

TRIAL CHAMBER II (“Trial Chamber”) of the Special Court for Sierra Leone (“Special Court”), composed of Justice Richard Lussick, presiding, Justice Teresa Doherty and Justice Julia Sebutinde;

SEISED of the Joint Defence Application for Protective Measures for Defence Witnesses, filed on 25 April 2006 and Annexes to Motion Entitled “Joint Defence Application for Protective Measures for Defence Witnesses”, filed on 28 April 2006 (“the Motion”);

NOTING the Prosecution Response to Joint Defence Application for Protective Measures for Defence Witnesses, filed on 1 May 2006 (“the Response”);

NOTING the Joint Defence Reply to Prosecution Response to Joint Defence Application for Protective Measures for Defence Witnesses, filed on 8 May 2006 (“the Reply”);

COGNISANT of the provisions of the Statute of the Special Court for Sierra Leone (“the Statute”) and in particular Articles 16(4) and 17(2) and (4) thereof and Rules 53, 54, 69 and 75 of the Rules of Procedure and Evidence of the Special Court (“the Rules”), concerning the protection of witnesses and victims as well as the rights of the Accused;

SATISFIED that there is a reasonable apprehension of risk or danger to witnesses expressed in the supporting material submitted by the Defence and considering the entire security situation in Sierra Leone and that protective measures can be ordered on the basis of a current security situation even where the existence of threats or fears as regards specific witnesses has not been demonstrated;¹

CONSIDERING that the Trial Chamber is concerned for the safety, protection and welfare of witnesses and victims in these proceedings and is obligated under Articles 16(4) and 17(2) of the Statute and Rule 75 (A) of the Rules, to take all appropriate protective measures to safeguard their privacy and protection;

MINDFUL that under Rule 75 (A) of the Rules, the Trial Chamber may “*order appropriate protective measures to safeguard the privacy and protection of victims and witnesses, provided that the measures are consistent with the rights of the Accused*”;

CONSIDERING FURTHER that the jurisprudence relating to the protective measures sought by the Defence has been settled in previous proceedings before this Court and that the measures sought are consistent with the previous practice of this Court;²

¹ See *Prosecutor v. Muvunyi and Others*, ICTR-2000-55-1, Decision on the Prosecutor’s Motion for Orders for Protective Measures for Victims and Witnesses to Crimes Alleged in the Indictment, 25 April 2001, paras. 21, 22.

² *Prosecutor v. Brima*, SCSL-03-06-PT, Decision on the Prosecution’s Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 23 May 2003; *Prosecutor v. Kamara*, SCSL-03-10-PT, Decision on the Prosecution’s Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 23 October 2003; *Prosecutor v. Kanu*, SCSL-2003-13-PT, Decision on the Prosecutor’s Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 24 November 2003; *Prosecution v. Sesay et al.*, Decision on Prosecution Motion for Modifications of Protective Measures for Witnesses, 5 July 2004; *Prosecutor v. Norman et al.*, SCSL-04-14-T, Ruling on Motion for Modification of Protective Measures for Witnesses, 18 November 2004; *Prosecutor v. Brima et al.*, Decision on Confidential Prosecution Motion for Protective Measures for Witness TF1-272, 11 May 2005; *Prosecutor v. Sesay et al and Brima et al.*, Decision on the Urgent and Confidential Application to vary Protective Measures Regarding Witnesses TF1-104 and TF1-081, 11 May 2005.

JNB





HEREBY GRANTS the Motion in part and ORDERS as follows:

The following protective measures shall apply to witnesses listed in Annex A of the Annexes to the Motion who are not covered by any existing order for protective measures and who have not waived their right to protection in these proceedings; namely -

- (a) That all protected witness be screened from the public when testifying;
- (b) That the names and any other identifying information concerning all protected witnesses be sealed by the Registry and are not included in any existing or future records of the Court;
- (c) That the names of protected witnesses and any other identifying data or information on file with the Registry, or any other information which could reveal the identity of such witnesses, shall not under any circumstances be disclosed to the public or the media and that this order shall remain in effect after the termination of the proceedings in this case;
- (d) That the Defence may withhold identifying data of a witness for whom the Defence is seeking protection as set forth in paragraph 13 of the Motion or any other information which could reveal the identity of such witness until 21 days before the witness is due to testify at trial;
- (e) That there shall be no photography, audio or video recording, or sketching of protected witnesses without leave of the Trial Chamber;
- (f) That the names and any other identifying information concerning all protected witnesses shall be communicated only to the Victims and Witnesses Unit personnel by the Registry or the Defence in accordance with established procedure and only in order to implement protective measures for these individuals;
- (g) That the Office of the Prosecutor and the Registry shall not reveal to anyone outside the Victims and Witness Unit the names, addresses or other identifying information concerning witnesses and their families;
- (h) That the Defence may designate a pseudonym for each protected witness that will be used for disclosure and whenever reference is made to such witness in court proceedings, communications or discussions between the parties;
- (i) That the Prosecution shall not directly or indirectly contact any protected Defence witness except with the written consent of the Defence or leave of court.

Done at Freetown, Sierra Leone, this 9th day of May 2006.


Justice Teresa Doherty


Justice Richard Lussid
Presiding Judge


[Seal of the Special Court for Sierra Leone]