

2. In the event of a trial or appeal by the Residual Special Court, the President and the Prosecutor shall submit six-monthly reports to the Secretary-General and to the Government of Sierra Leone.

Passed in Parliament this 15th day of December, in the year of our Lord two thousand and eleven.

IBRAHIM S. SASAY,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill.

IBRAHIM S. SASAY,
Clerk of Parliament.

ACT

Supplement to the Sierra Leone Gazette Vol. CXLIII, No. 6
dated 9th February 2012

SIGNED this 1st *day of February*, 2012.

DR. ERNEST BAI KOROMA,
President.

LS

No. 1



2012

**The Residual Special Court for Sierra Leone Agreement
(Ratification) Act, 2011**

Short title.

Being an Act to ratify the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of Residual Special Court for Sierra Leone signed on the 11th August, 2010 and for other related matters.

[] Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

WHEREAS, pursuant to Security Council resolution 1315 (2000) adopted on 14 August, 2000, the Special Court for Sierra Leone (hereinafter “the Special Court”) was created by the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone to prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November, 1996;

WHEREAS, according to Article 23 of the Agreement, the Agreement shall be terminated by agreement of the Parties upon completion of the judicial activities of the Special Court;

WHEREAS, in anticipation of the completion of the judicial activities of the Special Court, the United Nations and the Government of Sierra Leone are convinced of the need to establish a small and efficient residual court comprising such number of staff as is commensurate with its reduced functions, to carry out essential functions of the Special court after its closure;

NOW THEREFORE the United Nations and the Government of Sierra Leone (hereinafter referred to jointly as “the Parties”) have agreed as follows:

Article 1 **Establishment and Functions**

1. There is hereby established a Residual Special Court for Sierra Leone (the “Residual Special Court”) to carry out the functions of the Special Court for Sierra Leone that must continue after the closure of the Special Court.

2. The Residual Special Court shall be governed by the Statute annexed to this Agreement, which forms an integral part hereof.

3. The Residual Special Court shall continue the jurisdiction, functions, rights and obligations of the Special Court subject to the provisions of this Agreement and the Statute.

Article 2 **Composition**

The Residual Special Court shall be composed of the Chambers, consisting of the President and when necessary a Trial Chamber and Appeals Chamber, the Prosecutor, and the Registrar.

Article 3 **Expenses**

The expenses of the Residual Special Court shall be borne by voluntary contributions from the international community. The Parties and the oversight committee may explore alternative means of financing the Residual Special Court.

Article 4 **Oversight Committee**

The Residual Special Court shall have an oversight committee to assist in obtaining adequate funding and to provide advice and policy direction on all non-judicial aspects of its operation. The oversight committee shall consist of the Parties and significant contributors to the Residual Special Court.

Article 5 **Juridical Capacity**

The Residual Special Court shall possess the juridical capacity necessary to:

- (a) contract;
- (b) acquire and dispose of moveable and immovable property;

- (c) institute legal proceedings;
- (d) enter into agreements with States and International Organizations as may be necessary for the exercise of its functions and for its operation.

Article 6

Seat

The Residual Special Court shall have its principal seat in Sierra Leone. The Residual Special Court shall carry out its functions at an interim seat in The Netherlands, with a branch or sub-office in Sierra Leone for witness and victim protection and support, until such time as the Parties agree otherwise. The Residual Special Court may meet away from its seat if it considers it necessary for the efficient exercise of its functions.

Article 7

Archives

1. The archives and other documents of the Special Court shall be the property of the Residual Special Court, without prejudice to the rights of, and conditions imposed by, information providers and other third parties. The Residual Special Court shall maintain, as necessary, the confidentiality of the archives and shall ensure the continued protection of information that was provided by individuals, States and other entities with confidentiality restrictions under the Rules of Procedure and Evidence of the Special Court for Sierra Leone or protected by judicial orders of the Special Court.

2. The original archives shall be co-located with the Residual Special Court. In order to preserve and promote the legacy of the Special Court, electronic access to, and printed copies of, the public archives shall be available to the public in Sierra Leone.

3. The Parties may at any time agree to re-locate the original archives to Sierra Leone when there is a suitable facility for their preservation and sufficient security for maintaining the archives in accordance with international standards.

4. The Residual Special Court shall be responsible for the management, including preservation and provision of access, of its archives.

5. The archives, and in general all documents and materials made available, belonging to or used by the Residual Special Court, wherever located and by whomsoever held, shall be inviolable in Sierra Leone. Arrangements shall be made to ensure that the archives, and in general all documents and materials made available, belonging to or used by the Residual Special Court, wherever located and by whomsoever held, shall be inviolable.

Article 8

Inviolability of premises

1. The premises of the Residual Special Court in Sierra Leone shall be inviolable. Appropriate arrangements shall also be made to ensure that any premises of the Residual Special Court elsewhere are inviolable.

2. The property, funds and assets of the Residual Special Court, wherever located and by whomsoever held, shall be immune in Sierra Leone from search, seizure, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial, or legislative action. Appropriate arrangements shall be made for such immunity at any other location of the Residual Special Court.

Article 9

Immunity of Funds, Assets and other Property

The Residual Special Court, its funds, assets and other property, wherever located and by whomsoever held, shall enjoy immunity in Sierra Leone from every form of legal process, except insofar as in any particular case the Residual Special Court has expressly waived its immunity. A waiver of immunity does not extend to any measure of execution. Appropriate arrangements shall be made for such immunity at any other location of the Residual Special Court.

Article 10**Privileges and Immunities**

1. The President, Judges, Prosecutor, Registrar, and staff serving with the Residual Special Court shall be accorded in Sierra Leone those privileges and immunities accorded to officials of the United Nations, *mutatis mutandis*, under Section 18 of the 1946 Convention on the Privileges and Immunities of the United Nations. Appropriate arrangements shall be made for such privileges and immunities to be accorded to those serving at other locations of the Residual Special Court.

2. These privileges and immunities will be accorded in the interest of the Residual Special Court and not for the personal benefit of the individuals themselves.

3. Other persons, including the accused, witnesses, victims and defence counsel required at the seat or other location of the Residual Special Court shall be accorded in Sierra Leone such treatment as is necessary for the proper functioning of the Residual Special Court. Appropriate arrangements shall be made for such treatment to be accorded to these persons at other locations of the Residual Special Court.

Article 11**Cooperation with the Residual Special Court**

The Government of Sierra Leone shall cooperate with the Residual Special Court in all its operations. The Government shall comply without undue delay with any request for assistance by the Residual Special Court or an order issued by the Chambers, including, but not limited to:

- (a) Identification and location of persons;
- (b) Service of documents;

- (c) Arrest or detention of persons;
- (d) Transfer of an indictee to the Residual Special Court.

Article 12**Practical Arrangements**

Appropriate arrangements shall be made to ensure that there is a coordinated transition from the activities of the Special Court to the activities of the Residual Special Court. Priority shall be given to the needs of the Residual Special Court in the liquidation of the assets of the Special Court, after which the assets shall be disposed of to the Government of Sierra Leone in accordance with the liquidation policy of the Special Court.

Article 13**Settlement of Disputes**

Any dispute between the Parties concerning the interpretation or application of this Agreement shall be settled by negotiation, or by any other mutually agreed upon mode of settlement.

Article 14**Entry into Force**

The present Agreement shall enter into force on the day after both Parties have notified each other in writing that the legal requirements for entry into force have been complied with. The Residual Special Court shall commence operations immediately upon the closure of the Special Court.

Article 15**Amendment**

This Agreement may be amended by written agreement of the Parties.

Article 16**Termination**

This Agreement shall be terminated by written agreement of the Parties. The provisions relating to the inviolability of the funds, assets, archives and documents of the Residual Special Court, the privileges and immunities of those referred to in this Agreement, as well as provisions relating to the treatment of defence counsel, victims and witnesses, shall survive the termination of this Agreement.

Article 17**Disposition of Assets**

On the completion of the work of the Residual Special Court, any assets inherited from the Special Court or acquired by the Residual Special Court shall become the property of the Government of Sierra Leone.

IN WITNESS WHEREOF, the following duly authorized representatives of the United Nations and of the Government of Sierra Leone have signed this Agreement in two originals in the English language.

For the United Nations

Peter Taksoe-Jensen
Assistant Secretary-General
for Legal Affairs

Date: 29th July, 2010

For the Government of Sierra Leone

Abdul Serry Kamal
Minister of Justice and
Attorney-General

Date: 11th August, 2010

STATUTE OF THE RESIDUAL SPECIAL COURT FOR SIERRA LEONE

The Residual Special Court established by the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Residual Special Court for Sierra Leone ("the Agreement") shall function in accordance with the provisions of the present Statute.

Article 1**Competence**

1. The purpose of the Residual Special Court is to carry out the functions of the Special Court for Sierra Leone that must continue after the closure of the Special Court. To that end, the Residual Special Court shall: maintain, preserve and manage its archives, including the archives of the Special Court; provide for witness and victim protection and support; respond to requests for access to evidence by national prosecution authorities; supervise enforcement of sentences; review convictions and acquittals; conduct contempt of court proceedings; provide defence counsel and legal aid for the conduct of proceedings before the Residual Special Court; respond to requests from national authorities with respect to claims for compensation; and prevent double jeopardy.

2. The jurisdiction of the Residual Special Court is limited to persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November, 1996. That is, the Residual Special Court shall have the power to prosecute the remaining fugitive special Court indictee if his case has not been referred to a competent national jurisdiction, and to prosecute any cases resulting from review of convictions and acquittals.