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SCSL-04-14-T  
(21018 - 21021)



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**SPECIAL COURT FOR SIERRA LEONE**

JOMO KENYATTA ROAD • FREETOWN • SIERRA LEONE

PHONE: +1 212 963 9915 Extension: 178 7000 or +39 0831 257000 or +232 22 295995

FAX: Extension: 178 7001 or +39 0831 257001 Extension: 174 6996 or +232 22 295996

**TRIAL CHAMBER I**

Before: Hon. Justice Bankole Thompson, Presiding Judge  
Hon. Justice Pierre Boutet  
Hon. Justice Benjamin Mutanga Itoe

Registrar: Herman von Hebel, Acting Registrar

Date: 28<sup>th</sup> of May 2007

SPECIAL COURT FOR SIERRA LEONE	
RECEIVED	
COURT MANAGEMENT	
28 MAY 2007	
NAME	HONGAI GEORGE
SIGNATURE	<i>[Signature]</i>
TIME	10:14

PROSECUTOR	Against	SAMUEL HINGA NORMAN MOININA FOFANA ALLIEU KONDEWA (Case No.SCSL-04-14-T)
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**Public Document**

**ORDER REGARDING APPOINTMENT OF CO-COUNSEL FOR THE TAYLOR DEFENCE TEAM**

Office of the Prosecutor:  
Stephen Rapp  
James C. Johnson  
Joseph Kamara

Court Appointed Counsel for Samuel Hinga Norman:  
Dr. Bu-Buakei Jabbi  
John Wesley Hall, Jr.  
Alusine Sani Sesay

Court Appointed Counsel for Moinina Fofana:  
Victor Koppe  
Arrow Bockarie  
Michiel Pestman  
Steven Powles

Court Appointed Counsel for Allieu Kondewa:  
Charles Margai  
Yada Williams  
Ansu Lansana  
Susan Wright

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

**SEIZED** of a Memorandum and its appendices to Trial Chamber I from Vincent Nmchielle, Principal Defender, dated the 17<sup>th</sup> of May 2007, entitled "Notice of Intention to Appoint Mr. Steven Powles, Court Appointed Counsel for Moinina Fofana as Co-Lead Counsel to Charles Taylor" ("Memo"), in which the Principal Defender recommends that Mr. Powles be appointed as Co-Counsel for the Taylor Defence Team;<sup>1</sup>

**NOTING** that Mr. Powles has previously acted as Counsel for Mr. Morris Kallon and is still acting as Court Appointed Counsel for Mr. Moinina Fofana;<sup>2</sup>

**MINDFUL** of Article 14(C) of the Directive on Assignment of Counsel ("Directive"), which provides that:

No Counsel shall be assigned to more than one Suspect or Accused unless the concerned Suspects or Accused have received independent legal advice and have waived their right to be represented by separate Counsel. Any application by Counsel to be assigned to more than one Suspect or Accused must be made, through the Principal Defender, to the Presiding Judge of the appropriate Chamber.

**NOTING** the waiver signed by Mr. Kallon on the 15<sup>th</sup> of May 2007, indicating that he has no objection to Mr. Powles representing Mr. Taylor;<sup>3</sup>

**NOTING** the waiver signed by Mr. Taylor on the 11<sup>th</sup> of May 2007 indicating that having been advised by the Office of the Principal Defender that Mr. Powles had recently acted as Court Appointed Counsel for Mr. Fofana and would continue to so act until the end of the trial phase

<sup>1</sup> In the Memo, the Principal Defender requests that Mr. Powles be appointed as "Co-Lead Counsel" (Memo, p. 1). However, in an email attached as an annex to the Memo, sent to the Principal Defender on the 3<sup>rd</sup> of May 2007, Karim Khan, Lead Counsel for Taylor, states that he would like to appoint Mr. Powles as his "Co-Counsel" (Memo, Annex I). In an email sent on the 22<sup>nd</sup> of May 2007 in response to a query from the Trial Chamber, Shakiratu Sanusi, Legal Taxing Officer of the Office of the Principal Defender, acting upon instructions, clarified that the request was that Mr. Powles be designated as "Co-Counsel", not "Co-Lead Counsel" to the Taylor Defence Team.

<sup>2</sup> *Prosecutor v. Norman, Fofana and Kondewa*, SCSL-04-14-PT, Order on the Appointment of Additional Counsel for the Fofana Defence Team, 3 August 2006.

<sup>3</sup> Memo, Annex III.





(Judgment and sentencing if applicable) only, he has no objection to the appointment of Mr. Powles as his Counsel;<sup>4</sup>

**NOTING** the waiver signed by Mr. Fofana on the 16<sup>th</sup> of May 2007 stating:

4. That in compliance with Article 14(C) I have received independent legal advice and I therefore waive my right to be represented by separate Counsel only as far as the issue of Mr. Steven Powles is concerned.
5. That I consent to the appointment of Mr. Steven Powles as part of the Taylor Defence Team provided he still remains part of my Defence team during appeals if necessary;<sup>5</sup>

**NOTING** the Principal Defender's recommendation in the Memo that "in view of the waivers submitted by the Accused, there is nothing in the way of Mr. Powles being appointed by the Principal Defender as Counsel to Mr. Taylor while still acting as Counsel to Mr. Fofana as Counsel up to judgment and sentencing if applicable";<sup>6</sup>

**NOTING** that Mr. Fofana's waiver is conditional on Mr. Powles continuing to represent him during the Appeal phase, should there be one;

**CONSIDERING** therefore that in the Chamber's view, Mr. Fofana's statement does not contain a clear waiver of his right to be represented by separate Counsel;

**CONSIDERING** that the Chamber is therefore of the opinion that there has not been compliance with the requirements of Article 14(C) of the Directive;

**MINDFUL** of Article 17 of the Statute of the Special Court for Sierra Leone and Rules 54 and 26bis of the Rules of Procedure and Evidence;

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<sup>4</sup> Memo, Annex IV.

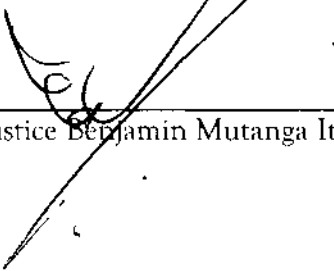
<sup>5</sup> Memo, Annex V.

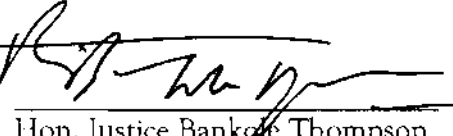
<sup>6</sup> Memo, p. 2.

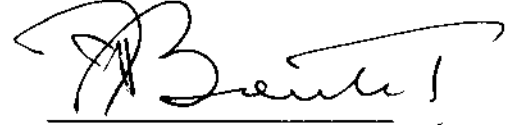
THE TRIAL CHAMBER

DENIES the application on the basis that the waiver from the Accused Fofana does not satisfy the requirements of Article 14(C) of the Directive.

Done at Freetown, Sierra Leone, this 28<sup>th</sup> day of May 2007.

  
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Hon. Justice Benjamin Mutanga Itoe

  
\_\_\_\_\_  
Hon. Justice Bankole Thompson  
Presiding Judge  
Trial Chamber I

  
\_\_\_\_\_  
Hon. Justice Pierre Boutet

