

SPECIAL COURT FOR SIERRA LEONE
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IN THE TRIAL CHAMBER

Before: Judge Bankole Thompson,
Designated Judge
Registrar: Robin Vincent
Date: 02 April 2004
PROSECUTOR **Against** **Sam Hinga Norman**
Moinina Fofana
Allieu Kondewa
(Case No.SCSL-04-14-PT)

NORMAN - INTERIM ORDER AND SCHEDULING ORDER

Office of the Prosecutor:

Desmond de Silva
Walter Marcus Jones

Defence Counsel for Sam Hinga Norman:

James Jenkins-Johnston

I, JUDGE BANKOLE THOMPSON, Presiding Judge of the Trial Chamber of the Special Court, sitting as Designated Judge pursuant to Rule 28 of the Rules of Procedure and Evidence (“Rules”);

NOTING the Prosecution Ex Parte Motion to Freeze the Account of the Accused Sam Hinga Norman, filed by the Office of the Prosecutor (“Prosecution”) on 1 April 2004, Document No. SCSL-04-13-PT-46, [\[1\]](#) (“Motion”) by which the Prosecution requires an order to the Government of Sierra Leone to freeze the account or accounts of Sam Hinga Norman (“Accused”) at Union Trust Bank (SL) Limited, or at any other bank in Sierra Leone;

NOTING that, further, in its Motion the Prosecution also seeks an interim order to the same effect until such time as the Trial Chamber, or a Judge thereof, can examine the merits of the Motion on an *inter partes* basis;

NOTING that despite the fact that the Motion has been filed *ex parte* by the Prosecution, it has been erroneously served to Counsel for the Accused;

CONSIDERING that the Prosecution urgently requests that this matter be dealt with expeditiously;

NOTING that the Special Court will observe its judicial recess during the period of 5 April to 16 April 2004;

NOTING the Decision Approving the Indictment against the Accused and the Warrant of Arrest issued on 7 March 2003;[\[2\]](#)

NOTING Article 17(2) of the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of the Special Court;

NOTING that Section 20 of the Special Court Agreement 2002 (Ratification) Act 2002 states that “for the purpose of execution, an order of the Special Court shall have the same force or effect as if it had been issued by a Judge, Magistrate or Justice of the Peace of a Sierra Leonean Court”;

RECOGNIZING the urgency of the matter;

CONSIDERING that I am seized of the Motion and a decision thereon is still pending;

CONSIDERING that the right of the Accused to a fair and expeditious consideration of the Motion requires the imposition of an expedited timetable for the filing of any remaining written submissions;

PURSUANT TO Rule 7(C) and Rule 54 of the Rules;

HEREBY RESPECTFULLY ORDER THE GOVERNMENT OF SIERRA LEONE, as an interim measure and with immediate effect, to freeze the account of the Accused numbered 210-006598-01 held at the Union Trust Bank (SL) Limited, located in Lightfoot Boston Street, PMB 1237, until a decision on the Motion is rendered;

FURTHER ORDER that the Motion will be determined on an *inter partes* basis, limited to the Prosecution and the Accused; and, for this purpose

ALSO ORDER that:

1. Any response from the Defence Counsel for the Accused to the Motion shall be filed by 04.00pm on Monday, 5 April 2004, if any;
2. Any Prosecution reply to a response shall be filed by 04.00pm on Wednesday, 7 April 2004, if any; and
3. Oral representations in support of the parties written submissions will be heard at an *in camera* hearing to be held in Chambers before me on Thursday, 8 April 2004 at 10.00am.

CONSEQUENTLY INSTRUCT the Registry and, in particular, the Court Management Section, to facilitate the execution of the Orders above.

Done at Freetown, this 2nd day of April 2004

Judge Bankole Thompson
Designated Judge

[Seal of the Special Court]

[1] On the same date, the Prosecution filed the Prosecution Ex Parte Motion to Freeze the Account of the Accused Sam Hinga Norman, Document No. SCSL-04-13-PT-44 (“First Motion”). Due to a mistake by the Prosecution in filing the First Motion, it was not designated as *ex parte* and was therefore served on Counsel for the Accused. Subsequently, the Prosecution filed a Motion for the Withdrawal of Prosecution Ex Parte Motion to Freeze the Account of the Accused Sam Hinga Norman (“Motion for Withdrawal”) by which it “gives notice” of the withdrawal of the First Motion. I would like to emphasise that the Prosecution does not have the power to autonomously withdraw a motion after it has been filed it and that this approach of

“giving notice” is deemed to be highly irregular. The correct procedure should have been to seek withdrawal of the First Motion by the Trial Chamber or a Judge thereof. Despite the failure of the Prosecution to follow the correct procedure, I hereby grant the Motion for Withdrawal and consequently order the withdrawal of the First Motion.

[2] *Prosecutor v. Sam Hinga Norman*, SCSL-03-08-I, Decision Approving the Indictment and Order for Non-Public Disclosure, 7 March 2003 and *id.*, Warrant of Arrest and Order for Transfer and Detention, 7 March 2003;