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RSCSL-04-14-ES  
(1476-1480)

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**RESIDUAL SPECIAL COURT FOR SIERRA LEONE**

**Before:** Justice Philip N. Waki,  
President

**Registrar:** Ms. Binta Mansaray

**Date:** 2 December 2016

**PROSECUTOR**                      **Against**                      **ALLIEU KONDEWA**  
(Case No. RSCSL- 04-14-ES)

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**PUBLIC**

**DECISION ON ALLIEU KONDEWA'S ELIGIBILITY FOR CONSIDERATION  
FOR CONDITIONAL EARLY RELEASE**

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Office of the Prosecutor:  
Ms. Brenda J. Hollis

Defence Office  
Mr. Ibrahim Sorie Yillah

The Republic of Rwanda

RESIDUAL SPECIAL COURT FOR SIERRA LEONE	
<b>RECEIVED</b>	
COURT MANAGEMENT THE HAGUE	
05 DEC 2016	
NAME	Francesca Ngaboh-Smart
SIGN	
TIME	9:00

THE PRESIDENT OF THE RESIDUAL SPECIAL COURT FOR SIERRA LEONE  
("Residual Special Court")

SEIZED OF Allieu Musa Kondewa's ("Kondewa") Petition by Convicted Person to Establish Eligibility for Conditional Early Release dated 21 September 2016 as set out in Form A1 annexed to the Practice Direction on the Conditional Early Release of Persons convicted by the Special Court for Sierra Leone ("Application" and "Practice Direction" respectively), together with documents provided pursuant to Articles 2 and 3 of the Practice Direction in support to show that the convicted person:

- i. is not a danger to the community or to any member of the public;
- ii. has shown respect for the fairness of the process by which he was convicted;
- iii. has made a positive contribution to peace and reconciliation in Sierra Leone and the region, and
- iv. has made a public apology to the victims of his crimes and generally to the people of Sierra Leone;

CONSIDERING the "Notification by State of Enforcement to Establish Eligibility for Conditional Early Release" dated 21 September 2016 as set out in Form B annexed to the Practice Direction, by which the Republic of Rwanda notified the Residual Special Court that Kondewa had served 2/3 of his total sentence pursuant to Article 2 (A) of the Practice Direction and Article 246 of the Law of Rwanda code of criminal procedure (Law No. 30/2013 of 24/5/2013) which recognizes service of 2/3 of total sentence for conditional early release;

CONSIDERING the documents submitted in support of Form B pursuant to Articles 2 and 3 of the Practice Direction to show that:

- i. the convicted person has successfully completed all remedial, educational, moral, spiritual or other programs to which he was referred within the Prison;
- ii. the convicted person does not pose a risk of danger to the community or to any member of the public, in particular witnesses who testified against him (Psychological risk assessment);
- iii. the convicted person has complied with all terms of conditions of his imprisonment (Disciplinary record);
- iv. the convicted person has done nothing during his incarceration to incite against the peace and security of the people of Sierra Leone, either personally or through others (Prison records);

**RECALLING** that, on 2 August-2007 and 9 October 2007, Trial Chamber I of the Special Court for Sierra Leone (“Trial Chamber” and “Special Court” respectively) rendered its Judgment and Sentencing Judgment in *Prosecutor v. Fofana and Kondewa*, and sentenced Kondewa to a term of 8 years imprisonment with credit for time already served;

**RECALLING** that on 28 May 2008, the Appeals Chamber of the Special Court (“Appeals Chamber”) rendered Judgment in *Prosecutor v. Fofana and Kondewa*, wherein by a majority it increased Kondewa’s sentence to a total term of 20 years imprisonment;

**RECALLING** that on 12 August 2009, the Republic of Rwanda was designated as the State in which Kondewa was to serve his sentence;

**RECALLING** that under Article 24 of the Statute of the Residual Special Court (“Statute”), a convicted person is eligible for pardon or commutation of sentence if the President, in consultation with the judges who imposed the sentence where possible so decides in the interests of justice and the general principles of law, following notification by the State in which the convicted person is imprisoned that he or she is eligible for pardon or commutation of sentence pursuant to the applicable law of that State;

**CONSIDERING** that pursuant to Article 2 of the Practice Direction a convicted person upon having served 2/3 of his or her total sentence must first establish his eligibility for consideration for conditional early release and must demonstrate that he meets the requirements set out in Articles 2 (B) to (D) of same to wit that:

He has demonstrated successful completion of any remedial, educational, moral, spiritual or other programme to which he was referred within the Prison, that he is not a danger to the community or to any member of the public and compliance with the terms and conditions of his imprisonment as required by Article 2(B) of the Practice Direction;

He has provided proof that he has shown respect for the fairness of the process by which he was convicted, has refrained from incitement against the peace and security of the people of Sierra Leone while incarcerated and has made a positive contribution to peace and reconciliation in Sierra Leone and the region as required by Article 2(C) of the Practice Direction;

He has provided a statement of understanding that his release will be subject to entering into and complying with a Conditional Early Release Agreement as required by Article 2(D);

**TAKING INTO ACCOUNT** that the instant Application refers to and documents Kondewa’s compliance with the requirements set out above;

**NOTING** that pursuant to Article 4(A) of the Practice Direction a determination of eligibility for consideration for conditional early release shall be made by the President in consultation with the Judges who imposed the sentence, if available or, if unavailable with

at least two other Judges and that the President shall determine whether the requirements set out in Articles 2 (B) to (D) of the aforementioned Practice Direction have been met;

**HAVING** carried out the required consultations;

**FINDING** that the documentation submitted at the present stage is sufficient to warrant Kondewa's consideration for conditional early release and that Kondewa has therefore met the requirements set out in Article 2 of the Practice Direction;

**FOR THE ABOVE REASONS,**

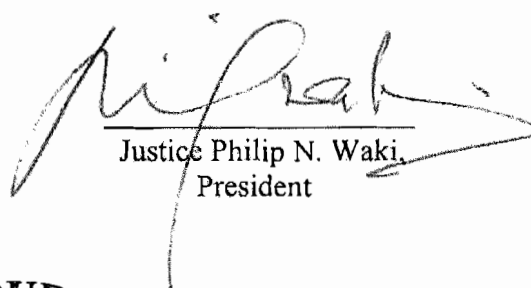
**GRANTS** the Application, and determines that Kondewa is eligible for consideration for conditional early release, and

**HEREBY ORDERS AS FOLLOWS:**

1. The Registrar shall request Kondewa to provide the information required under Article 5(B) of the Practice Direction not later than 14 days from the date of filing of this Decision;
2. The Registrar shall provide the information required under Articles 5 (C) to (H) of the Practice Direction not later than 30 days from the date of filing of this Decision;
3. The timelines prescribed under Articles 6 (A), (B) and (C) of the Practice Direction remain in force.

Done at The Hague, The Netherlands

This 2 day of December 2016



Justice Philip N. Waki,  
President

[Seal of the Residual Special Court for Sierra Leone]

