



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

SEISED OF the confidential *Prosecution Motion to Vary Protective Measures for Group I Witnesses* filed by the Officer of the Prosecutor (“Prosecution”) on the 3<sup>rd</sup> of May 2006 in which the Prosecution seeks to vary the protective measures for Prosecution Witnesses TF1-042 and TF1-044;

RECALLING the *Order to Review Protective Measures* of the 29<sup>th</sup> of March 2006 in which this Trial Chamber, further to its Oral Ruling rendered on the 28<sup>th</sup> of March 2006, ordered “the Prosecution to review its Updated Witness List with a view to determine the necessity for the continuous application of all the protective measures that have been previously granted to its Group I witnesses<sup>1</sup>, and in particular to witnesses within this Group currently residing outside the jurisdiction of the Special Court and, should they not be further required, to promptly apply to the Chamber for the variation of any such protective measures”;

NOTING that none of the Defence Counsel have responded to this Motion within the applicable time limits;

MINDFUL of the Decisions and Orders of this Trial Chamber concerning protective measures, including the *Decisions on the Prosecutor’s Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure* for each individual accused in the RUF trial<sup>2</sup> and, in particular, the *Decision on Prosecution Motion for Modification of Protective Measures for Witnesses* filed on the 5<sup>th</sup> of July 2004;<sup>3</sup>

REITERATING that the Prosecution is under an obligation to seek leave of the Chamber for the specific variation of the current protective measures previously granted to any of its witnesses;<sup>4</sup>

<sup>1</sup> Group I witnesses are witnesses of fact.

<sup>2</sup> *Prosecutor v. Sesay*, SCSL-03-05-PT, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 23 May 2003, *Prosecutor v. Kallon*, SCSL-03-07-PT, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 23 May 2003, and *Prosecutor v. Gbao*, SCSL-03-09-PT, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 10 October 2003.

<sup>3</sup> *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-T, Decision on Prosecution Motion for Modification of Protective Measures for Witnesses, 5 July 2004.

<sup>4</sup> Transcripts of Trial Proceedings, 28 March 2006, p. 110-124. See also, for instance, *Prosecutor v. Norman, Fofana and Kondewa*, SCSL-04-14-T, Ruling on Motion for Modification of Protective Measures for Witnesses, 18 November 2004, para. 43; *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-T, Ruling on Oral Application of the Prosecution to Vary the Protective Measures of Witness TF1-141, 6 April 2005.

**CONSIDERING** that in accordance with Article 17.2 of the Statute of the Special Court (“Statute”) any Accused person is entitled to “a fair and public hearing, subject to measures ordered by the Special Court for the protection of victims and witnesses”;

**MINDFUL** of the principle that a decision on protective measures requires a balance to be struck between full respect for the rights of the Accused and the protection needs of victims and witnesses, within the legal framework of the Statute and Rules and within the context of a fair trial;<sup>5</sup>

**ACCEPTING** the Prosecution’s assertion that it is not aware of significant changes in Sierra Leone that would justify varying the protective measures for Group I witnesses who reside in Sierra Leone;

**MINDFUL** of this Chamber’s previous findings concerning the particular circumstances of victims and witnesses within Sierra Leone<sup>6</sup> and the unique feature of the Special Court being located in Sierra Leone where the offences are alleged to have been committed;<sup>7</sup>

**CONSIDERING** the Prosecution’s statement that both Prosecution Witnesses TF1-042 and TF1-044 were United National Military Observers in Sierra Leone, are resident abroad and have indicated that they wish to testify publicly;

**SATISFIED** that arrangements may be made to ensure the appropriate level of security for these witnesses to testify publicly and that they therefore no longer require protective measures;

**CONSIDERING** the Prosecution has reviewed the protective measures required for the remaining Prosecution Witnesses who are resident abroad and determined that they are still required for these witnesses;

**SATISFIED** that the information provided by the Prosecution with regard to these witnesses justifies the continuation of the existing protective measures vis-à-vis these witnesses;

<sup>5</sup> *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-T, Order on Protective Measures for Additional Witnesses, 24 November 2004, p. 3. See also Decision on Prosecution Motion for Modification of Protective Measures for Witnesses, *supra* note 3.

<sup>6</sup> *Prosecutor v. Kondewa*, SCSL-03-12-PT, Ruling on the Prosecution Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure and Urgent Request for Interim Measures until Appropriate Protective Measures are in Place, 10 October 2003, para. 30.

<sup>7</sup> See *Prosecutor v. Gbao*, SCSL-03-09-PT, Decision on the Prosecution Motion for Immediate Protective Measures for Victims and Witnesses and for Non-Public Disclosure, 10 October 2003, paras. 21-25; see also *Prosecutor v. Norman et al.*, Case No. SCSL-04-14-T, Decision on Prosecution Motion for Modification of Protective Measures for Witnesses, 8 June 2004, para. 29.

PURSUANT TO Articles 17 of the Statute and Rules 26bis, 54, 69 and 75 of the Rules of Procedure and Evidence;

THE TRIAL CHAMBER HEREBY:

ORDERS that the protective measures<sup>8</sup> contained in the *Decision on Prosecution Motion for Modification of Protective Measures for Witnesses* will no longer apply to Prosecution Witnesses TF1-042 and TF1-044.

Done at Freetown, Sierra Leone, this 23<sup>rd</sup> day of May, 2006

~~Hon. Justice Benjamin Mutanga Itoe~~

Hon. Justice Pierre Boutet  
Presiding Judge  
Trial Chamber I

Hon. Justice Bankole Thompson



<sup>8</sup> As noted by the Prosecution, it is particularly those measures contained in clauses a to f of that are relevant to these witnesses as the remaining clauses apply to either specific categories of witnesses (clauses g to i) or the regime of protective measures in general (clauses j to p).