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SPECIAL COURT FOR SIERRA LEONE

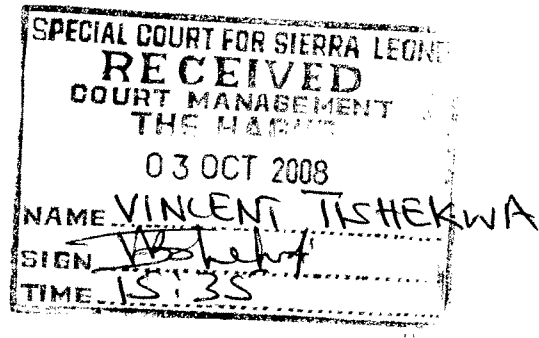
TRIAL CHAMBER II

Before: Justice Teresa Doherty, Presiding Judge
Justice Richard Lussick
Justice Julia Sebutinde
Justice El Hadji Malick Sow, Alternate Judge

Registrar: Herman von Hebel

Case No.: SCSL-03-1-T

Date: 3 October 2008



PROSECUTOR

v.

Charles Ghankay TAYLOR

DECISION ON CONFIDENTIAL PROSECUTION MOTION FOR
ADDITIONAL PROTECTIVE MEASURES FOR WITNESS TF1-395

Office of the Prosecutor:

Brenda J. Hollis
Leigh Lawrie

Defence Counsel for Charles G. Taylor:

Courtenay Griffiths, Q.C.
Terry Munyard
Andrew Cayley
Morris Anyah

TRIAL CHAMBER II (“Trial Chamber”) of the Special Court for Sierra Leone (“Special Court”);

SEISED of the “Confidential Prosecution Motion for Additional Protective Measures for Witness TF1-395”, filed on 3 July 2008 (“Motion”),¹ wherein the Prosecution seeks the additional protective measures for Witness TF1-395 of image distortion, voice distortion, and closed or private sessions if necessary², as an augmentation of those protective measures already in place, *viz.* use of a pseudonym, non-disclosure of the identity of the witness to the public and the delayed disclosure of the identity of the witness to the Defence³, on the grounds that

- i) the witness has expressed real concern about his safety and privacy and that of his family, in part because he lives in a remote location;⁴
- ii) the witness’ fear has an objective foundation given the general security situation in Sierra Leone and Liberia;⁵ and
- iii) protective measures sought during the pre-trial stage of proceedings were not intended to preclude the Prosecution seeking additional measures during the trial stage of proceedings;⁶

NOTING the “Confidential Defence Response to ‘Prosecution Motion for Additional Protective Measures for Witness TF1-395’”, filed on 14 July 2008 (“Response”),⁷ wherein the Defence submits that the Motion lacks objective evidence and specificity about the risks to Witness TF1-395 to justify the additional protective and requests that the Motion be denied;⁸

NOTING FURTHER the “Confidential Prosecution Reply to ‘Confidential Defence Response to ‘Prosecution Motion for Additional Protective Measures for Witness TF1-395’”, filed on 16 July 2008 (“Reply”),⁹ wherein the Prosecution submits that there has been no substantial change in TF1-395’s circumstances since the grant of the existing protective measures and that the additional measures are effectively a continuation of the existing pre-trial measures and that it is not required to demonstrate that the existence of threats or fears as regards specific witnesses;¹⁰

MINDFUL of Articles 16(4) and 17(2) of the Statute of the Special Court for Sierra Leone (“Statute”) and Rules 26bis, 73, 75, 78 and 79(A)(ii) of the Rules of Procedure and Evidence (“Rules”);

¹ SCSL03-01-T-553.

² Motion, paras. 6-7, Annex A.

³ As ordered in the current proceedings; see *Prosecutor v. Taylor*, SCSL03-01-PT-99, “Decision on Confidential Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure and Urgent Request for Interim Measures and on Confidential Prosecution Motion for Leave to Substitute a Corrected and Supplemented List as Annex A of the Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure and Urgent Request for Interim Measures”, 5 May 2006; see also Motion, para 5.

⁴ Motion, para. 8.

⁵ Motion, paras 13, 16, 17.

⁶ Motion, para. 5.

⁷ SCSL03-01-T-555.

⁸ Response, paras 9, 12-15.

⁹ SCSL03-01-T-557.

¹⁰ Reply, paras 3, 5.

HOLDING that a party seeking to augment protective measures granted to a witness should present supporting evidence capable of establishing on the preponderance of probabilities that the witness is in need of such additional protection;¹¹

FINDING that the Prosecution has not provided any new evidence capable of establishing on the preponderance of probabilities that the witness is in need of any additional protection;

DENIES the Motion.

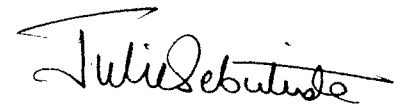
Done at The Hague, The Netherlands, this 3rd day of October 2008.



Justice Richard Lussick



Justice Teresa Doherty
Presiding Judge



Justice Julia Sebutinde



¹¹ *Prosecutor v. Sesay, Kallon, Gbao*, SCSL-04-15-T, Decision on Prosecution Appeal of Decision on the Sesay Defence Motion Requesting the Lifting of Protective Measures in Respect of Certain Prosecution Witnesses, 23 May 2008, paras 35-37.