the territory of the Requested State, unless such prosecution, punishment or extradition has been approved by the President of the Special Court, at the request of the Requested State.

2. When the Requested State intends to prosecute or enforce a sentence against the convicted person, it shall notify its intention to the Registrar of the Special Court, and transmit the following documents:
 - a. a statement of the facts of the case and their legal characterization;
 - b. a copy of any applicable legal provisions, including those concerning statutes of limitation and applicable penalties;
 - c. a copy of any sentence, warrant of arrest or other document having the same force, or of any other legal writ which the Requested State intends to enforce;
 - d. a protocol containing views of the sentenced person obtained after the person has been informed sufficiently about the proceedings.
3. In the event of a request for extradition made by a third State, the Requested State shall transmit the entire request to the Registrar of the Special Court, with a protocol containing the views of the convicted person obtained after informing the person sufficiently about the extradition request.
4. The Registrar of the Special Court may, in relation to paragraphs 2 and 3 of this Article, request any document or additional information from the Requested State or the third State requesting the extradition.
5. The Registrar, in consultation with the President of the Special Court, shall make a determination as soon as possible. This determination shall be notified to all those who have participated in the proceedings. If the request submitted under paragraphs 2 and 3 of this Article concerns the enforcement of a sentence, the convicted person may serve that sentence in the Requested State or be extradited to a third State only after the enforcement of the sentence imposed by the Special Court has been terminated.
6. The Registrar, in consultation with the President of the Special Court, may authorize the temporary extradition of the convicted person to a third State for prosecution only if it has obtained assurances which it deems to be sufficient that the convicted person will be kept in custody in the third State during prosecution, and transferred back to the Requested State after the prosecution, until termination of enforcement of the sentence imposed by the Special Court.
7. Paragraph 1 of this Article shall cease to apply if the convicted person remains voluntarily for more than 30 days in the territory of the Requested State after termination of enforcement of the sentence imposed by the Special Court, or returns to the territory of that State after having left it.

Article 7

Inspection

1. The competent authorities of the Requested State shall allow the inspection of the conditions of detention and the treatment of the prisoner(s) by the International Committee of the Red Cross (hereinafter the ICRC). The frequency of visits will be determined by the ICRC. The Special Court may furthermore request the ICRC to carry out such an inspection. The ICRC will

submit a confidential report based on the findings of these inspections to the Requested State as well as to the President and the Registrar of the Special Court.

2. The Requested State, the President and the Registrar of the Special Court shall consult each other on the findings of the reports referred to in the previous paragraph. The President of the Special Court may thereafter request the Requested State to report to him or her any changes in the conditions of detention suggested by the ICRC.

Article 8

Information

1. The Requested State shall immediately notify the Registrar of the following:
 - a. if the convicted person has completed his or her sentence, two months, or as soon as practicable, prior to such completion;
 - b. if the convicted person has escaped from custody;
 - c. if the convicted person has deceased; and
 - d. if the convicted person becomes eligible for early release, pardon or commutation of sentence, six months or as soon as practicable prior to such early release, pardon or commutation of sentence.
2. Notwithstanding the previous paragraph, the Registrar of the Special Court and the Requested State shall consult each other on all matters relating to the enforcement of the sentence upon the request of either party.

Article 9

Early release, pardon and commutation of sentences

1. If, pursuant to the applicable national law of the Requested State, the convicted person is eligible for early release, pardon or commutation of the sentence, the Requested State shall notify this to the Registrar of the Special Court in advance of such eligibility, and shall include in any such notification all the circumstances pertaining to the eligibility for early release, pardon or commutation of the sentence.
2. The President of the Special Court shall determine, in consultation with the Judges of the Special Court, whether any early release, pardon or commutation of the sentence is appropriate in the interest of justice and the general principles of law. The Registrar shall inform the Requested State of the President's decision. If the President determines that early release, pardon or commutation of the sentence is not appropriate, the Requested State shall act accordingly.

Article 10

Termination of enforcement

1. The enforcement of the sentence shall terminate:
 - a. when the convicted person has completed his or her sentence;
 - b. when the convicted person has died;
 - c. when the convicted person has been released as a result of being granted early release, pardon or commutation of sentence; or
 - d. when the Special Court has issued a decision as referred to in paragraph 2.
2. The Special Court may at any time decide to request the termination of the enforcement in the Requested State and transfer the convicted person to another State or to the Special Court.
3. The competent authorities of the Requested State shall terminate the enforcement of the sentence as soon as it is informed by the Registrar of any decision or measure as a result of which the sentence ceases to be enforceable.
4. Upon the termination of the enforcement of a sentence, the Registrar shall in consultation with the Requested State make the appropriate arrangements for the transfer of the convicted person from the Requested State or, in the case of death, the repatriation of the convicted person's body.

Article 11

Impossibility to enforce sentence

If, at any time after the decision has been taken to enforce the sentence, for any legal or practical reasons, further enforcement has become impossible, the Requested State shall promptly inform the Registrar of the Special Court. The Registrar shall then make the appropriate arrangements for the transfer of the convicted person. The competent authorities of the Requested State shall allow for at least sixty days following the notification of the Registrar before taking other measures on the matter.

Article 12

Costs

1. Unless the parties agree otherwise, the Special Court shall bear the expenses related to the following:
 - a. the transfer of the convicted person to and from the Requested State, including the temporary transfer to and from the Special Court for the purposes of appearing in a proceeding before the Special Court; and
 - b. the repatriation of the body of the convicted person, in case of his or her death.

2. The Requested State shall pay all other expenses incurred by the enforcement of the sentence, including, but not limited to, medical treatment of the convicted person, if needed.

Article 13

Substitution Clause

Upon completion of the mandate of the Special Court for Sierra Leone, as per Article 23 of the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court for Sierra Leone, and Article 1 of the Statute of the Special Court, its designated successor body, mandated to discharge all residual functions of the Special Court, will take over all functions of the President, the Registrar and the Judges pertaining to the execution of this Agreement.

Article 14

Entry into force

This Agreement shall enter into force on the 30th day following receipt by the Special Court of the notification by the Requested State that it has completed its constitutional requirements for the entry into force of this Agreement.

Article 15

Duration of the Agreement

1. This Agreement shall remain in force as long as sentences of the Special Court are being enforced by the Requested State under the terms and conditions of this Agreement.
2. Upon consultation, either party may terminate this Agreement, with six months prior notice in writing. This Agreement shall not be terminated before the sentences to which this Agreement applies have been terminated and, if applicable, before the transfer of the convicted person as provided for in Article 11 has been effected.

Article 16

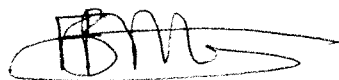
Amendment

This Agreement may be amended by mutual consent of the parties.

IN WITNESS WHEREOF, the undersigned, duly authorized thereto, have signed this Agreement.

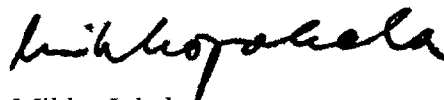
Done at The Hague this **29** day of *June* 2009, in duplicate, in the English language.

**FOR THE SPECIAL COURT
FOR SIERRA LEONE**



Binta Mansaray
Acting Registrar of
the Special Court for Sierra Leone

**FOR THE GOVERNMENT
OF FINLAND**



Mikko Jokela
Ambassador of Finland
to the Netherlands