

# Wetin Na Di Risidual Speshal Kot?

The Residual Special Court Made Simple  
First Edition

A Residual Special Court For Sierra Leone Publication  
November 2016



Residual Special Court For Sierra Leone  
Outreach  
November 2016

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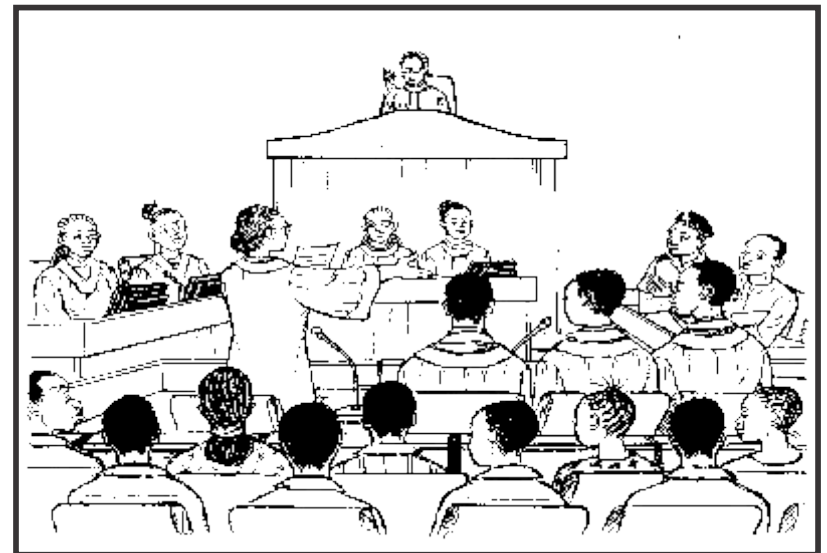
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## **Outreach Mission Statement**

The Residual Special Court for Sierra Leone (RSCSL) was established to oversee the continuing legal obligations of the Special Court for Sierra Leone (SCSL) following the SCSL's successful completion of its work and closure in December 2013.

The RSCSL also works to preserve the legacy of the SCSL, and this includes the legacy left by the Special Court's Outreach Section. The SCSL was the first international court to engage the public directly, and it promoted an understanding of the SCSL's work and a respect for human rights and the rule of law.

Unlike the SCSL, the RSCSL does not have a distinct Outreach Section, but the Court continues to engage the public on important issues related to its mandate. This is done through former Outreach staff, through civil society partners, and through materials such as this booklet. It continues the SCSL's tradition of maintaining a two-way communication through its grassroots network with the public at large.

As with the SCSL, the RSCSL is committed to disseminating information, to encouraging dialogue, and to maintaining an environment of two-way communication with the people of Sierra Leone and Liberia, and to civil society leaders in the region and beyond. RSCSL Outreach works with all branches of the Court, and Outreach initiatives are premised on the fundamental principles of impartiality and independence.

### **20. Where does the RSCSL get its funding?**

The RSCSL, like the SCSL, is funded by voluntary contributions from the international community, but the Agreement which created the Court permits it to seek alternative means of funding. The RSCSL has an Oversight Committee to assist in obtaining adequate funds and to provide advice and policy direction on non-judicial aspects of the Court. The Oversight Committee is the successor to the SCSL's Management Committee. Court officials are working with the United Nations to make sure the RSCSL receives funding on a more stable basis.

### **21. Where can I access the documents of the SCSL/RSCSL?**

The RSCSL has a website which provides information on the Residual Special Court and contains the public electronic archives of the Special Court for Sierra Leone. The website is <http://www.rscsl.org>. In addition, paper copies are available at the Peace Museum on the former Special Court compound on Jomo Kenyatta Road in Freetown.

### **22. How can I contact the Residual Special Court?**

The RSCSL can be contacted by email at [info@rscsl.org](mailto:info@rscsl.org), by telephone at +31 70 512 8481, or by mail at P.O. Box 19536, 2500CM, The Hague, The Netherlands.

**17. What is Conditional Early Release?**

Conditional early release, if granted, means that the prisoner will serve the remainder of his sentence in the community under strict conditions and will be monitored by the Monitoring Authority (the police). Conditional early release is not the same as a pardon or commutation of sentence.

**18. How is Conditional Early Release different from early release, pardon, commutation, or amnesty?**

Conditional Early Release is different from early release, where the person is simply freed without any conditions or monitoring. It is also different from pardon, where a person is set free and absolved of his conviction as if he had never been convicted. It is not the same as commutation, which is a reduction in the length of the sentence. Amnesty is an act of forgiveness for past offences, especially to a class of persons as a whole. Amnesty is not part of the RSCSL statute.

Pardon and commutation of sentence would only be considered in exceptional circumstances, for example, if a prisoner were dying his sentence might be commuted so that he could return home.

**19. If the Court grants a prisoner Conditional Early Release, does that mean he would now be free?**

No. Conditional early release means that he would serve the remainder of his sentence in his community under close supervision. Any violation of those conditions could result in him being returned to prison to serve the remainder of his sentence. Those conditions are set out in the SCSL's "Practice Direction on the Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone," which can be viewed on the RSCSL website.

**Acknowledgements**

This booklet was produced by the Registry of the Residual Special Court. We are grateful to all those who contributed, including the Office of the Registrar, the Office of the Prosecutor, the Office of the Principal Defender, and Chambers.

## Foreword

This first edition of “The Residual Special Court Made Simple” is produced by the Registry of the Residual Special Court for Sierra Leone. The booklet provides information on the mission and the functions of the Residual Special Court. Its objective is to make this information accessible to all Sierra Leoneans, including those living in parts of the country remote from Freetown, and to all those interested in the work of the Court.

This booklet reminds readers about the legacy of the Special Court and its role in addressing crimes that were committed during the war, and its work to end impunity and to re-establish the rule of law in Sierra Leone and in the sub-region. It provides information on the important role of the Residual Special Court in preserving the Special Court's legacy.

As in the first and second editions of “The Special Court Made Simple”, this booklet explains the functions of the Residual Special Court and certain key concepts in non-legal language, accompanied by illustrations which communicate the same message. These illustrations are not meant to be exact representations, but are meant to communicate ideas which can be abstract and complex.

This booklet is one of the Residual Special Court's many initiatives to provide insight and information on its continued functions after the closure of the Special Court.

**Binta Mansaray**

*Registrar, Residual Special Court for Sierra Leone*

*November 2016*

## 13. How long will the witnesses be protected?

Witnesses will be protected as long as necessary in order to ensure their safety, and to allow them to live normal lives.

## 14. What will happen to someone who threatens, harms, or interferes with a current or former witness?

Anyone who interferes with a former witness commits a serious crime. That person will be tried by a judge of the RSCSL and, on conviction, could be sentenced to a maximum of seven years in prison, or a fine of 20 million leones, or to both a sentence and a fine.

## 15. What would happen if someone threatens or harms an RSCSL judge or staff member, or a former judge or staff member of the SCSL because of their work there?

Any person who threatens or harms an RSCSL Judge, lawyer or staff member commits a serious crime. Judges and staff members are given immunity (legal protection) to carry out their work. If a Judge or staff member is threatened or attacked, there will be serious consequences and the person making threats or attacks will be held accountable.

The same is true of Judges, lawyers and staff members who worked for the SCSL. Threatening or harming former SCSL Judges, lawyers or staff for their work at the Court is a crime, and it carries serious consequences.

## 16. Can the President of Sierra Leone pardon a Special Court prisoner?

No. Only the President of the Residual Special Court, in consultation with the Judges who imposed his sentence (or at least two other Judges if the original Judges are not available), can make that decision.

Contempt of court proceedings will only take place if there is evidence that someone has committed an offence.

**9. Will the RSCSL indict anyone else for war crimes, crimes against humanity or other serious violations of international criminal law?**

The RSCSL will not indict any other person for war crimes, crimes against humanity, or other serious violations of international humanitarian law.

**10. Can the RSCSL prosecute people as the SCSL did?**

The RSCSL can prosecute persons accused of contempt of court, such as those who interfere with witnesses. If it is alleged that someone is in contempt of court, such as interfering with or threatening former witnesses, and an investigation shows that there is sufficient evidence to prosecute, then the Judges may issue an Order (instead of an Indictment) and that person will be brought to trial. The RSCSL can also prosecute SCSL fugitive, Johnny Paul Koroma, if he is found and arrested.

**11. Is the Outreach Programme Still Operating?**

The full Outreach programme ended with the closure of the Special Court in December 2013, but the Residual Special Court continues its commitment to keeping the public informed. The RSCSL continues to work with civil society, and when necessary, former Outreach officials may be called upon to communicate with the public or the media. This booklet is part of the RSCSL Outreach effort.

**12. Why are witnesses protected?**

The RSCSL continues to protect witnesses who could be in danger because of the testimony they gave, or were prepared to give, at the Special Court. This includes both witnesses for the prosecution and for the defence. While some of the witnesses are protected by court order, it is a crime to threaten any witness, whether or not the person is under the Court's protection.

## **Yesterday: The Special Court for Sierra Leone**

The Special Court for Sierra Leone, (SCSL or Special Court), was created in 2002 after the Government of Sierra Leone asked the United Nations (UN) to set up a “special court”. The Special Court was set up by an agreement between the Government of Sierra Leone (GoSL) and the UN, and was mandated to “try those bearing the greatest responsibility” for serious crimes committed in the country from 30 November 1996. This was the date of the failed Abidjan Peace Accord which should have ended Sierra Leone's 11-year civil war. The war began in March 1991 and ended in January 2002.

During the war tens of thousands of civilians and non-combatants were killed and thousands more were maimed, mutilated, tortured, had limbs amputated and raped. Combatants burnt down villages and hundreds of thousands were displaced and forced to flee their homes to seek safety in refugee camps.

The Special Court indicted (or charged) 13 persons with war crimes, crimes against humanity, and other serious violations of international humanitarian law. Some of these crimes included, murder, rape, sexual slavery, pillage (looting and burning of property), acts of terrorism, extermination, inhumane acts, forced marriage, attacks on UN peacekeepers, and the recruitment and use of child soldiers.

The accused were not indicted because they went to war or because they were leaders of a warring group. They were indicted because of their personal responsibility for crimes they committed themselves or for crimes that they encouraged their followers to commit.

Five of those indicted were leaders of the Revolutionary United Front (RUF), four were leaders of the Armed Forces Revolutionary Council (AFRC), and three were leaders of the Civil Defence Forces (CDF). The last accused, Charles Taylor, was the President of Liberia when he was indicted. Only nine accused persons were tried and convicted. Two RUF leaders, Foday Sankoh and Sam Bockarie, died before the SCSL could try them. CDF leader, Sam Hinga Norman, died near the end of his trial but before a judgement could be delivered. AFRC leader Johnny Paul Koroma fled Sierra Leone before he was indicted.

The Special Court was the first court in the world to try and convict persons for the use of child soldiers, for forced marriage as a crime against humanity, for conjugal slavery as a form of sexual slavery, and for attacks on UN peacekeepers. It was the first modern international court to indict, try and convict a sitting head of state. The SCSL was also the first modern international court to complete its mandate and close.

### **Today: The Residual Special Court for Sierra Leone**

The Residual Special Court for Sierra Leone, (RSCSL or Residual Special Court), was set up to carry out the continuing legal obligations of the SCSL after the Court closed in December 2013. It is also charged with preserving the legacy of the Special Court.

The RSCSL like the SCSL, was set up by an agreement between the UN and the GoSL. Unlike the SCSL which at its height had more than 500 staff, contractors and interns, the RSCSL has a small staff of just 13 people. Some of the staff are located at the interim seat in The Hague, and share offices with the SCSL's former sister court, the International Criminal Tribunal for the former Yugoslavia. The RSCSL also has an office in Freetown which houses the witness protection unit. The Registrar maintains a list of former SCSL staff members who can be called upon to assist the Court when needed.

#### **4. If the SCSL completed its mandate, why is there a need for the RSCSL?**

All of the international courts will need a "residual mechanism" to carry out their ongoing legal obligations when they close. For example, the jointly-created residual Mechanism for the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) started functioning in mid-2013, although these courts had not yet completed all their trials at that time.

#### **5. How long will the Residual Special Court be around?**

The RSCSL will continue to operate as long as necessary until it completes its mandate.

#### **6. Where is the RSCSL located?**

The legal seat of the RSCSL is in Sierra Leone, but its principal headquarters is located in The Hague where it shares office space with the ICTY. It will remain there until the parties (the Government of Sierra Leone and the United Nations) decide otherwise.

#### **7. How many staff members work at the RSCSL?**

There are 13 staff members located in both The Hague and Freetown.

#### **8. What exactly is meant by 'ad hoc' functions?**

*Ad hoc* is a Latin term meaning "done for a particular purpose only". It means that these functions will only be exercised by the RSCSL if the need arises. For example, the RSCSL will try persons for contempt only if there is evidence that they have interfered with witnesses who testified before the Special Court or revealed the names of protected witnesses. The RSCSL will make a decision on trying Johnny Paul Koroma only if Koroma is found and transferred to the jurisdiction of the RSCSL. The RSCSL will only review convictions if a convict produces new evidence that was not available at the time of his trial, and if it had been available might have caused the Judges to render a different decision.



## Frequently Asked Questions

### 1. What was the SCSL's mandate?

The Special Court for Sierra Leone was an international criminal tribunal created jointly in 2002 by the Government of Sierra Leone and the United Nations. It was mandated to try those bearing the greatest responsibility for war crimes, crimes against humanity, and other serious violations of international humanitarian law committed in Sierra Leone after 30 November 1996. It completed its mandate and closed in December 2013. Between 2002 when the Court opened and 2013, the SCSL tried and convicted nine persons for serious crimes and contributed to the jurisprudence of international criminal law with convictions for the use of child soldiers, forced marriage as a crime against humanity, sexual slavery, and attacks directed against UN peacekeepers. The SCSL generated archives which document the trials, the jurisprudence, and many of the crimes committed during the war.

### 2. Who are the prisoners convicted by the SCSL?

Issa Hassan Sesay (RUF Interim Leader), Morris Kallon (RUF official), Augustine Gbao (RUF Chief of Security), the late Alex Tamba Brima (AFRC official), Ibrahim Bazy Kamara (AFRC official), Santigie Borbor Kanu (AFRC official, known as “Five-Five”), Moinina Fofana (CDF Director of War, now on Conditional Early Release), Allieu Kondewa (CDF High Priest and Initiator), and Charles Taylor (former President of Liberia).

### 3. Why was the RSCSL created?

The RSCSL was established "to continue the jurisdiction, functions, rights and obligations of the SCSL subject to the provisions of this Agreement and the Statute (Article 1(3) of the Special Court Statute). These ongoing functions are described in this pamphlet. There are also some *ad hoc* functions for which the RSCSL will be responsible if the need arises. These include conducting contempt trials if people interfere with or threaten former witnesses. The RSCSL will also arrange for the trial of SCSL indictee, Johnny Paul Koroma, should he be found and arrested.

## How the RSCSL Works

### Composition of the RSCSL

#### The Judges

The RSCSL has a roster of 16 Judges. This is to make sure that if a judicial matter arises there will be Judges who can be called upon to deal with it.

#### *Judges of the Residual Special Court*



Ten of the Judges on the Roster were appointed by the UN and six by the GoSL. The Judges elect a President and a Vice-President of the RSCSL. The first President is Justice Philip Nyamu Waki and the first Vice-President is Justice Jon Kamanda. The President may call upon the roster Judges to fulfil functions, and they are paid on a *pro rata* basis – this means, they are paid only when they carry out functions for the Court.

The first 16 Judges were sworn-in on 2 December 2013. The Judges appointed by the GoSL were the late George Gelaga King, John Bankole Thompson, Jon Kamanda, Vivian Margarette Solomon, Abdulai Hamid Charm and Emmanuel Ekundayo Roberts. The Judges appointed by the UN were Richard Brunt Lussick, Pierre G. Boutet, Renate Winter, Teresa Anne Doherty, Shireen Avis Fisher, Philip Nyamu Waki, Elizabeth Ibamda Nahamya, Oagile Bethuel Key Dingake, Andrew John Hatton, and Isaack Lenaola.

## **RSCSL Officials**

The first Registrar of the RSCSL is Binta Mansaray, who was the last Registrar of the SCSL. The first Prosecutor of the RSCSL is Brenda J. Hollis, who was the last Prosecutor of the SCSL. The first Principal Defender is Ibrahim Yillah, a lawyer who worked at the Special Court and the International Criminal Court.

The Registrar is the only senior official who works on a day-to-day basis. The Registrar is responsible for all administrative matters of the Court.

The Prosecutor works remotely and only visits the seat of the Court when necessary. The Prosecutor is paid on a *pro rata* basis.

The Principal Defender also works remotely and is paid on a *pro rata* basis. He keeps a roster of qualified defence counsel, and may provide legal assistance to prisoners and persons accused of contempt of court when they are not represented by their own lawyer.

The RSCSL maintains a roster of qualified defence counsel who may provide legal services to prisoners or accused persons.

## **The Oversight Committee**

Like the SCSL, which had a Management Committee, the RSCSL has an Oversight Committee. The Committee is made up of representatives from the GOSL and the UN, and also from significant donor countries. The committee members help the Court to raise money to operate because the RSCSL, like the SCSL relies on donations from UN Member countries. The Committee also gives advice and policy direction to the RSCSL on non-judicial matters.

## **The RSCSL's Mandate**

### **Continuing Obligations of the RSCSL**

The continuing obligations of the RSCSL can be divided into two types. The first are called “ongoing” functions, which means that they have to be done regularly. These include witness protection and support, the supervision of sentences of SCSL convicts, the maintenance of the SCSL's archives, and provision of

detention standards and access to justice for women and juveniles, and trained police prosecutors, amongst other legacy activities.

Shortly before the closure of the Special Court, the International NGO No Peace Without Justice conducted an independent survey in Sierra Leone and Liberia. 91% of Sierra Leoneans and 78% of Liberians believed that the Special Court had contributed to peace in their countries. The complete survey can be downloaded from the internet at:

[http://www.rscsl.org/Documents/NPWJ\\_SCSLImpactLegacyReport\\_04OCT12.pdf](http://www.rscsl.org/Documents/NPWJ_SCSLImpactLegacyReport_04OCT12.pdf)

## **Defence Counsel and Legal Aid Issues**

During the trial process, the accused's legal fees are paid by the SCSL, and now the RSCSL, if the accused has no money to pay for the fees himself. Once the accused has been convicted, however, he no longer has an automatic right to free legal assistance. The Principal Defender and defence staff will provide legal representation to a convict for free if this is ordered by the Court, unless the matter involves a review of his conviction. The convict may otherwise pay for his own lawyer or seek the assistance of a *pro bono* (free) lawyer.

## **Claims for Compensation**

The RSCSL will provide information if there are claims in Sierra Leone's courts for compensation from persons convicted by the SCSL of offences linked to property, such as looting. Since all of the prisoners who were tried were found to be indigent or partially indigent, meaning they did not have resources, there was no money or property that could be confiscated and given to victims. If it is found in the future that prisoners have property or other assets which they hid, then action may be taken.

They telephoned two of their former colleagues, Hassan Papa Bangura (aka: “Bomblast”) and Samuel Kargbo (aka: “Sammy Ragga”) and asked them to bribe or otherwise induce protected witnesses to tell the Court they had lied. The witnesses refused and contacted the Prosecution's Witness Protection Unit.

Samuel Kargbo pleaded guilty, was convicted, and agreed to testify against other accused indicted by the SCSL. On 25 September 2012, Kanu and Bangura were convicted of offering a bribe and for otherwise trying to make a witness recant his testimony. Kamara was convicted of trying to make a witness recant his testimony and also for revealing the name of a protected witness. Kamara and Kanu were each sentenced to an additional one year and 50 weeks in prison, in addition to the long sentences they are already serving. Bangura was sentenced to 18 months in prison, which he served in Freetown. Kargbo was given an 18-month suspended sentence because he had admitted his guilt, expressed remorse, and cooperated with the SCSL.

If, after serving two-thirds of their sentences, Kamara and Kanu wish to apply for conditional early release, the President of the RSCSL will take their contempt convictions into consideration to decide whether they are eligible to apply.

Harming, threatening, bribing or otherwise interfering with current or former SCSL witnesses is a crime, and the punishment will be serious. Don't do it.

### **Preserving the SCSL's Legacy**

For international justice, the Special Court's Legacy will be its jurisprudence, especially the judicial “firsts” talked about earlier; its innovative Outreach programme; and its unique experience being the first hybrid *ad hoc* international criminal court and the first such court to sit in the country where the crimes took place. It is also the first international criminal tribunal since Nuremberg to achieve its mandate and to close.

For the people of Sierra Leone, the SCSL's Legacy will be weighed as to its contribution to justice and reconciliation, by re-establishing the rule of law after a decade of conflict, and the fight against impunity for serious crimes. Apart from its fight against impunity for crimes against civilians and protected persons, the SCSL worked to establish the Peace Museum, a National Witness Protection Programme, and Archives Development Programme, helped to improve

SCSL's archives, and provision of assistance to national prosecuting authorities.

The second are called “*ad hoc*” functions. *Ad hoc* is a Latin term meaning “done for a particular purpose only”. This means that the function will only be carried out if there is a need for it. Some of these functions are arranging for the trial of AFRC leader Johnny Paul Koroma, should he be found, the review of convictions and acquittals of prisoners, conduct of contempt of court proceedings, assigning of defence counsel and provision of legal aid where necessary, claims for compensation, and prevention of double jeopardy.

We will look at these functions more closely.

## **ONGOING FUNCTIONS**

### **Witness Protection and Support**

Many of the witnesses who testified during the trials of the Special Court were war victims. Some of them were “insider” witnesses who were close to the accused or members of his group. The SCSL had a duty to protect these witnesses against threats to themselves, their families and their friends. The RSCSL has to make sure that there are no threats against them now that the SCSL has closed. The RSCSL also has a duty to make sure that the witnesses are not interfered with by the convicts or by people acting for the convicts, and it has the power to bring charges against anyone who does.

Threatening or otherwise interfering with any witness is contempt of court and it's a serious crime. If found guilty of such an offence, a person can be sentenced to a maximum of seven years in prison, or a fine of 20 million leones, or both a sentence and a fine. Several persons have already served prison sentences for trying to bribe or otherwise to interfere with former SCSL witnesses.

The RSCSL has a witness protection office in Freetown at the site of the old SCSL. The witness protection officers meet the former witnesses throughout Sierra Leone and Liberia to make sure that they are all right and that no one has threatened them or tried to interfere with them. If anyone does this there will be serious consequences, including possible imprisonment.

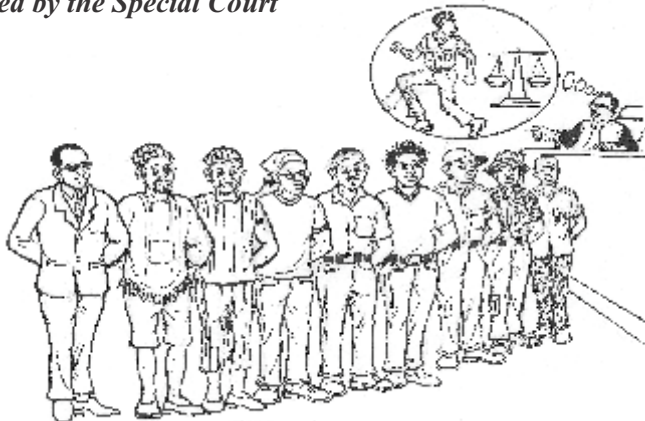
***Residual Special Court protects witnesses and their family members from interference, intimidation, threats, or violence for their role at the Special Court. Violators will be arrested and prosecuted, and if found guilty will be punished.***



### **Supervision of Sentences and the Rights of Prisoners**

The SCSL prisoners convicted in Freetown are serving their sentences in Rwanda. Former Liberian President Charles Taylor was convicted in The Hague, and he is serving his sentence in the United Kingdom. Those countries enforce the sentences under agreements with the SCSL, and the RSCSL has the duty to continue to supervise the sentence enforcement.

***Mandate of the Residual Special Court: Supervision of the sentences of the Prisoners convicted by the Special Court***



The Trial Chamber made its advisory decision on 30 January 2015, after considering arguments from both the Defence and the Prosecution. The decision was only made public on 25 March 2015 because the Defence had made another application on some of the same issues.

Taylor's lawyers asked the President of the RSCSL for permission to appeal the advisory decision. On 21 May 2015, Justice Waki denied Taylor permission to appeal and dismissed his motion. The President ruled that in a case like this, the Rules of the RSCSL do not allow an appeal. He said that even if the Rules permitted an appeal, Taylor had not shown “exceptional circumstances” or “irreparable prejudice” which are the standards for an appeal.

### **Contempt of Court Proceedings**

Anyone who interferes with the Court may be found guilty of contempt, which is a serious crime. For example, violating a court order is contempt. A person who intentionally helps an accused person to avoid prosecution is guilty of contempt.

Anyone who threatens, intimidates, offers bribes to, or otherwise interferes with witnesses will be charged with contempt. Anyone charged with contempt will be tried by an RSCSL Judge. If found guilty, the convicted person could face a maximum penalty of seven years in prison, a fine of up to 20 million leones, or both a prison sentence and a fine.

Several people have already been convicted of contempt for interfering with witnesses. Most recently an SCSL Judge convicted Eric Koi Senessie, a former RUF member, for trying to bribe witnesses and for otherwise interfering with witnesses who had testified against Charles Taylor. Senessie wanted the witnesses to tell the Court that they had lied and now wanted to change their testimony. The witnesses all refused and contacted the Prosecution Witness Protection Unit. On 21 June 2012, Senessie was found guilty on 8 of 9 counts against him. He was sentenced to a two-year prison term.

An SCSL Judge also convicted two SCSL prisoners who tried to make several witnesses recant (take back) their testimony. The two, Ibrahim Bazy Kamara and Santigie Borbor Kanu, were serving sentences of 45 and 50 years, respectively, in Rwanda.

If Johnny Paul Koroma appears at any time he will be tried. If you know his whereabouts you should contact the RSCSL. You can find contact information on the Court's website, [www.rscsl.org](http://www.rscsl.org). Remember, it is a serious crime to help a person to escape justice.

### **Review of convictions and acquittals, and other matters raised by prisoners**

If new evidence is found which was not available during the trial, and if that evidence might have caused the Trial Chamber to reach a different judgement, a prisoner may ask that his judgement be reviewed. If the Prosecutor thinks a serious mistake was made, then the Prosecutor can ask for a review up to one year after the Appeal Judgement. The prisoners can ask for a review at any time until the completion of their sentences.

### **Charles Taylor Motion to be Transferred to Rwanda**

On 24 June 2014, Charles Taylor asked that the RSCSL transfer him from the prison in the UK where he is serving his 50-year sentence, and send him to Rwanda to serve his sentence with the prisoners convicted in Sierra Leone. Mr. Taylor argued that his family members in Liberia were not able to visit him in the UK. He also argued that he was not safe in the UK prison and that he was being kept isolated because of security concerns.

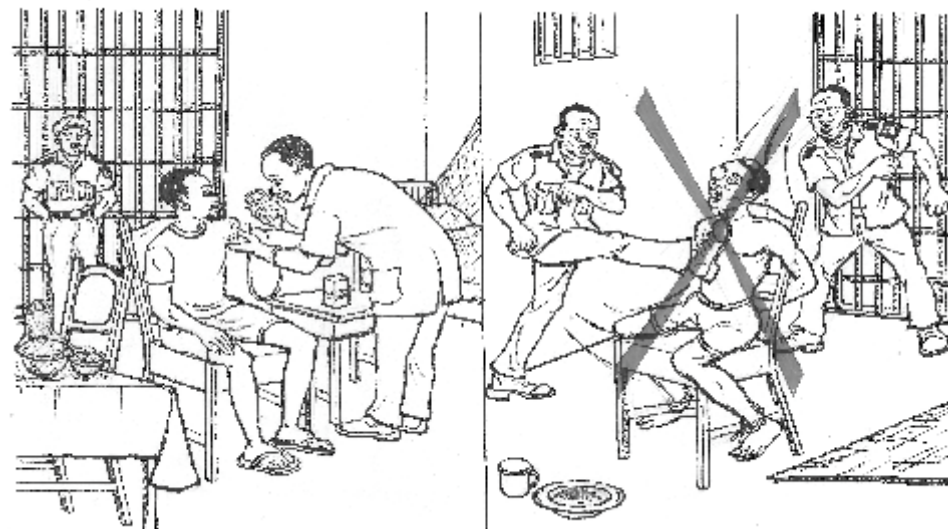
The President of the RSCSL created a three-Judge Trial Chamber to advise him on Mr. Taylor's request that he be transferred to serve his sentence in Rwanda.

The Judges concluded that the authorities were not preventing Taylor's wife and children from visiting him. They said this was caused because his wife didn't fill out the visa application properly, and she ignored the RSCSL's offer to help her to re-apply.

The Judges also found that Taylor was not receiving inhumane or degrading treatment, and that his conditions of imprisonment were up to international standards. They also said that all reasonable measures were taken to ensure his security.

The RSCSL makes sure that the prisoners are being treated humanely, and that their rights as prisoners are respected. People who are convicted of crimes, even the most serious ones, do not lose all their rights. They have the right to be treated humanely, and they have the right to contact their families, amongst others. The RSCSL, through the Registrar and the Principal Defender, work with Rwanda, the UK and human rights groups like the ICRC to make sure that the prisoners are treated in accordance with international standards.

*In spite of the crimes committed by prisoners the Residual Special Court does not abuse the rights of prisoners. They are held under internationally accepted minimum rules of detention.*



## Maintenance, Preservation and Supervision of the Archives

The SCSL archives have to be preserved in a secure environment. In 2010, the original paper records were moved to the Dutch National Archives in The Hague, but paper copies of the public archives are kept at the Peace Museum located on the old SCSL compound in Freetown.

*Mandate of the Residual Special Court: Maintenance of the Archives of the Special Court.*



## Assistance to National Prosecution Authorities

The Special Court's mandate was to try only “those bearing the greatest responsibility” for serious crimes committed in Sierra Leone during the war. Governments and other courts, however, may want to try someone in cases where they need not only public, but also “confidential” or “strictly confidential” (non-public) evidence which form part of the RSCSL archives. National authorities may also request evidence and information to support investigations and asylum cases.

On 25 April 2016, Justice Solomon tightened the conditions of Fofana's early release. He is now being monitored more closely, and there are new restrictions on his travel outside Bo. He must report once a week to the Monitoring Authority, and the Monitoring Authority and the Court will conduct spot checks to make sure he is present at all times.

## AD HOC FUNCTIONS

### Trial of Johnny Paul Koroma

Johnny Paul Koroma, the former Chairman of the AFRC, is the only indictee who was never in SCSL custody. The RSCSL has the jurisdiction (the legal authority) to try him or to refer his case to another competent jurisdiction for trial. It is unknown whether he is still alive, but since his death has not been proved, the case remains open. The SCSL indictment does not expire, and an Interpol “Red Notice” warns that if he is found he must be turned over to the RSCSL.

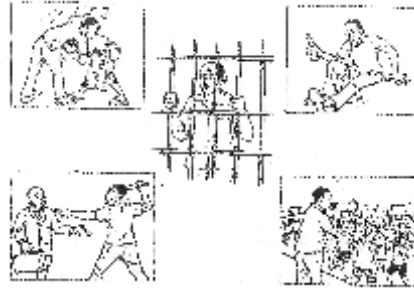
*Johnny Paul is a fugitive from the Special Court. If arrested his trial will be arranged by the Residual Special Court.*



***Prisoner appears again before the monitoring Authority. RSCSL explains conditions to Monitoring Authority***

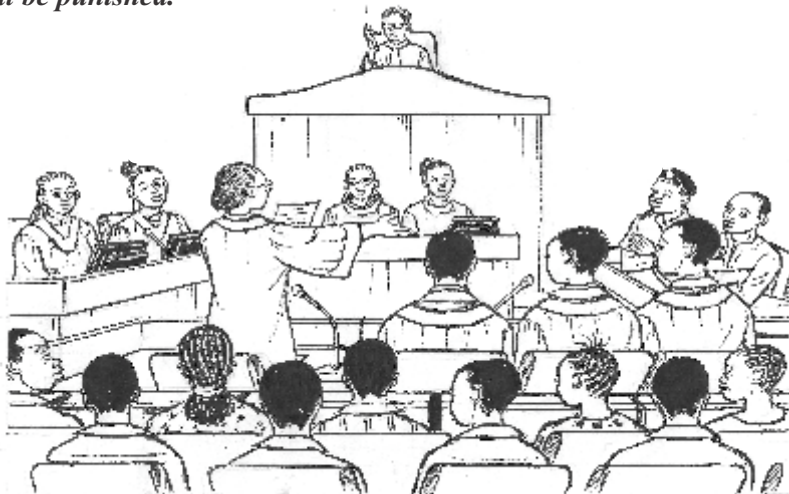


***During service of term prisoner must not commit crime, must not involve in violence, must not drink alcohol or take illegal substance, and must not involve in politics, public demonstration or interfere with witnesses.***



On 10 March 2016, Fofana was arrested for allegedly violating the terms of his Conditional Early Release. He appeared before RSCSL Designated Judge, Vivian Solomon, and admitted allegations that he had taken part in local politics, that he had signed the police register in advance of his reporting date and falsely claimed he was physically present in Bo when he was not there. He also did not return to Bo on the date he promised and missed one required reporting period.

***The Court may hold administrative hearings where a prisoner is not accused of a crime. If a prisoner violates the terms of his Conditional Early Release agreement, he will be arrested and will appear before an RSCSL judge. If he is found guilty he will be punished.***



The RSCSL archives contain some very confidential information about protected witnesses and security matters which could endanger people's lives if disclosed improperly. The RSCSL has a strict Access Policy to make sure that confidential information is handled correctly. The security classification of judicial records can only be determined by the President of the Court, a duty judge, or a trial chamber. The authority to determine the security level of non-judicial records lies with the organ of the Court that originally created them. The Access Policy ensures that confidential information about former witnesses and their families will not be released to the public.

**Pardon, Commutation, Early Release**

The President of the RSCSL, in consultation with the Judges who imposed the sentence when possible, may decide whether to grant a prisoner a pardon, a commutation, or early release. The President will also consider the views of the Prosecutor and the prisoner or his lawyer. The Prosecutor will convey to the President the views of the witnesses and victims and the community as to where the prisoner will be returned. The President's decision will be made on the basis of the interests of justice and the general principles of law.

Pardon, commutation and early release are not the same. A pardon sets aside the punishment that has been imposed for a crime. A commutation lessens the sentence. For example, the President may decide to commute (to reduce or make less severe) the sentence of a convict who is seriously ill so that he can spend his final days at home with his family.

Early release is when a prisoner is freed before the end of his sentence, and it can be conditional or unconditional. The procedure followed by the Residual Special Court is Conditional Early Release (CER). This means that the prisoner will serve the rest of his sentence in his community under strict conditions and supervision by a monitoring authority. CER is not automatic; it is an “act of grace” bestowed by the Residual Special Court. This is meant to help reintegrate the prisoner into society, since he may be living in the same community as victims and the witnesses who testified before the Special Court. If he disobeys the conditions imposed by the RSCSL, he may be punished or even returned to prison.

To be eligible for CER, the prisoner must have served two-thirds of his sentence, he must have behaved well while in prison, and he must not be a danger to the community or any person if he is released. He should respect the fairness of the trial process, and he should make a positive contribution to peace and reconciliation in Sierra Leone, such as public acknowledgment of guilt or an apology.

Once the President decides the prisoner is eligible for CER, the Registrar will work with the community to find a place where the prisoner can serve the rest of his sentence. The Registrar will also identify a Monitoring Authority which will monitor the prisoner once released and advise the prisoner on the conditions of his release.

One SCSL prisoner, Moinina Fofana, was granted CER in 2015. He will finish his 15-year sentence in 2018. The other SCSL prisoners are serving sentences ranging from 20 years to 52 years, with credit given for time served since 2003. They may apply for consideration for CER when they have served two-thirds of their sentences.

Prisoner	Arrested	Full Sentence	Eligible to Apply for CER
Moinina Fofana	May 2003	May 2018	May 2013* (10y 0m)
Allieu Kondewa	May 2003	May 2023	September 2016 (13y 4m)
Augustine Gbao	April 2003	April 2028	December 2019 (16y 8m)
Morris Kallon	March 2003	March 2043	November 2029 (26y 8m)
Issa Sesay	March 2003	March 2055	November 2037 (34y 8m)
Ibrahim Bazy Kamara	March 2003	March 2048	March 2033* (30y 0m)
Santigie Borbor Kanu	September 2003	September 2053	January 2037* (33y 4m)
Alex Tamba Brima	March 2003	March 2053	July 2036 (33y 4m)
Charles Taylor	March 2006	March 2056	July 2039 (33y 4m)

\*Moinina Fofana was released conditionally in March 2015. Kamara and Kanu were convicted of interfering with witnesses and sentenced to an additional 1 year and 50 weeks, to be served after they complete their sentences.

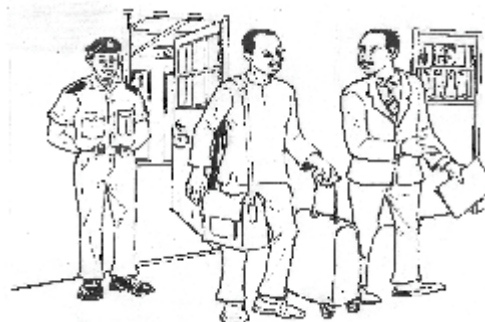
## Conditional Early Release of Moinina Fofana

In August 2014, former CDF Director of War Moinina Fofana was granted conditional early release. The Judge delayed Fofana's release by six months so that he could receive additional instruction to ensure that he understood the nature and seriousness of the crimes for which he was convicted, and that what may have been a legitimate cause did not justify the use of illegal means to achieve it.

On 12 March 2015, Fofana was released under very strict conditions. These conditions required Fofana to cooperate with a Monitoring Authority (the Bo Police), to obey all orders of the Court, to refrain from committing any crime, and to pose no threat to former witnesses, amongst others. In addition to these, Justice Waki also ordered that Fofana acknowledge his guilt, publicly apologise, and show remorse for his crimes. Fofana was forbidden from interfering with witnesses, and was ordered not to engage in secret meetings to plan civil unrest or join politics.

Fofana is serving his remaining sentence in Bo. The original order required Fofana to report physically to the Monitoring Authority twice a month, and to obtain the Monitoring Authority's permission to travel.

*Prisoners who qualify are released under Conditional early Release agreement.*



*Prisoner appears before the registrar and is reminded of the conditions of release.*

