

(8109 - 8114) .

SPECIAL COURT FOR SIERRA LEONE

OFFICE OF THE PROSECUTOR

FREETOWN - SIERRA LEONE

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

Registrar: Mr. Robin Vincent

Date filed: 15 September 2004

THE PROSECUTOR**Against****Issa Hassan Sesay****Morris Kallon****Augustine Gbao**

CASE NO. SCSL - 2004 - 15 - T

PROTECTIVE MEASURES FOR ADDITIONAL WITNESSES

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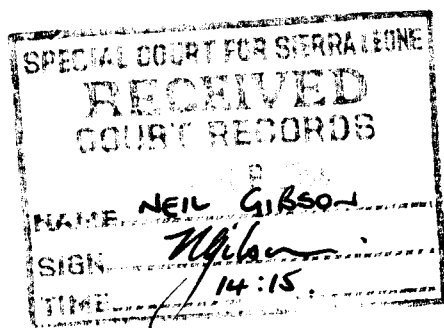
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PROTECTIVE MEASURES FOR ADDITIONAL WITNESSES

I. INTRODUCTION

1. Consistent with Articles 16 and 17 of the Statute of the Special Court for Sierra Leone (“Statute”), pursuant to the “Decision on Prosecution Motion for Modification of Protective Measures for Witnesses” of 5 July 2004 and pursuant to the “Decision on Prosecution Request for Leave to Call Additional Witnesses” of 29 July 2004, the Prosecution respectfully informs the Trial Chamber of its intention to extend the existing protective measures applicable to its existing witnesses to six additional witnesses.

II. BACKGROUND

2. On 4 May 2004 the Prosecution filed a “Renewed Prosecution Motion for Protective Measures Pursuant to Order to the Prosecution for Renewed Motion for Protective Measures Dated 2 April 2004” seeking protective measures for the witnesses identified on the Prosecution Witness List filed on 26 April 2004.

3. On 14 May 2004 the Defence filed its response to the Prosecution's renewed motion.
4. On 18 May 2004 the Prosecution filed its reply to the Defence's response.
5. On 5 July 2004 the Trial Chamber issued its "Decision on Prosecution Motion for Modification of Protective Measures for Witnesses" (the "Decision") granting the protective measures for the witnesses sought by the Prosecution.
6. On 12 July 2004 the Prosecution filed a "Modified Witness List" as part of its "Materials Filed Pursuant to 'Order to Prosecution to Produce Witness List and Witness Summaries'".
7. On 12 July 2004 the Prosecution filed a "Prosecution Request for Leave to Call Additional Witnesses and Disclose an Additional Witness Statement".
8. On 22 July 2004 the Defence filed a joint response to the Prosecution's motion.
9. On 27 July 2004 the Prosecution filed its Reply to the Defence's response.
10. On 29 July 2004 the Trial Chamber issued its "Decision on Prosecution Request for Leave to Call Additional Witnesses" granting the Prosecution Motion.

III. REASONING

General Protective Measures

11. On 29 July 2004, the Trial Chamber issued its 'Decision on Prosecution Request for Leave to Call Additional Witnesses', in which it was satisfied as to a showing of "good cause" and permitted the Prosecution to amend its Modified Witness List by adding six further witnesses to it, namely Witness TF1-359, Witness TF1-

360, Witness TF1-361, Witness TF1-363, Witness TF1-314 and Witness TF1-362 (“additional witnesses”).

12. The Prosecution notes that these additional witnesses, like all other Group 1 witnesses of fact, assume an acute level of risk when agreeing to testify before the Special Court. The additional witnesses have not waived their right to protection. As stated by the Trial Chamber in its Decision:

“The location of the Special Court in the very country where the crimes were allegedly committed combined with the fragility of the security situation that still exists, is a *paramount and compelling factor* in considering the merits of this application. It increases considerably the risks to all witnesses called upon to give evidence at trials.”¹

13. The Prosecution intends that the protective measures granted by the Trial Chamber to all other Group 1 Prosecution witnesses² be extended to the additional witnesses.

Specific Protective Measures

14. Of the additional six witnesses, five are Category C insider witnesses. Four³ are former radio operators for the RUF/AFRC and the fifth⁴ is a former military trainer of abducted civilians forcibly recruited by the RUF. The sixth witness TF1-314, a former female child soldier within the RUF (Small Girls Unit) who was also forcibly married to an RUF combatant, is a Category B (child witnesses).
15. In its Decision the Trial Chamber noted that insider witnesses and their families were particularly vulnerable to acts of retaliation and potential harm if their

¹ *Prosecutor v. Sesay, Kallon & Gbao*, Case No.SCSL-04-15-T, Trial Chamber’s Decision on Prosecution Motion for Modification of Protective Measures for Witnesses, 5 July 2004, para. 27 – emphasis added.

² *Id.*, Orders (a) to (f) and (j) to (p).

³ TF1-359, TF1-360, TF1-361 and TF1-363.

⁴ TF1-362.

identities were to be known to the public.⁵ The Prosecution intends that witnesses TF1-359, TF1-360, TF1-361, TF1-363 and TF1-362 be extended the protective measures of Category C witnesses⁶.

16. In its Decision, the Trial Chamber accepted that the specific risks and needs of any child witness testifying at the Special Court⁷ justified additional protective measures, namely that Category B witnesses testify with the use of a closed-circuit television with the image appearing on the public's monitors being distorted."⁸ The Trial Chamber referred to the evidence submitted by the Prosecution concerning the particular vulnerability of child witnesses and stated:

"In light of the above and of the evidence submitted, the Chamber finds that such risks as described would exist and therefore deems it necessary in the interest of justice, for children to be allowed to testify in the way in which the Prosecution has requested, in accordance with Rule 75(B)(i)(a) and to grant such a measure."⁹

17. The Prosecution intends that witness TF1-314 be extended the protective measures of Category B witnesses.

V. CONCLUSION

18. The Prosecution respectfully informs the Trial Chamber that the additional witnesses fall within Categories B and C, as identified, and it intends to extend the protective measures of these categories to the additional witnesses.

⁵ Id., para. 33 – "In the opinion of the Trial Chamber, these submissions once more demonstrate convincingly the risks for the security and danger to which both categories of witnesses could be exposed if disclosed and the requirement to grant appropriate measures for their protection."

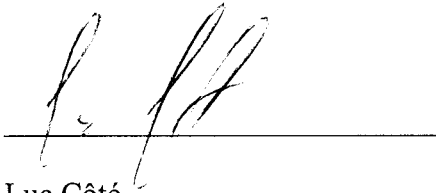
⁶ Id., Order (i).

⁷ See Declaration of An Michels, Psychologist of the Special Court Witness and Victims Section, Renewed Prosecution Motion Annex G.

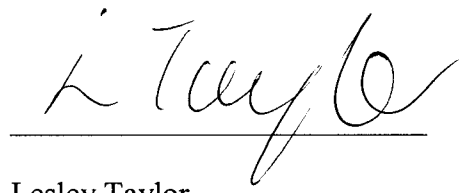
⁸ Id., Order (h).

⁹ Id., paragraph 35.

Filed at Freetown, this 15th Day of September

A handwritten signature in black ink, appearing to be 'L. Côté', written over a horizontal line.

Luc Côté
Chief of Prosecutions

A handwritten signature in black ink, appearing to be 'L. Taylor', written over a horizontal line.

Lesley Taylor
Acting Senior Trial Attorney