

JUSTICE JON MOADEH KAMANDA, PRESIDENT OF THE RESIDUAL SPECIAL COURT FOR SIERRA LEONE, (“Residual Special Court”);

NOTING the Statute of the Residual Special Court for Sierra Leone as annexed to the Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of the Residual Special Court for Sierra Leone¹ (Statute), and in particular Article 23, pursuant to which the Residual Special Court shall have power to supervise the enforcement of sentences and Article 24, pursuant to which there shall only be pardon or commutation of sentence if the President of the Residual Special Court, in consultation with the judges who imposed the sentence where possible, so decides in the interests of justice and the general principles of law;

NOTING Rules 19, 123 and 124 of the Rules of Procedure and Evidence of the Residual Special Court for Sierra Leone² and in particular Rule 124 which provides in relevant part that “[t]here shall only be ... early release if the President of the Residual Special Court in accordance with Article 24 of the RSCSL Statute and in consultation with the Judges who imposed the sentence where possible, and after considering the position of the Prosecutor, which shall incorporate the interests of Prosecution witnesses and victims, as well as the convicted person individually or through counsel, so decides on the basis of the interests of justice and the general principles of law”;

RECALLING the Decision of the President on Application to Determine Eligibility for Consideration for Conditional Early Release³ (Eligibility Decision), in which I determined pursuant to Article 4 Paragraph A of the Practice Direction on the Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone⁴ that Augustine Gbao (Gbao) is eligible for consideration for conditional early release;

¹ Statute of the Special Court for Sierra Leone, annexed to the Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone, United Nations and Sierra Leone, 16 January 2002, 2178 U.N.T.S. 138 (Special Court Statute).

² Rules of Procedure and Evidence, Special Court for Sierra Leone, 12 April 2002, (as amended 30 November 2018), (Rules).

³ Decision of the President on Application to Determine Eligibility for Consideration for Conditional Early Release, *RSCSL-04-15-ES-1338*, 10 January 2020.

⁴ Practice Direction on the Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone, 1 October 2013 (as amended 2 December 2016), (Practice Direction).

SEIZED of reports and information received pursuant to Paragraphs (A) to (H) of Article 5 of the Practice Direction by the Registrar, and submitted pursuant to Article 5 Paragraph (I) of the Practice Direction;

PURSUANT TO Article 8 of the Practice Direction;

DECIDES AS FOLLOWS:

I. BACKGROUND

1. On 2 March 2009, a majority of Trial Chamber I of the Special Court for Sierra Leone (“Trial Chamber” and “Special Court”) convicted Gbao on 14 out of 18 counts under Article 6(1) of the Statute, for committing acts of terrorism, collective punishments, extermination, murder as a crime against humanity, violence to life, health and physical or mental well-being of persons in particular murder, rape, sexual slavery, other inhumane acts (forced marriage), outrages upon personal dignity, violence to life, health and physical or mental well-being of persons in particular mutilation, other inhumane acts (physical violence), enslavement and pillage and for aiding and abetting attacks on United Nations peacekeepers.⁵

2. On 8 April 2009, the Trial Chamber handed down sentences for each of the counts for which Gbao was convicted. The sentences were to run concurrently and Gbao was sentenced to a total of 25 years in prison.⁶ On 26 October 2009, the Appeals Chamber of the Special Court (“Appeals Chamber”) upheld Gbao’s total concurrent sentence of 25 years for Counts 1, 3-11 and 13, to be served concurrently with a revised sentence for Count 15 of 20 years.⁷ On the same date, the Republic of Rwanda was designated as the State in which Gbao was to serve his sentence.⁸

⁵ *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-T-1234, Judgement, 2 March 2009, (Trial Chamber Judgement), Disposition.

⁶ *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-T-1251, Sentencing Judgement, (Trial Chamber Sentencing Judgement) 8 April 2009.

⁷ *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-A-1321, Appeal Judgement, (Appeals Chamber Judgement) 26 October 2009.

⁸ *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-04-15-A-1324, Order Designating State in Which Augustine Gbao is To Serve His Sentence (Confidential).

3. Gbao's application to determine eligibility for conditional early release was submitted to me by the Registrar on 8 November, 2019. I determined on 10 January 2020, pursuant to Article 2 of the Practice Direction, that Gbao is eligible for consideration for conditional early release in that he had served 16 years, 6 months of his 25-year sentence as of 16 December 2019 and had met the application requirements of Article 2.

II. THE APPLICATION

4. On 2 April 2020, the Registrar submitted to me a copy of the reports and information received pursuant to Article 5, Paragraphs (A) to (H) of the Practice Direction to assist in determination of Gbao's application for conditional early release.

5. An accompanying interoffice memorandum from the Registrar advised me that the State of Enforcement and Gbao had been informed of the Eligibility Decision in accordance with Article 5 Paragraph (A) of the Practice Direction.

6. Gbao has provided the following information on the request of the Registrar:

- i. Blama Town, Small Bo Chiefdom, Kenema District as the proposed address for residence in the Home State (Requested Area of Residence), in the event that the conditional early release is granted;⁹
- ii. Upper White Stone, Waterloo, Western Rural District as the alternative address for residence in the Home State (Proposed Alternative Address) in the event the President deems the Requested Area of Residence to be unsuitable;¹⁰
- iii. Reasons why the Requested Area of Residence and Proposed Alternative Address are suitable for his resettlement including details of his personal connections to the area. The Requested Area of Residence is Gbao's place of birth and where he grew up. He is therefore familiar with its surroundings and has close and extended family including his mother, brothers, cousins and other relatives still residing there. Gbao's wife and children reside in the Proposed Alternative Address and he

⁹ Article 5, Paragraph (B)(i), Practice Direction.

¹⁰ Article 5, Paragraph (B)(ii), Practice Direction.

would be able to guide his children through their education and assist his wife with the upkeep of the home if released to that location;¹¹

- iv. Details of how Gbao will be supported financially: He will engage himself in agricultural activities in the Requested Area of Residence as well as in small scale commercial activities in both locations, the proceeds of which will be utilized to sustain his family.¹²

7. The prison authorities in Mpanga/Nyanza Prison have provided the following information and documentation on the request of the Registrar:

- i. A forensic psychiatric evaluation prepared on Gbao's mental condition both at the time of request and during the period of imprisonment - a psychiatrist at Huye Isange Rehabilitation Center, certified that on 5 November 2019, he performed a psychiatric evaluation on Gbao to assess the psychological risk for self-harm or harm to others and certified that Gbao does not present at the time of evaluation, any psychological risk for self-harm or harm to others;¹³
- ii. A medical report on Gbao's general health dated 8 February 2020, which shows that he is receiving medical treatment for high blood pressure and diabetes to which he is responding well, and that he is otherwise in good physical and mental health.¹⁴

8. The prison authorities provided five reports on Gbao's behaviour during imprisonment, certified by the Director of the prison on 2 January 2020, and containing details known to prison authorities and staff regarding Gbao's compliance. The reports which were certified by the Director of the prison, submit that Gbao did not engage in:

- i. Prohibited contact or threats made personally or through others to persons involved in his prosecution and conviction, or that of other accused or convicted persons who appeared before the Special Court;
- ii. Violent or threatening behaviour within the prison;

¹¹ Article 5, Paragraph (B)(iii), Practice Direction.

¹² Article 5, Paragraph (B)(iv), Practice Direction.

¹³ Article 5, Paragraph (C)(i), Practice Direction.

¹⁴ Article 5, Paragraph (C)(ii), Practice Direction.

- iii. Violation of prison rules;
 - iv. Violation of any Special Court order;
 - v. Commission, incitement or promotion of any crime in or outside of the prison;
 - vi. Otherwise disrespecting law, rules and authority while in prison.¹⁵
9. These reports also certified Gbao's:
- i. Participation in remedial, educational, moral, spiritual or other programmes to which he was referred within the prison – Gbao's successful completion of civic educational programmes, Kinyarwanda language course, learning of basic computer skills and participation in mandated work schemes;
 - ii. Acknowledgement of, and remorse for crimes for which he was convicted;
 - iii. Renunciation of any ideology which is violent or contrary to peace and reconciliation;
 - iv. Willingness to make restitution to victims individually and collectively;
 - v. Expression of empathy towards victims.¹⁶
10. The reports provided further assessments of:
- i. The likelihood of Gbao committing criminal offences – the Director of the prison states that he cannot assess this other than submitting that Gbao has acted in compliance with prison rules and regulations and has been well behaved;
 - ii. The likelihood, based on his behaviour in prison of Gbao instigating or participating in discrimination or political unrest – the Director of the prison states that he cannot assess this other than submitting that Gbao has acted in compliance with prison rules and regulations and has been well behaved.¹⁷
11. The prison authorities also certified that Gbao has demonstrated a commitment to agree to conditions of residency, behaviour and supervision if he is conditionally

¹⁵ Article 5, Paragraph (D)(i), Practice Direction.

¹⁶ Article 5, Paragraph (D)(ii), Practice Direction.

¹⁷ Article 5, Paragraph (D)(iii), Practice Direction.

released,¹⁸ and that Gbao has demonstrated remorse for crimes even though he has not discussed why he committed them in the first place.¹⁹

12. The Registrar informed victims, relevant witnesses, witnesses' and victims' families and any others who are at risk on account of testimony given before the Special Court of Gbao's impending conditional early release.²⁰ The Registrar has provided their views through the Witnesses and Victims Section and the Prosecutor. The Witnesses and Victims Section interviewed 25 prosecution witnesses, all of whom had testified in some or all of three cases before the Special Court, namely: Prosecutor v. Brima, Kamara and Kanu ("*AFRC*"), Prosecutor v. Sesay, Kallon and Gbao ("*RUF*") and Prosecutor v. Charles Taylor ("*Taylor*") Trials. The Prosecutor's report dated 20 March 2020, outlines the results of a written survey of 20 witnesses who had testified in the *RUF* trial.

13. The Registrar communicated with the Witnesses and Victims Section, the Government of the Home State, representatives from the Requested Area of Residence, Proposed Alternative Address and other persons and organizations that the Registrar believes may have relevant information, and collected information from the relevant authorities required pursuant to Article 5, Paragraph (F) of the Practice Direction as follows:

- i. The Witnesses and Victims Section - report is already outlined above;
- ii. The Government of the Home State - through the Inspector General of the Sierra Leone Police who was advised by the Registrar of the pending application for conditional early release requesting his assistance in supervising Gbao, if his application is successful;
- iii. Representatives from the Requested Area of Residence and Proposed Alternative Address - A report dated March 2020, containing information and views gathered from relevant authorities and representatives of 14 local communities in Sierra Leone (including the Requested Area of Residence and Proposed Alternative

¹⁸ Article 5, Paragraph (D)(iv), Practice Direction.

¹⁹ Article 5, Paragraph (D)(v), Practice Direction.

²⁰ Article 5, Paragraph (E), Practice Direction.

- Address), during consultations by the Residual Special Court Outreach Focal Person and two other experts;
- iv. Other persons and organizations that the Registrar believes may have information relevant to Article 5, Paragraph (F) of the Practice Direction – in addition to the Outreach Section report mentioned in (iii) above, another report from the Defence Office with 27 affidavits sworn to by various individuals in Sierra Leone.
14. With respect to the requirements of Article 5, Paragraph (G) of the Practice Direction, the Prosecutor’s report also contains the Prosecutor’s views on Gbao’s conditional early release request, in addition to those of the 20 prosecution witnesses surveyed. The Prosecutor opposes Gbao’s application for conditional early release and requests that it be denied due to the concerns expressed by the witnesses surveyed, the gravity of the crimes for which Gbao was convicted and concerns about the effectiveness of the Sierra Leone Police as Monitoring Authority.
15. The Registrar also submitted the portfolio required pursuant to Article 5, Paragraph (H) of the Practice Direction comprising of :
- i. Gbao’s personal details and detention records from the prison authorities in Rwanda;
 - ii. Comments and conclusions of the Trial Chamber when passing sentence on Gbao - Trial Chamber’s Sentencing Judgment;
 - iii. Comments and conclusions of the Appeals Chamber in respect of Gbao’s appeal against conviction and/or sentence – Appeals Chamber Judgement;
 - iv. Periodic reports from the State of Enforcement submitted pursuant to the applicable Enforcement of Sentences Agreement - six periodic reports from the prison authorities spanning August 2019 to January 2020. The reports were accompanied by a written recommendation from the Director of the prison, dated 4 February, 2020.
16. No further submissions were received from the Registrar pursuant to Article 6 of the Practice Direction on behalf of the Prosecutor or Gbao.

III. APPLICABLE LAW

17. The relevant provisions of the Practice Direction that are applicable to determine applications for conditional early release have been set out in previous decisions of this court.²¹ Once a convicted person has served two-thirds of his sentence he is entitled to apply for determination of eligibility for consideration for conditional early release. Article 2 Paragraph (A) of the Practice Direction states in relevant part:

A Convicted Person shall be eligible for consideration for Conditional Early Release no sooner than upon serving two-thirds of his total sentence ...

18. If the convicted person is subsequently determined to be eligible for consideration for conditional early release under Article 4 (A) of the Practice Direction, the President shall consider on the basis of facts supplied and the applicable law, whether the convicted person has shown clear and convincing evidence that he will be a safe member of society and comply with the conditions imposed by a Conditional Early Release Agreement. In determining the application for conditional early release, the President shall consult with the judges who imposed the sentence if they are available.²²

19. The reasoned opinion of the President shall include an evaluation of the following factors set out in Article 8 Paragraph (D):

- i. The safety of victims, relevant witnesses, witnesses' and victims' families and others who are at risk on account testimony given before the Special Court, if the convicted person is released;
- ii. The safety of the community if the convicted person is released;
- iii. The views and concerns, if any, of victims, relevant witnesses, witnesses' and victims' families, and others who are at risk on account of testimony given before the Special Court regarding the conditional early release of the convicted person;

²¹ *Prosecutor v. Eric Koi Senessie, RSCSL-11-01-ES-035*, Decision of the President on Application for Conditional Early Release, 4 June 2014; *Prosecutor v. Moinina Fofana and Allieu Kondewa, RSCSL-04-14-ES-836*, Decision of the President on Application for Conditional Early Release, 11 August 2014 (Fofana); *Prosecutor v. Moinina Fofana and Allieu Kondewa, RSCSL-04-14-ES-860*, Decision of the President on Application for Conditional Early Release, 29 May 2017 (Kondewa).

²² Article 8, Paragraph (A) and (B), Practice Direction.

- iv. The effect of any conviction for contempt of court for any manner of interference or attempted interference with witnesses, bearing in mind that such a conviction alone may justify denial of conditional early release;
- v. The convicted person's participation in any remedial, educational, moral, spiritual or other programme to which he was referred within the Prison, his demonstration of remorse and his commitment to contribute to the restitution of victims and to reconciliation and maintenance of peace in Sierra Leone;
- vi. The views, concerns, willingness and the acknowledgments of the Requested Area of Residence as provided pursuant to Article 5 (F) and, in particular Article 5 (F)(ix) and (x).

IV. DISCUSSION

20. In determining the application for conditional early release, I have consulted with and considered the views of three Judges who imposed the sentence on Gbao.

A. Gravity of the Crime

21. Before considering the specific factors enumerated under Article 8 Paragraph (D) of the Practice Direction, I must recall the gravity of the offences for which Gbao was convicted.

22. During different spans of the Indictment period, Gbao held a senior *RUF* leadership position in Kailahun District, was Overall Security Commander of the *AFRC/RUF* and was also joint Commander of the *AFRC/RUF* Forces in the Makeni area. The crimes he directly committed involved organizing and overseeing the enslavement of civilians to engage in food production and some diamond mining and the procurement of slave labor for his own farm.

23. In its Sentencing Judgment, the Trial Chamber held:

The Chamber recalls that Gbao was also directly involved in the planning and enslavement of civilian labour on RUF government farms in Kailahun District, and worked very closely with the G5 in Kailahun Town to manage the large-scale, forced civilian farming that

existed in Kailahun between 1996 and 2001, including the period between 25 May 1997 and 14 February 1998. Furthermore, Gbao's involvement in designing, securing and organising the forced labour of civilians to produce foodstuffs significantly contributed to maintaining the strength and cohesiveness of the RUF fighting force.²³

24. As part of a Joint Criminal Enterprise, Gbao was aware of the *RUF* atrocities being committed not only in Kailahun but also in Bo, Kenema and Kono, and was willing to contribute tangible support. He was also aware that his name and position were used in furtherance of the commission of those crimes. An example is the lending of his presence to the terrorist act of killing 63 civilians in one day in Kailahun.²⁴ The Trial Chamber held in its Sentencing Judgment:

We have also found that Gbao's personal role within the overall enterprise was neither at the policy making level, nor was it at the "fighting end" where the majority of the actual atrocities were committed. Indeed, as the Gbao Defence pointed out in its closing submissions, Gbao "has not been found to have ever fired a single shot and never to have ordered the firing of a single shot". Gbao was a loyal and committed functionary of the RUF organization....²⁵

Despite having knowledge that crimes were being committed by RUF fighters on a large scale, Gbao continued to pursue the common purpose of the joint criminal enterprise.²⁶

25. His offense against the United Nations peacekeepers is revealing, especially in that it relates to an act occurring while Gbao was supposed to be leading his people in fulfilling the terms of the Lomé Peace Agreement.²⁷ His arrival at the United Nations base on 1 May 2000, under the influence of alcohol, commanding angry troops and threatening violence was the first step in the tragedy that resulted in the hostage taking and killing of peacekeepers. His hot headed and drunken reaction, combined with his position of leadership, began a conflagration from which he stepped back and allowed others to escalate. He did not need to be personally armed. It was sufficient that he was leading armed men.²⁸

26. With respect to Gbao's contribution to propagation of the RUF ideology as a foundation for joint criminal enterprise liability, the Appeals Chamber held that:

²³ Trial Chamber Sentencing Judgment, para 267, [Internal footnotes omitted].

²⁴ Trial Chamber Judgment, paras 1491-92.

²⁵ Trial Chamber Sentencing Judgment, para 270.

²⁶ Trial Chamber Sentencing Judgment, para 386.

²⁷ The Lomé Peace Accord, the Peace Agreement Between the Government of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL), 7 July 1999.

²⁸ Trial Chamber Judgment, paras 1778, 1784-94.

[...] the Trial Chamber considered that the form and degree of Gbao's participation in the crimes for which he was held liable pursuant to the JCE are: (i) his role as an ideology instructor and (ii) his planning and direct involvement in the enslavement of civilians on RUF government farms within Kailahun District.³⁵⁸⁹ The Appeals Chamber recalls its holding that the finding that Gbao contributed to the JCE in his role as an ideology expert and instructor violated his right to a fair trial. As a result, the finding was disallowed. This conduct also cannot be considered as part of the form and degree of Gbao's conduct for sentencing purposes. The Appeals Chamber will determine the consequences of this holding in its revision of the sentences imposed for crimes Gbao committed pursuant to his participation in the JCE.²⁹

27. With respect to aiding and abetting attacks on United Nations Peacekeepers, the Appeals Chamber held:

In the Sentencing Judgment, the Trial Chamber noted that Gbao was convicted of aiding and abetting the attacks directed against Jaganathan at the Makump DDR camp "where he was the senior RUF Commander present at the time of Kallon's arrival and he remained the RUF Commander with the largest number of fighters present." As the senior RUF Commander until Kallon's arrival representing the RUF, a signatory to the Lomé Accord, he had a duty to support UNAMSIL personnel who were tasked with bringing peace to the population of Sierra Leone. Thus, it was reasonable for the Trial Chamber to find that Gbao had abused his position of authority, including by (i) demanding, with the support of thirty to forty armed RUF subordinates, that UNAMSIL give him back his five fighters, (ii) fomenting an atmosphere of hostility and (iii) orchestrating an armed confrontation at the Makump DDR camp.³⁰

28. Gbao's conduct was evaluated by the Special Court and reflected in his sentence. In considering Gbao's application, the extent to which prison has led to the rehabilitation of the tendencies identified by the Special Court in the commission of his crimes will be relevant to determine whether it is safe for Gbao to serve part of his sentence in the community.

B. Views of the Community

a. The Safety, Views and Concerns of Victims, Relevant Witnesses and their Families

²⁹ Appeals Chamber Judgement, para 1307.

³⁰ Appeals Chamber Judgement, para 1315.

29. The discussion under this Section focuses on the views and concerns expressed by and through witnesses. The views and concerns expressed by victims are included in the discussion in Sub-section b below.

30. I refer to the reports submitted by the Witnesses and Victims' Section and the Prosecutor on the views and concerns of relevant witnesses who are at risk on account of testimony given before the Special Court by the impending conditional early release, pursuant to Article 5 Paragraph (E) and Article 5 Paragraph (G) of the Practice Direction respectively. The 25 prosecution witnesses interviewed by the Witnesses and Victims Section had testified in some or all of three cases before the Special Court. The witnesses were chosen from locations in all four regions of the country - the report specifically mentions Tongo, Kailahun, Bo, Pujehun, Makeni, Mateboi, Bonoya, Kabala, Kono, Western Area Rural (where the Proposed Alternative Address is located) and Western Area Urban. There is no indication on the record that any of the interviewed witnesses reside in the Requested Area of Residence. A review of the report reveals that out of the 25 witnesses interviewed, 15 (60%) had no objection to Gbao's conditional early release. Of the remaining ten witnesses, five of them (20%) were skeptical or had no views on it, whilst the other five witnesses (20%) outrightly objected to his conditional early release. Almost all of the witnesses who had no objection to Gbao's conditional early release also recommended the imposition of strict conditions including restrictions to mobility, contact with witnesses and victims, demonstration of remorse, specific apologies acknowledging specific crimes and the pain resulting from those crimes. These witnesses also insisted on robust monitoring to ensure compliance with conditions, if Gbao's application is successful.

31. The Prosecutor interviewed another set of 20 prosecution witnesses who testified in the *RUF* Trial by written survey. There is no indication in this report as to the locations from which the witnesses were chosen (including whether any of them reside in the Requested Area of Residence or Proposed Alternative Address). The Prosecutor characterizes the witnesses' responses into three groups: three who were unreservedly favourable to Gbao's conditional early release, two who were opposed to it and 14 who did not oppose it provided there were strict conditions to protect their safety and the

safety of the community. Witnesses recommended the imposition of conditions to prevent retaliation against them and their families by Gbao and/or his supporters, re-ignition of violence and general unrest across the country because of Gbao's known violent disposition and the likelihood of Gbao and his supporters capitalizing on rising crime.

32. The concerns, interests and needs expressed by witnesses and their families are factors that have been of primary concern in considering a convicted person's application for conditional early release in this Court. The security concerns expressed by the witnesses interviewed and surveyed in the instant application will be treated no differently. As observed, even though the Proposed Alternative Address is listed as one of the locations, there is no indication on the record that any of the interviewed witnesses reside in the Requested Area of Residence. I have thus noted the concerns and I am convinced that the imposition of stringent conditions and a strict monitoring regime will adequately address those concerns.

b. The Safety, Views and Concerns of The Community (including victims and their families)

33. In evaluating this aspect of the application, I have considered the views and concerns expressed by consultees in the Requested Area of Residence, Proposed Alternative Address, as well as in other communities on Gbao's possible conditional early release. The discussion includes the views of victims, their families and other members of the community and an evaluation of the suitability of the Requested Area of Residence and Proposed Alternative Address.

34. The Registrar communicated with several persons/groups pursuant to Article 5 Paragraph (F) of the Practice Direction to ascertain their views and collect relevant information required under this section. The report from the Witnesses and Victims Section has already been discussed in Sub-section a above. The Registrar communicated with the Government of the Home State and advised the Inspector General of the Sierra Leone Police concerning Gbao's pending application for conditional early release, requesting his assistance in supervising Gbao. The letter to the Inspector General dated *Prosecutor v Augustine Gbao*

30 January 2020, was copied to the Attorney-General and Minister of Justice and the Deputy Inspector General of Police.

35. The Inspector General of Police responded on 24 March, 2020. Excerpts from that response are set out hereunder:

The Director of Integrated Intelligence Services of the SLP has been tasked to work with the Regional Police Commander, East (the region where Mr. Augustine Gbao's first choice to serve the remainder of his sentence – Blama, Jimmy Section, Small Bo Chiefdom, Kenema District is located) for effective monitoring of his activities.

Alternatively, the Director is also tasked to work with the Regional Police Commander, Freetown East (the region where Mr. Augustine Gbao's alternative place of return is located – Upper White Stone, Waterloo, Western Rural District) for effective monitoring.

The monitoring team is to report to the Inspector General of Police (IGP) on weekly basis which is subject to review as time progresses.

By copy hereof, all concerned are informed accordingly.

36. The Prosecutor has expressed concerns about the efficacy of the Sierra Leone Police as Monitoring Authority. I have considered the correspondence between the Registrar and the Government of Sierra Leone through the Inspector General of Police. I have also considered the following: (i) the Residual Special Court's extensive re-engagements with the Sierra Leone Police as Monitoring Authority, following the Matter of Moinina Fofana's Violation of the Terms of His Conditional Early Release, on its strict enforcement of conditions and adherence to its duties in terms of the "Agreement to Perform the Duties of Monitoring Authority";³¹ (ii) the reforms undertaken by the Sierra Leone Police to ensure increased efficiency in carrying out its duty as Monitoring Authority in conditional early release applications of the Residual Special Court since then; (iii) the Sierra Leone Police's obligation to act in accordance with Article 12 of the Practice Direction in the event of any alleged violations of conditions of early release, and (iv) the re-assurance given by the Inspector General of Police in his reply to the Registrar, in which he reiterates the commitment of the Sierra Leone Police as "an agent of the Government ... to providing the required assistance to monitor (Augustine Gbao) should he be granted conditional early release".

³¹ *Prosecutor v. Moinina Fofana, RSCSL-04-14-ES-849*, Disposition on the Matter of Moinina Fofana's Violations of the Terms of His Conditional Early Release, 25 April 2016, paras 40-44.
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37. I also note that during community consultations, participants in both the Requested Areas of Residence and the Proposed Alternative Address did not express particular concern about the capability of the Sierra Leone Police in this regard. Based on all of the above, I am satisfied that the Sierra Leone Police will effectively perform its duties as Monitoring Authority, with the supervision of the Residual Special Court, if Gbao is granted conditional early release.

38. Two reports were also submitted pursuant to Article 5 Paragraph (F) of the Practice Direction. These reports were the results of consultations with representatives from the Requested Area of Residence, Proposed Alternative Address and “other persons and organizations that the Registrar believes may have relevant information”. The first report was from the Residual Special Court Outreach Section consultants and included interviews with representatives from the Requested Area of Residence and Proposed Alternative Address. Thirty participants were invited from among victims, women, youth and former combatants, traditional leaders, security forces and civil society organizations in each community consulted. Focus groups discussed and provided answers to the following three questions: (i) willingness of the community to accept Gbao’s apology and his return to the community; (ii) willingness of the community to assist monitoring of Gbao’s compliance with the conditions; and (iii) willingness of the community to inform authorities of planned or actual reprisals. The consultations also collected the information required pursuant to Article 5 Paragraph (F)(i) to (xii) of the Practice Direction.

39. In addition to the Requested Area of Residence and Proposed Alternative Address, the communities chosen for the consultations were locations where Gbao had served as *RUF* Military Commander or locations that were major *RUF* crime bases during the Indictment period. Six communities were consulted in the Western Area Rural District, one in the Northern Region and six in the Eastern Region - Waterloo, Macdonald, Tombo, Mama Beach, Jui Junction and Hastings in the Western Area Rural District; Makeni in the Northern Region; Koidu, Tombodu, Kenema, Blama, Tongo Fields, Kailahun Town and Daru in the Eastern Region; and Bo in the Southern Region (radio consultations).

i. Consultations in Western Area Rural District

40. Gbao's Proposed Alternative Address is a suburb located in Waterloo in the Western Area Rural District. The consultees recall that during 1997 and 1998, the *AFRC/RUF* had a large presence in Waterloo, that it was a major crime scene, that a large number of victims including amputees now live there, and that it also has a high concentration of ex-combatants.

41. Overall views of those consulted showed a general willingness to forgive and accept Gbao's apology, and to assist in monitoring Gbao's compliance with conditions if his application is successful. The consultees did not express fear for the safety of the community if Gbao is granted conditional early release. There was however an expression of fear for Gbao's safety, and the possibility of reprisal attacks against him due to the high number of victims and ex-combatants living in the community. On this basis, consultees recommended that Gbao should not settle in Waterloo, if he is granted conditional early release.

42. The residents of Macdonald and Tombo villages also expressed a willingness to: forgive Gbao, accept his apology and welcome him, assist in monitoring his compliance with any conditions that may be imposed, and inform authorities of actual or planned reprisals, if he is granted conditional early release. The consultees did not express concern for the safety of victims, witnesses or the community at large.

43. In Mama Beach, there were many victims among the consultees who were bitter about *RUF* atrocities committed especially during the *AFRC/RUF* retreat from Freetown in 1998. They however expressed a willingness to accept Gbao's apology, his return to Sierra Leone, assist in monitoring any conditions and prevent any reprisal attacks on him.

44. It was reported that Jui Junction another major crime scene during the Indictment period is also inhabited by an appreciable number of victims. The general view of the victims and the community members interviewed was however one of a willingness to forgive and reconcile with Gbao if he is released. Consultees did not express any fear

concerning Gbao's possible release. In Hastings another major crime scene during the *AFRC/RUF* invasion of Freetown in 1999, it was reported that the consultations attracted more people than were invited. Consultees recalled how *AFRC/RUF* combatants settled at the Hastings Police Training School after dislocating the Sierra Leone Police residents.

45. Victims recounted atrocities that took place in that location, but expressed a willingness to accept Gbao's apology, his return to Sierra Leone, assist in monitoring any conditions imposed on Gbao and report any planned reprisals. The views of the other community consultees were mixed, with some sections expressing fear that Gbao's return might coincide with what they perceive as an increased spate of violence in the country. One consultee questioned whether Gbao was being favoured for release as rumoured because of tribal affiliations. Other consultees also preferred that Gbao should not consider to settle in Hastings because of the grave crimes that were committed there. The consultations were however concluded with a general willingness to accept Gbao's apology and to participate in the monitoring of his conditions if granted early release.

ii. Consultations in Kono District – Eastern Region

46. In locations in Kono District including Koidu and Tombodu, *RUF* diamond mining was widespread during the armed conflict. The District was also a major crime scene with a large number of ex-combatants now living in its communities. In Koidu, victim consultees were willing to accept Gbao's apology and his return to Sierra Leone. They also stated that they were willing to cooperate with the security sector to monitor his compliance with conditions if granted early release. General group sentiments reflected that expressed by the victims. The consultees were however less receptive to Gbao's settlement in Koidu if he is granted conditional early release. Radio programmes to further sensitize a wider section of the community on conditional early release were also done in Koidu during which participants expressed strong positions either for or against Gbao's conditional early release.

47. Even though Tombodu was a crime scene notorious for beheadings and amputations during the Indictment period, community consultees which included many

victims, expressed a willingness to forgive and accept Gbao's apology and to welcome him back to Sierra Leone.

iii. Consultations in Kenema District – Eastern Region

48. Gbao's Requested Area of Residence is located in Kenema District. The report recalls that the District was also a strong base of the Civil Defence Forces ("CDF") during certain periods of the Indictment. In Kenema, the Eastern Region headquarter town, the dominant views of consultees was one of readiness to accept Gbao's apology, his return to the community, to assist in monitoring his compliance with any conditions if granted early release and to prevent reprisals against Gbao or any other member of the community. Consultees stressed that Gbao must abide by any conditions of early release that may be imposed on him.

49. Radio panel discussions featuring representatives from civil society were also held on radio stations in Kenema to reach a wider section of the community in the Eastern Region and to ascertain their views on the conditional early release. Participants expressed sentiments similar to those expressed by consultees, but also recommended that more community sensitization and outreach be carried out on the Residual Special Court's conditional early release.

50. In the Requested Area of Residence, a highly placed traditional ruler consultee acknowledged that Gbao had committed the crimes for which he was convicted. According to him, from the contents of the apology read to them, Gbao had accepted responsibility for the crimes committed by him and his subordinates. He also acknowledged that the location was home to a large number of ex-combatants, but maintained that the community had however remained peaceful with victims living alongside ex-combatants. A male victim recalled atrocities that were committed against him. Another female recalled atrocities committed against her family as narrated to her by her mother, who was pregnant with her at the time the atrocities were committed. Most consultees acknowledged that atrocities had been committed by Gbao and the *RUF* including the burning down of the town and Gbao's family house. They however expressed a general desire to forgive, accept Gbao's apology and welcome him back to

the community. Consultees also expressed a willingness to help him to resettle well into the community and to assist in monitoring any conditions that may be imposed on him.

51. Tongofields was another mining town and major crime scene during the Indictment period. Interviewees recalled the atrocities committed in the town but were willing to forgive and let go of the past. The response from victims was that they were ready to accept Gbao and welcome him to the community especially after hearing the contents of his public apology and in line with the objectives of the Truth and Reconciliation Report. Consultees including victims also pledged to report any planned reprisal attacks on Gbao.

iv. Consultations in Kailahun District – Eastern Region

52. The report recalls that Kailahun District in which Kailahun Town and Daru are located was occupied by the *RUF* during the Indictment period, that Gbao was an *RUF* Commander in Kailahun during relevant periods of the Indictment, and that a considerable number of *RUF* ex-combatants still reside in the District. Consultees interviewed in both Kailahun Town and Daru included *RUF* ex-combatants and victims of atrocities. In Kailahun Town, victims expressed a willingness to reconcile with perpetrators, forgive them and pledged to “prosecute” Gbao if he commits any reprisal. The rest of the community consultees’ responses (including those of ex-combatants) were similar to those expressed by the victims, with expressions of willingness to forgive and accept Gbao’s apology, assist in monitoring any conditions imposed on him and report any reprisals. A panel discussion was also held on radio to reach a wider section of the community, educate them on the conditional early release and receive their views on same.

53. In Daru, responses from consultees were similar to those received in Kailahun Town. Traditional leaders acknowledged that Gbao had apologized for his crimes to the victims and the rest of Sierra Leoneans, believed that he will be a reformed person and will serve as a role model to other *RUF* ex-combatants. The community also expressed a willingness to assist in the monitoring of any conditions that may be attached to Gbao’s early release if granted, and to prevent reprisals.

v. Consultations in Makeni – Northern Region

54. Gbao was joint Commander of the *AFRC/RUF* forces in the Makeni area when atrocities were perpetrated by the *AFRC/RUF* and attacks were carried out against United Nations Peacekeepers stationed in that area. From the report on the consultations, it is apparent that participants expressed more concerns about Gbao's conditional early release than in other locations. At least one victim consultee demanded a guarantee of the safety and welfare of victims in the event of Gbao's early release. Ex-combatants stressed that if released, Gbao must be peaceful, stay within his requested area of release and accept the court's verdict. Despite these concerns, there was an eventual expression of willingness to assist the security forces in monitoring adherence to conditions if Gbao is released, and to prevent reprisals. Consultees also made a recommendation for the Residual Special Court to embark on more community sensitization ahead of Gbao's arrival if he is granted conditional early release.

55. The report from the radio programmes held in Makeni reveals that participants were less receptive to Gbao's conditional early release than consultees who participated in the face-to-face consultations. An apparent community misunderstanding that Gbao will be released to Makeni was reported to have been clarified during the radio discussions. I recall that a similar resistance to Gbao's conditional early release was recorded for the radio programmes held in Koidu. However, the report from the radio programmes held in Bo to reach a wider South-Eastern Region audience was more favourable. This difference in outcome is explained in the report as due mainly to the prior involvement of the Bo community in the conditional early release of Residual Special Court convicted persons Moinina Fofana and Allieu Kondewa.

56. I also note the rationale given by the authors of the report for the difference in responses during community consultations as opposed to those of the radio programmes. In the authors' view during community consultations "people clearly understood the CER process after the consultation and clarifications of queries and accurate response to questions, participants became more supportive of the CER", whereas for the radio

consultations, “some listeners to the radio discussions who did not have the privilege of consultation interactions remained resistant to CER”.

57. The second report was from nationwide consultations carried out by the Principal Defender and the Residual Special Court Defence Office. These consultations were held to also ascertain the views of paramount chiefs, victims, civil society members, youth groups, women leaders, former senior members of the *RUF*, and close and extended family members of Gbao living in the Requested Area of Residence and the Proposed Alternative Address, on his conditional early release application. Consultations were held in major *RUF* crime bases in all four regions of the country. The Principal Defender submitted 27 affidavits sworn to by various individuals interviewed in Waterloo, Bo, Kenema, Pujehun, Tongo Fields, Kailahun, Makeni, Kono and Kabala areas in this regard.

58. A review of the contents of the affidavits shows that 25 consultees strongly support Gbao’s conditional early release whilst two show some concern that his release might be offensive to the victims. One of the two also expressed concern that “he may bring back his boys”. The positive affidavits fall into two general categories: leaders and citizens who live in the Requested Area of Residence and are willing to welcome Gbao and monitor his activities; non-residents thereof who speak to forgiveness of Gbao and how ex-combatants and victims are now able to live side by side and peaceably in their various communities. They include former *RUF* combatants, some of whom knew Gbao personally during the war and who attest to being able to live peaceably in the communities. Two affiants were Gbao’s close family members – his brother who lives in the Requested Area of Residence and his wife who lives in Waterloo, both of whom expressed support for his release.

59. In Gbao’s Requested Area of Residence, another highly placed traditional ruler in the community attested that since Gbao was incarcerated, there had not been any reported incidents of witnesses or victims being intimidated, attacked or molested by members of Gbao’s immediate family or the community at large. He also stated that he had not received any complaints of harassment from ex-combatants who resided in that location

on account of incidents related to the armed conflict. The contents of the affidavits reveal that most victims are willing to forgive Gbao for the atrocities committed against them and that there was no widespread fear of significant threat to the communities, victims and/or witnesses, if Gbao is granted conditional early release. Most affiants however recommended the imposition of conditions such as restriction of Gbao's movement, his associations, political activities and membership in secret societies.

60. A review of both reports and the record does not reveal evidence of threats to victims, witnesses and Special Court or Residual Special Court Judges, Principals or personnel made directly or indirectly by Gbao, or evidence that Gbao may use his conditional early release to incite violence. I have also noted the recommendations by consultees regarding conditions to be imposed on Gbao if he is granted conditional early release.

61. Having considered all of the above, I am satisfied that the communities consulted including victims and their families are largely receptive of Gbao's conditional early release, are unconcerned for their safety or that of Gbao and are willing to accept Gbao back into the community.

62. On the suitability of the Requested Area of Residence, I note in accordance with Article 5 Paragraph (F)(ix) and (x) of the Practice Direction, that a significant number of consultees and affiants in those locations showed an understanding of the process by which he was convicted, acknowledged that he had been convicted for crimes committed during the civil conflict and acknowledged the pain and suffering caused to the victims and their families. Reports from the consultations do not reveal that any witnesses living in this location are at risk by reason of Gbao's pending conditional early release. Gbao has established strong connections to the Requested Area of Residence - his brother who lives in the Requested Area of Residence and represented his family in the consultations expressed support for his conditional early release. Gbao has also proffered evidence of how he would support himself and his family if granted conditional early release. I also refer to my finding above on the capability of the Sierra Leone Police as Monitoring Authority, in the event of Gbao's early release. Based on all of the above considerations,

I find that the Requested Area of Residence will be suitable and safe for Gbao to resettle in, if his application for conditional early release is successful.

C. Gbao's Conduct in Prison

63. I will now evaluate the factors that pertain to Gbao's conduct in prison to determine whether he has shown clear and convincing evidence that he will be a safe member of society if granted conditional early release.

a. General Conduct

64. As noted above, the Director of the prison certified that Gbao has not engaged in violent or threatening behaviour, has not violated prison rules or any Special Court or Residual Special Court orders and has not instigated crimes within or outside the prison facility. The detention records submitted by the Director also attest to *inter alia*: Gbao's participation in remedial, educational, moral, spiritual and other programs whilst in prison. Gbao successfully completed civic education programmes, Kinyarwanda language course, learned basic computer skills and participated in mandated work schemes.

65. The six periodic reports from the prison authorities for August 2019 to January 2020 also buttress the assessment by the prison authorities of Gbao's good behaviour in prison. The Psychological Risk Assessment Report on Gbao's mental status concludes that Gbao "does not present, at the time of evaluation, any psychological risk for self-harm or harm to others". A recommendation written by the Director of the prison dated 4 February 2020, was also submitted in support of Gbao's application on account of his consistent conduct in accordance with prison regulations. All of these reports and recommendations are generally favourable to Gbao's application.

66. The detention records from the prison authorities however disclose at least four incidents involving Gbao's alleged violation of prison rules and regulations by engaging in altercations with either fellow convicted persons and/or prison authorities. Two of

these events happened in 2014, one in 2017 and another in February 2019. As impossible as it is to tell where the truth lies in the allegations and counter allegations, the records also show that Gbao was compliant when asked for written explanations about the various incidents and complied with sanctions when imposed. Nevertheless, even if these incidents constitute the sum total of Gbao's disciplinary issues since 2014, it would have been helpful for the Director to remark on these exceptions as they pertain to attitudinal and possible disciplinary issues in his reports to the Registrar.

67. I have weighed the negative information against the favorable and it is my view that the incidents of altercations in which Gbao has allegedly been involved during his incarceration do not irreversibly militate against a favorable assessment of his application for conditional early release. I am satisfied that the balance tilts towards the conclusion that Gbao has largely conformed to prison directives and rules and has been of good behaviour within the prison. Taking into consideration the reports from the prison authorities, I find and hold in favor of granting conditional early release.

b. Any Conviction for Contempt And/Or Interference with Witnesses

68. Gbao has also not been convicted for contempt of court for any manner of interference or attempted interference with witnesses. The report from the Director of the prison submitted in accordance with Article 5 Paragraph (D)(i) of the Practice Direction, attests to Gbao's demonstrated ability to refrain from prohibited acts, including prohibited contact or threats made personally or through others to persons involved in his prosecution and conviction or that of his fellow convicted persons. I find that this factor weighs in favour of granting conditional early release.

c. Acknowledgement of and Remorse for Crimes

69. In order to show clear and convincing evidence that he is remorseful, Gbao must acknowledge his crimes and show sincere regret.

70. As part of the instant application, Gbao has made a number of Declarations³² in which he expressed regret for his participation in the commission of crimes during the armed conflict. These Declarations are contained in the Registrar's submissions for assessment of eligibility for consideration for conditional early release. I also recall Gbao's written apology for his crimes dated 23 October 2019, to the people of Sierra Leone in which he instructs the Defence Office through the Principal Defender to unreservedly apologize to the victims of his crimes and generally to the people of Sierra Leone for "all my wrongs during the conflict in Sierra Leone". Gbao has further expressed satisfaction over the process and outcome of his trial and appeal before the Special Court. Gbao's public apology was publicized and read out on various radio stations nationwide and communicated to the people of Sierra Leone during town hall meetings as part of this application process.

71. Gbao has also successfully completed several educational programmes as certified by the Director of the prison. From the record, the details of these programs include training on international humanitarian law, war crimes, crimes against humanity and human rights. Additionally, Gbao has received training on rule of law and general respect for law and order. These trainings were directed towards a fuller understanding of Gbao's responsibility for the consequences of the crimes for which he was convicted. It is also noteworthy that leaders in the Requested Area of Residence also acknowledged the crimes committed by Gbao and his responsibility for them.³³ Furthermore, as reported by the Director of the prison, Gbao in a recent statement expressed the hope to have the opportunity to apologize in person to the public and victims of his crimes.

72. In my assessment, all of the above speak to a positive report on Gbao's acknowledgement of his crimes and demonstration of remorse in favour of the grant of conditional early release.

d. Commitment to Reconciliation and Maintenance of Peace in Sierra Leone

³² See Declarations made by Augustine Gbao on 23 October, 2019 pursuant to Article 2 Paragraphs (B)(ii), Article 2 Paragraphs (C)(i) and (C)(iii) Practice Direction.

³³ See *e.g.* para 52 above.

73. Gbao has expressed regret for his participation in the armed conflict and for crimes against his victims and has declared that he would not be part of any criminal acts against the people of Sierra Leone. He has also undertaken not to associate himself with the ideology of the former *RUF* of which he was a member and key player.³⁴ Gbao's renunciation of the *RUF* ideology was also broadcast on radio stations across the country and in town hall meetings during the consultations held with various communities as part of this process. Gbao also highlights his participation in the peace and reconciliation processes in Sierra Leone and has further undertaken to ensure that peace prevails in Sierra Leone at all times.

74. The Director of the prison certifies that Gbao has shown no signs of adherence to any ideology that would threaten the peace and reconciliation in Sierra Leone and there is nothing in the prison record that would question this. The Director also certifies that it was difficult to assess Gbao's likelihood to commit criminal offences and his likelihood of instigating or participating in discrimination or political unrest, even though he has always acted in accordance with prison rules and regulations and is currently well-behaved.

75. Based on the above, I find that this factor weighs in favour of granting conditional early release.

e. Evidence of Willingness/Commitment to Contribute to the Restitution of Victims
Individually and Collectively

76. The Direction of the prison certified Gbao's willingness to make restitution to victims individually and collectively. Gbao has not provided further details of how he intends to make this contribution either financially or physically although he undertakes to serve the people and country of Sierra Leone in the fields of peace building, conflict prevention and resolution.³⁵

³⁴ See Declarations made by Augustine Gbao on 23 October, 2019 pursuant to Article 2 Paragraphs (B)(ii), Article 2 Paragraphs (C)(i) and (C)(iii) Practice Direction.

³⁵ See Declarations made by Augustine Gbao on 23 October, 2019 pursuant to Article 2 Paragraphs (B)(ii), Article 2 Paragraphs (C)(i) and (C)(iii) Practice Direction.

77. In the Requested Area of Residence where several houses (including Gbao's family home) were burnt down by the *RUF* during the armed conflict, several of the participants in the consultations by the Residual Special Court Outreach consultants and the Defence Office indicated their expectation that Gbao would help rebuild the town, his own family house and that of others. One participant mentioned that Gbao had in the past been successful at writing grants and a highly placed traditional ruler suggested that he should apply himself to volunteer work with an international Non-Governmental Organization. Another resident offered the services of the Non-Governmental Organization with whom he works as a paralegal, to work with Gbao in making restitution to victims.

78. From the record, it is clear that Gbao has acquired enough skill and expertise to enable him to contribute to some amount of restitution of victims in the form of community service. Based on all of the above and considering Gbao's willingness to make restitution, I find that this factor weighs in favour of granting conditional early release.

79. In my assessment, the prison authorities have an overall positive report on Gbao and they confirm that he has been of good behavior, has demonstrated rehabilitation, remorse and a commitment to reconciliation and maintenance of peace in Sierra Leone. I therefore find, that the reports from the prison authorities support the grant of Gbao's application for conditional early release.

V. CONCLUSION

80. Most of the information on the record is favourable to and supports the grant of Gbao's application. Witnesses, Victims and their families and the communities consulted including those in his Requested Area of Residence gave an overall favourable impression of his application. The records from the prison authorities contain positive remarks as to Gbao's behaviour, development or fulfillment of duties imposed on him whilst in prison. The Director of the prison certifies that based on conversations and observations, Gbao is committed to agree to conditions of residency, behaviour and supervision if granted early release. Thus, there seems to be no reason not to grant him

conditional early release, especially in the light of equal treatment with other former Special Court convicted persons.

81. Based on the record and having considered the provisions of the Statute, Rules and the Practice Direction particularly the factors outlined in Article 8 (D) thereof and the consultations with judges, I find that Gbao has shown clear and convincing evidence that he will be a safe member of society and that he will comply with the terms imposed by a Conditional Early Release Agreement.

VI. DISPOSITION

82. For the foregoing reasons and pursuant to Article 24 of the Statute, Rule 124 of the Rules and Article 8 of the Practice Direction, I hereby **GRANT** the Application and direct that the applicant shall be released to the Requested Area of Residence:

- a. Upon service in prison custody of a period of three months from the date of this Decision to undergo additional specific training geared toward his understanding of and acceptance of responsibility for the harm he inflicted:
 - (i) through direct commission of enslavement;
 - (ii) through contributing his efforts and his reputation to the commission of crimes pursuant to a Joint Criminal Enterprise and
 - (iii) by his actions in aiding and abetting the attack of the United Nations peacekeepers, its effect on the individuals involved and the harm to the peace process itself.
- b. The training shall also include education on the conditions of his early release to ensure that he thoroughly understands the conditions imposed;
- c. The Registrar shall embark on a nationwide community outreach and sensitization on the outcome of this Decision and on conditional early release generally in the Home State, ahead of the applicant's release due to the response of the general public to this application;

- d. Thereafter and upon certification of the training by the Registrar, the applicant may be released upon completion and execution of a Conditional Early Release Agreement in accordance with Article 9 Paragraph (C) of the Practice Direction, the format of which is contained in Annex C thereof. This Conditional Early Release Agreement incorporates **GENERAL CONDITIONS** of release, the breach of which may result in the forfeiture of the benefit of conditional early release and lead to re-incarceration;
- e. The Registrar shall embark on a further nationwide community outreach and sensitization as directed above, immediately after the applicant's arrival in the Home State.

83. I find it necessary to impose **FURTHER SPECIAL CONDITIONS** in addition to the General Conditions contained in the Conditional Early Release Agreement, for the period of conditional early release as follows:

- i. The applicant shall personally publicly apologize on radio and television stations nationwide to the victims of his crimes and the people of Sierra Leone, the apology to be read out shall include:
 - an acceptance of responsibility for the harm he inflicted through direct perpetration of enslavement, through contributing his efforts and his reputation to the commission of crimes in Bo, Kono, Kailahun and Kenema and by his actions in aiding and abetting the attack of the United Nations peacekeepers, its effect on the individuals involved and the harm to the peace process itself;
 - an expression of remorse;
 - an expression of his commitment to reconciliation and maintenance of peace in Sierra Leone;
 - renunciation of every political ideology, political affiliation and membership as well as membership in secret societies.

- ii. The applicant's movements shall be restricted to the Requested Area of Residence and is forbidden to travel outside of that location except with the prior written permission of the Monitoring Authority and the Registrar of the Residual Special Court;
- iii. The applicant shall personally report weekly to the Monitoring Authority for the first six months of his conditional early release, then once every two weeks for the remainder of the duration of the conditional early release period and shall strictly observe these reporting schedules;
- iv. The applicant or any person acting with his consent and authority shall not directly or indirectly approach any of the witnesses, victims or their family members to directly or indirectly try to harm, intimidate or otherwise interfere with them in any way;
- v. The applicant shall not engage in any contact with ex combatants including those who served under his command, or with any person prohibited in writing by the Monitoring Authority and the Registrar including person's suspected of criminal activity, without written permission of the Monitoring Authority as to each individual, in advance of contact;
- vi. The applicant shall not have any kind of relation or association with other convicted persons of the Special Court, on conditional early release or still incarcerated and their families;
- vii. The applicant shall not engage in any political activities either by attendance at any political meetings, making of broadcasts, phone calls, through the internet or the social media and shall conduct himself honorably and peacefully in the community;

- viii. The applicant must commit to producing a community volunteer service plan in support of his stated commitment to contribute to restitution of victims for my approval within 90 days of release;
- ix. The applicant shall be responsible for himself financially including for medical bills, with ongoing monitoring of his medical conditions of diabetes and high blood pressure by the Residual Special Court, and is not permitted to consume alcohol or drugs not prescribed by his licensed physician;
- x. The Registrar shall submit a complete and detailed document containing a robust Monitoring Regime to be put in place by the Monitoring Authority to ensure compliance with conditions for my approval within six weeks of the issuance of this Decision;
- xi. Regular visits shall be made by the Office of the Registrar to provide assurance of security to such vulnerable witnesses as may be desired.

Done in Freetown, Sierra Leone

This 8th day of September 2020



Justice Jon Moadeh Kamanda

