

THE TRIAL CHAMBER ("Trial Chamber") of the Special Court for Sierra Leone ("Special Court") composed of Judge Benjamin Mutanga Itoe, Presiding Judge, Judge Bankole Thompson, and Judge Pierre Boutet;

SEIZED of the Request by Samuel Hinga Norman ("Accused's Request") for adequate and effective resources to prepare his defence, made during trial proceedings on the 17th and 18th of June, 2004;

NOTING the Prosecution Response to the Accused's Request, made during trial proceedings on the 18th of June, 2004;

NOTING that during trial proceedings on the 18th of June, 2004, the Trial Chamber requested the Registrar to provide a report in response to the Accused's Request, and that the Registrar assured the Court that he could provide such report to the Trial Chamber by the 19th of June, 2004;

CONSIDERING Rule 54 of the Rules and Article 17 of the Statute of the Special Court for Sierra Leone ("Special Court");

HEREBY ISSUES THIS DECISION:

I. THE SUBMISSION OF THE PARTIES

Norman's Submissions

1. On the 18th of June, 2004, Norman made a request to the Trial Chamber, pursuant to Article 17 of the Statute and Rule 54 of the Rules, for provision of "adequate and effective resources" to assist in the defence of his case. The requested resources include the following:

- a. a complete computer set;
- b. a personal telephone to communicate with his Standby Counsel "at any time of the day or night, both locally and internationally";
- c. a regular supply of stationery;
- d. an assistant;
- e. an investigator;
- f. modification of the conditions of his detention, that concern existing "lock-up" hours from 10.00 p.m. to 7.00 a.m., giving him no time to consult with counsel or opportunity for exercise;
- g. consideration of the poor quantity and quality of food provided at the Detention Facility.

Prosecution's Submissions

2. The Prosecution submit that the Accused has been provided with Standby Counsel, pursuant to the Consequential Order of the Trial Chamber, to provide legal assistance to the Accused. It is

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argued that the provision of investigators should also be covered through the assignment of Standby Counsel.

3. The Prosecution argued that before a decision is reached by the Trial Chamber on the provision of resources to the Accused, a security assessment should be taken. The Prosecution highlighted the fact that the Accused had previously had his communication restricted by an order of the Registrar for security reasons, based upon his past actions that occasioned a serious risk. The Prosecution submit that they would have security concerns if the Accused were granted internet access and telephone access without restriction.

4. The Prosecution request that a report be provided by the Registrar addressing their concerns and to provide the Trial Chamber with guidelines to assist its decision.

Reply from The Accused

5. In reply, the Accused states that he will not comment on his previous communication restrictions.

6. The Accused states that the decision on the provision of additional resources to him should be made by the Trial Chamber and not by the Registrar.

7. The Accused asserts that he is not an ordinary Accused person. He is a Chief and a previous member of Government.

Registrar's Report

8. On the 19th of June, 2004, the Registrar submitted a Report the Trial Chamber in response to the Trial Chamber's order for the Registrar to provide a report on the Accused's Request. The Trial Chamber has given full consideration to this report.

II. FINDINGS OF THE TRIAL CHAMBER

9. By letter of the 3rd of June, 2004, the Accused submitted his intention to represent himself in the criminal proceedings against him. By decision of the 8th of June, 2004,¹ the Trial Chamber held that the Accused had a qualified right to represent himself. By virtue of this Decision and the Consequential Order² issued by the Chamber on the 14th of June, 2004, the Trial Chamber ordered the Registrar to appoint Standby Counsel, whose role is defined in the said Order.

10. The Trial Chamber is now seized with a request from the Accused to provide him with adequate and effective resources to assist him in conducting his defence. In making a determination on this request, the Trial Chamber has been guided by the Report of the Registrar on this issue. The Trial Chamber also refers in particular to certain provisions of Article 17 of the Statute which set out

¹ Decision on the Application by Samuel Hinga Norman for Self-Representation Under Article 17(4)(d) of the Statute of the Special Court for Sierra Leone, 8 June 2004

² Consequential Order on Assignment and Role of Standby Counsel, 14 June 2004.

minimum guarantees to which an accused person appearing before the Special Court is entitled, and which include the right to have adequate time and facilities for the preparation of his defence. Article 17 provides in part in this respect as follows:

1. All accused shall be equal before the Special Court.
2. The accused shall be entitled to a fair and public hearing, subject to measures ordered by the Special Court for the protection of victims and witnesses.
4. In determination of any charge against the accused pursuant to the present Statute, he or she shall be entitled to the following minimum guarantees, in full equality:
 - b. To have adequate time and facilities for the preparation of his or her defence and to communicate with counsel of his or her own choosing;

11. With respect to the specific requests of the Accused, the Trial Chamber finds as follows:

Request for Computer

12. The Trial Chamber grants the request of the Accused for a computer set. The Accused shall be provided with a desktop computer and printer in his cell for use at anytime. On the basis of security concerns, however, expressed by the Registrar, including the Acting Chief of the Detention Facility and the Chief of Security for the Special Court, the computer will not be connected to the internet or Special Court Network. Should any materials be required by the Accused from these resources, he may make a request to the Defence Office and/or his Standby Counsel to provide such necessary materials.

Request for Telephone

13. Currently the Accused is provided with a wireless "DECT" phone, which he can use from any location within the detention facility between the hours of 7.00 a.m. to 9.00 p.m. In accordance with Rule 44(A) of the Rules Governing the Detention of Persons Awaiting Trial or Appeal Before the Special Court for Sierra Leone or Otherwise Detained on the Authority of the Special Court for Sierra Leone ("Rules of Detention"), adopted on the 7th of March, 2003, and amended on the 25th of September, 2003 and the 4th of May, 2004, telephone calls between Accused and Counsel are privileged unless otherwise ordered by a Judge or a Chamber.

14. The Trial Chamber considers that the Accused may be further assisted by placing a stationary desk telephone in his cell which he can use at any time for the purpose of being in contact with his Standby Counsel. The phone will be programmed with the telephone numbers of his Standby Counsel, both inside and outside Sierra Leone.

15. As telephone costs are borne by the Court, usage will be reviewed to ensure that the number and duration of telephone calls is reasonable.

Request for Stationery

16. The Detention Facility provides stationery to detainees and should continue to provide the Accused with stationery requests which are reasonable and proportionate to the requirements of representing himself on the understanding that the Chamber has assigned Standby Counsel to assist him in the process.

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Request for Assistant

17 The Trial Chamber considers that the provision of four Standby Counsel to the Accused to assist him in the defence of his case is adequate, and it is not necessary to appoint an additional assistant.

Request for Investigator

18 The Trial Chamber considers that any investigations required by the Accused for his defence at trial is a matter within the competence of the Defence Office who shall make the necessary arrangements that are required.

Request for Modification of "Lock-Up" Hours

19 The Trial Chamber considers that the lockup hours for the detention facility, from 10.00 p.m. to 7.00 a.m. each day are reasonable. Furthermore, upon being provided with a computer and a stationary phone in his cell, the Accused may continue to prepare his case after lock-up time. Where exceptional circumstances would exist, and on a case-by-case basis, he may also apply to the Detention Facility to be outside his cell beyond the regular "lock-up" hours.


Request for Exercise and Food

20 According to the findings of the Registrar, the standard applied for exercise and food for detainees at the Detention Facility is in conformity with prescribed international standards verified from time to time by the International Committee for the Red Cross. The Trial Chamber accordingly finds no merit in these requests.

FOR ALL THE ABOVE-STATED REASONS,

The Trial Chamber grants the request of the Accused for a computer set and a personal telephone and orders that the Registrar provide him with a desktop computer and printer and stationary desk telephone, to be set up in his cell for his use at any time. The Trial Chamber further orders that the Detention Facility provides the Accused with stationery, within reasonable limits, and proportionate to his needs to present his own defence, considering the availability to him of his Standby Counsel.

Done in Freetown, Sierra Leone, this 23rd day of June 2004


Judge Pierre Boutet

Judge of the Trial Chamber


Judge Benjamin Mutanga Itoe

Presiding Judge of the Trial Chamber


Judge Bankole Thompson

Judge of the Trial Chamber

