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SCSL-2004-16-PT  
(5423 - 5425)

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**SPECIAL COURT FOR SIERRA LEONE**

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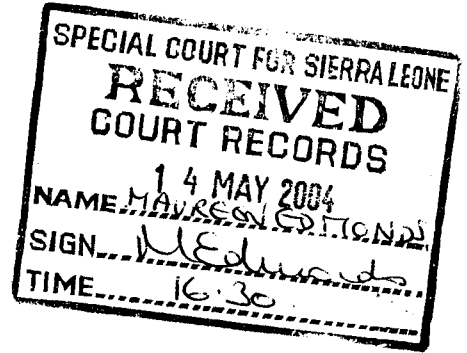
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**IN THE TRIAL CHAMBER**

Before:

Judge Bankole Thompson, Presiding Judge  
Judge Benjamin Mutanga Itoe  
Judge Pierre Boutet,



Registrar:

Robin Vincent

Date:

14 May 2004

PROSECUTOR

Against

Alex Tamba Brima  
Brima Bazzy Kamara  
Santigie Borbor Kanu

(Case No.SCSL-04-16-PT)

**BRIMA-DEFENCE RESPONSE FOR RENEWED PROSECUTION MOTION FOR PROTECTIVE MEASURES PURSUANT TO ORDER TO THE PROSECUTIN FOR RENEWED MOTION FOR PROTECTIVE MEASURES DATED 2 APRIL 2004.**

Office of the Prosecutor:

Luc Cote

Robert Petit

Lesley Taylor

Sharan Parmar

Boi-Tia Stevens.

Counsel for Alex Tamba Brima.

Terrence Terry

Counsel for Ibrahim Bazzy Kamara

Ken Fleming

Counsel for Santigie Kanu

Geert-Jan Alexander Knoops.

## I INTRODUCTION

1. In Response to the “Renewed Prosecution Motion for Protective Measures Pursuant to Order to the Prosecution for Renewed Motion for Protective Measures Dated 2 April 2004,” (“**Prosecution Motion**”) filed by the Prosecution on May 4, 2004, and also the Trial Chamber’s “Order to the Prosecution for Renewed Motion for Protective Measures” of April 2, 2004, Alex Tamba Brima’s Defence submits this Response.

### INTRODUCTION.

2. The Prosecution Motion seeks relief for fifteen renewed protective measures for both Witnesses and Victims as well as non-public disclosure. The Court’s Statute and the Rules of Procedure and Evidence (“Rules”) of the Special Court gives the Accused the right to examine or have examined the witnesses against him.
3. Rule 17(4) of the Rules reads as follows:

*“In the determination of any charge against the accused pursuant to the present Statute, [the Accused] shall be entitled to the following minimum guarantees, in full equality:*

*(...);*

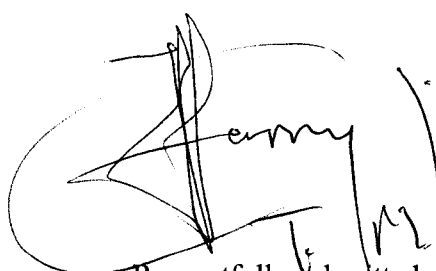
*(e) To examine, or have examined, the witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her;*

*(...).”*

## III JURISPRUDENCE

4. Case law from the ICTY requires proof of exceptional circumstances whenever an order for protective measures is required which said application is done on case-by-case basis.<sup>1</sup> The Prosecution has a duty to the reasons behind each request.<sup>2</sup>
  
5. The Defence hereby states that the Number of Prosecution Witnesses 260 as well as the three categories in which they have been put by the Prosecution is too wide. The prosecution ought to have sought an individual protective measure order for each of them not based on categories. In conclusion the Defence submits most respectfully that this application ought to be refused.

#### IV CONCLUSION



Respectfully submitted,  
Done at this 13th day of May 2004

J. M. TERRY

6. For the foregoing reasons set out above, the Defense of Alex Tamba Brima prays the honorable Trial Chamber to **not only** deny the Prosecution Motion.

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<sup>1</sup> See Decision on Prosecutor's Motion requesting protective measures for Witnesses A and D at trial, ICTY Trial Chamber Decision, Prosecutor v. Furundzija, 11 June 1998 paras. 7 and 8.

<sup>2</sup> See e.g. *Prosecutor v. Blaskic*, IT-95-14, Decision of Trial Chamber 1 on the Prosecutor's Requests of 5 and 11 July 1997 for Protection of Witnesses, dated July 10, 1997, where the Prosecutor specifically indicated why two expert witnesses from humanitarian organizations required specific protective measures.