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SPECIAL COURT FOR SIERRA LEONE
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THE TRIAL CHAMBER

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

Registrar: Robin Vincent

Date: 21st day of November 2003

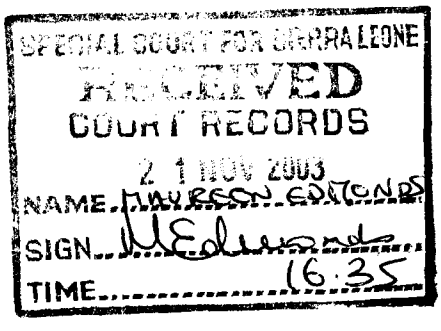
The Prosecutor against

Moinina Fofana
(Case No. SCSL-2003-11-PD)

DECISION ON THE URGENT DEFENCE APPLICATION FOR RELEASE FROM PROVISIONAL DETENTION

Office of the Prosecutor:
Luc Côté
James C. Johnson

Defence Counsel:
Michiel Pestman
Andre Nollkaemper
Victor Koppe
Arrow J. Bockarie



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THE SPECIAL COURT FOR SIERRA LEONE ("the Special Court"),

SITTING AS the Trial Chamber ("the Chamber"), composed of Judge Bankole Thompson as Presiding Judge, Judge Pierre Boutet, and Judge Benjamin Mutanga Itoe;

CONSIDERING the Request for Transfer and Provisional Detention under Rule 40 *bis* of the Rules of Procedure and Evidence of the Special Court for Sierra Leone, filed on the 26th day of May 2003;

CONSIDERING the Order for Transfer and Provisional Detention rendered on the 28th day of May 2003;

NOTING that, on the 2nd day of June 2003, the Defence filed an Application before Judge Boutet, Designated Judge pursuant to Rule 28 of the Rules of Procedure and Evidence ("the Rules"), arguing the invalidity of the arrest, transfer and provisional detention of **Moinina Fofana** ("the Suspect") and requesting his immediate release;

CONSIDERING that the Designated Judge, during the hearing pursuant to Rule 40 *bis* (J) of "the Rules", which took place on the 4th day of June 2003, dismissed the Application and invited the Defence to file an application before "the Chamber" under Rule 40 *bis* (K) of "the Rules";

BEING SEIZED, accordingly, of the Urgent Application for Release from Provisional Detention ("the Application"), filed on behalf of "the Suspect" on the 11th day of June 2003;

CONSIDERING the Response thereto of the 19th day of June 2003, filed by the Prosecution ("the Response");

CONSIDERING the Defence Reply thereto filed on the 23rd day of June 2003 ("the Reply");

CONSIDERING FURTHER the letter, dated the 26th day of June 2003, from the Office of the Prosecutor, explaining the time of filing of the Prosecution Response to the Application for Release from Provisional Detention;

TAKING INTO ACCOUNT the Decision Approving the Indictment and Order for the Continued Detention of the Accused, rendered on the 26th day of June 2003;

MINDFUL of the Interoffice Memorandum issued by the Registrar on the 2nd day of July 2003;

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FURTHER MINDFUL of the Court Management Section Memorandum issued on the 26th day of June 2003, whereby "the Chamber" decided that the decision on "the Application" would be rendered on written briefs;

COGNISANT OF the Statute of "the Special Court" ("the Statute"), especially Article 14 thereof, and of "the Rules", specifically Rule 40 *bis* thereof, which was applicable at the time of filing of "the Application";

PRELIMINARY REMARK

1. For a proper understanding of the present Decision, it should be appreciated that at the time this "Application" was filed, "the Suspect" Moinina Fofana had been arrested and was being held in the custody of "the Special Court" as a Suspect, pursuant to Rules 40 and 40 *bis* of "the Rules" and therefore, enjoyed the rights provided for in Rule 42 of "the Rules". Following approval by "the Chamber" of the Indictment issued against him pursuant to Rule 61 of "the Rules", "the Suspect" became an Accused on the 26th day of June 2003. Nevertheless, "the Chamber" being seized of the present "Application" finds that it is in the interest of all Parties to render a decision.

NOTING THE SUBMISSIONS OF THE PARTIES

The Defence "Application"

2. According to the Defence, Rule 40 *bis* of "the Rules" is *ultra vires* because "the Statute" makes no provision for the detention of suspects. The Defence refers to the Rules of Procedure and Evidence applicable before the International Criminal Tribunal for the former Yugoslavia (ICTY) and before the International Criminal Tribunal for Rwanda (ICTR), which were also silent on the issue of detention of suspects until the said Rules were amended to include Rule 40 *bis*. The Defence concludes that "the Statute" would have provided for the detention of suspects if it had deemed it necessary. The Defence also refers to the *Criminal Procedure Act, 1965* (Sierra Leone) to demonstrate that a possible detention of a suspect for ninety (90) days exceeds what is allowed under the Constitution of Sierra Leone.

3. The Defence further contends that "the Suspect" may raise the issue of arbitrary arrest and detention before the Designated Judge under Rule 40 *bis* (J) of "the Rules", who does have jurisdiction to entertain such applications.

4. The Defence is also asking for an order for immediate release based on Rule 40 *bis* (K) of "the Rules" by arguing that the requirements for ordering transfer and provisional release, as set out in Rule 40 *bis* (B) (iii), were not met, in so far as the Office of the Prosecutor did not provide sufficient factual basis to show that the said requirements were

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indeed met. Therefore, it is the Defence's view that "the Special Court" could not exercise appropriate judicial control and the Order for Transfer and Provisional Detention should be vacated. Moreover, the Defence contends that such a transfer and detention of "the Suspect" was not necessary in light of the purposes set out in Rule 40 *bis* (B) (iii) of "the Rules", and underlines specific facts supporting this contention. Furthermore, the Defence argues that the term "necessary measure" must be restrictively interpreted, since deprivation of freedom must remain an exception, and freedom the rule.

5. The Defence further submits that "the Suspect"'s procedural rights under "the Statute" and "the Rules" were violated in that he was not informed of the reasons for the request for transfer and provisional detention.

6. The Defence also contends that, given the disproportionately severe impact of detention, even if there were a minor risk of one of the eventualities spelt out in Rule 40 *bis* (B) (iii) of "the Rules" occurring, this risk would have to be balanced against the obligation to respect the fundamental rights of all suspects.

7. Finally, the Defence is requesting an oral hearing at which live evidence may be called and submissions by *amicus curiae* invited by "the Chamber".

The Prosecution "Response"

8. According to the Prosecution, "the Statute" of "the Special Court", like that of the ICTY and the ICTR, is extremely brief and general, and does not deal with a myriad of matters for which provision is typically made in national legal systems. Many of these matters are to be dealt with by "the Rules" and it is accepted that "the Statute" prevails over the said Rules", but it cannot be said that, because "the Rules" deal with an issue that is not provided for by "the Statute", such "Rules" violate "the Statute". It is submitted that Article 14 of "the Statute" envisages that "the Rules" can provide procedures for ensuring that suspects and accused do not evade justice or interfere with the process of justice. Rule 40 *bis*, according to the Prosecution, would be a provision of this type and falls within the ambit of Article 14 of "the Statute". Rule 40 *bis* establishes a mechanism to prevent the judicial processes of "the Special Court" from being defeated. Therefore, the Prosecution submits that Rule 40 *bis* of "the Rules" is not *ultra vires*.

9. The Prosecution is of the view that it is wrong to consider, as does the Defence, that the legality of an order rendered under Rule 40 *bis* of "the Rules" may be heard and decided upon by the Designated Judge at the hearing under Rule 40 *bis* (J). The Prosecution cites Rule 40 *bis* (K) of "the Rules", which expressly refers to the "Trial Chamber", in support of this allegation and submits that it is a matter of general practice that allegations of unlawful arrest or detention are decided by a Trial Chamber and not by a single Judge. Therefore, the Prosecution submits that a declaration that the Designated Judge is competent under Rule 40 *bis* (J) to hear of the issue of arbitrary arrest and detention of "the Suspect" should be denied.

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10. The Prosecution further avers that the information provided to the Designated Judge in order to obtain an order for transfer and provisional detention was legally sufficient, in the prevailing circumstances, to enable him to find a legal basis on which he could grant, under Rule 40 *bis*, the Prosecution's request, and that such an order is merely the means to bring "the Suspect" within the jurisdiction of "the Special Court" after his arrest by national authorities.

11. Finally, the Prosecution underlines the fact that the Defence has not filed any evidence in support of its "Application", and submits that where a motion relies on allegations of fact in support of the relief that it requests, the appropriate evidence must be provided in support of those allegations. Therefore, the Prosecution opposes to an oral hearing because a party should not force such a hearing by failing to file evidence in support of its request.

The Defence "Reply"

12. In general, the Defence submits that the Prosecution "Response" to "the Application" is formalistic and offers too narrow a definition of an individual's right to liberty.

13. The Defence points out the fact that the Prosecution did not file its "Response" within the time limits. Therefore, it assumes that "the Chamber" is entitled to reject the "Response". The Defence states that it has nevertheless decided to reply to the "Response" despite out-of-time filing.

14. The Defence maintains its assertion that Rule 40 *bis* is *ultra vires* "the Statute", in so far as "the Special Court" has the power to control its own proceedings but does not have a broad legislative capacity to enact new Rules. The Defence is of the opinion that the Judges do not have the capacity to grant themselves the power to arrest suspects as this is not an evidentiary or procedural matter. A court may regulate the procedures by which arrest is made but cannot grant itself the power to do so in the first instance. The Defence contends that one cannot incorporate by reference a power as fundamental as the right to liberty engaged by a court's arrest powers.

15. Furthermore, the Defence disagrees with the Prosecution's restrictive approach to this Rule, according to which the duty of "the Chamber" to ensure that "the Suspect"'s rights are respected (Rule 40 *bis* (J)) and the right to challenge his detention (Rule 40 *bis* (K)) are separate, this preventing "the Suspect" from seeking remedy before the Designated Judge.

16. In addition, the Defence takes issue with the Prosecution's assertion that a Rule 40 *bis* order does not deprive a suspect of his liberty, but is merely the means to bring him within the jurisdiction of "the Special Court" after his arrest by national authorities. The

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Defence submits that this statement is incomplete, is so far as the Prosecution omits to examine the two other requirements contained in paragraph (B), i.e. reason to believe that the suspect may have committed crimes within "the Special Court"'s jurisdiction and necessity of the detention to prevent escape, intimidation of victims or witnesses, destruction of evidence or for any other reason pertaining to the conduct of the investigation. The Defence further points out the fact that the Prosecution was an active participant in "the Suspect"'s arrest and that there is no indication that the Sierra Leonean authorities had a particular interest in arresting him.

17. The Defence further avers that the Prosecution is mistaken when arguing that the legality of a Rule 40 *bis* order cannot be determined by reference to matters that were not before the Designated Judge at the time the order was made. The Defence deems that the Prosecution had a duty to bring the information referred to in the Defence's original Application before the Designated Judge.

18. Finally, the Defence deems that the Prosecution's announced intention to indict "the Suspect" does not prevent a judgment on the matter, since the issues raised are of crucial importance to "the Suspect" and such a judgment would provide guidance to both parties as to the understanding of Rules 40 and 40 *bis* of "the Rules".

AFTER HAVING DELIBERATED ON THE MATTER OF THE URGENT APPLICATION BY THE DEFENCE FOR RELEASE FROM PROVISIONAL DETENTION:

Procedural issues

On the issue of out-of-time filing by the Prosecution

19. "The Chamber" takes notice of the Office of the Prosecutor's letter to the Trial Chamber, dated the 26th day of June 2003, whereby Luc Côté, Chief of Prosecutions, explained why "the Response" was only served to the Defence on the 20th day of June 2003, instead of the 19th day of June, according to the deadline requirements provided for in Rule 7 of "the Rules".

20. "The Chamber" finds this explanation acceptable.

On the issue of the Indictment being a bar to judgment

21. "The Chamber" does not view the Indictment of "the Suspect" as constituting a bar to judgment on the present matter. The issues raised are important and could receive application in other cases.

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On the issue of an oral hearing at which live evidence may be called and submissions by amicus curiae *invited by "the Chamber"*

- *Oral hearing*

22. According to Rule 73 (A) of "the Rules"[1], "the Chamber" has no obligation to hear the parties in open court. The case of *The Prosecutor v. Bizimungu* before the ICTR is particularly instructive on this issue. In its Decision on Bizimungu's Motion for Provisional Release Pursuant to Rule 65 of the Rules[2], the Trial Chamber held that it was not compelled to proceed with an oral hearing and could decide solely on the basis of the written submissions of the parties if it were satisfied that it could make a determination of the said submissions without hearing the parties. In the present matter, "the Chamber" is indeed satisfied that it can make such a determination on the matter at stake solely on the basis of the written submissions of the Parties, as expressed through a Court Management Section Memorandum issued on the 26th day of June 2003. Furthermore, "the Chamber" would like to stress the fact that written submissions provide a proper opportunity for both Parties to respond and reply to each other.

- *Submissions by* amicus curiae

23. Similarly, according to Rule 74 of "the Rules"[3], "the Chamber" has discretionary authority to invite or grant leave to a State, organisation or person to appear as *amicus curiae*. In the present matter, "the Chamber" finds no grounds for granting the Defence's request for *amicus curiae*.

Legal issues

On the issue of Rule 40 bis *of "the Rules" being* ultra vires *"the Statute"*

24. Article 14 (1) of "the Statute" provides that "the Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda at the time of the establishment of the Special Court shall be applicable mutatis mutandis to the conduct of the legal proceedings before the Special Court". There is no dispute that at the time of the establishment of "the Special Court" on the 16th day of January 2002, the Rules of Procedure and Evidence of the ICTR had already been amended to include Rule 40 *bis*. Such amendment was indeed made on the 15th day of May 1996. Therefore, it can be said that, through the process of incorporation of these Rules, "the Statute" of "the Special Court", when adopted by the

[1] Rule 73 (A) of "the Rules" reads "(...) the Designated Judge or the Trial Chamber, or a judge designated by the Trial Chamber from among its members, shall rule on (...) motions solely on the written submissions of the parties, unless it is decided to hear the parties in open court".

[2] *The Prosecutor v. Bizimungu*, Decision on Bizimungu's Motion for Provisional Release Pursuant to Rule 65 of the Rules, ICTR-99-50-T, 4 November 2002, para. 23

[3] Rule 74 of "the Rules" provides that "a Chamber may, if it considers it desirable for the proper determination of the case, invite or grant leave to any State, organisation or person to make submissions on any issue specified by the Chamber".

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legislative authority, did provide for the detention of suspects, as such provisions specifically existed in the said Rules at the time of the establishment of "the Special Court". The fact that the said "Statute" does not in addition specifically mention the detention of suspects before "the Special Court" is certainly not a basis to argue that detention of suspects is *ultra vires*. For the foregoing reasons, it is "the Chamber"'s view that the incorporation of a specific provision to that effect in "the Statute" would have then been unnecessary and redundant.

25. Moreover, "the Chamber" would like to highlight that, had "the Statute" not comprised the wording of Article 14 (1) as it is, it would nevertheless not have amounted to Rule 40 *bis* of "the Rules" being *ultra vires* "the Statute". Indeed, "the Chamber" would like to insist on the fact that "the Rules" must be viewed as the means for implementing "the Statute". "The Rules" enable the "the Special Court" to fulfil its mandate as set out by "the Statute". Even though "the Statute" may not be explicit on the issue of detention of suspects, it is obvious to "the Chamber" that such a detention is ancillary to a proper functioning of "the Special Court". There should not be any dichotomy between "the Rules" and "the Statute": it is crucial for all Parties to understand both instruments as being of a complementary nature for purposes of judicial efficiency.

26. Alternatively, the Defence refers to Article 14 (2) of "the Statute", which provides that "the Judges of the Special Court as a whole may amend the Rules of Procedure and Evidence or adopt additional rules where the applicable Rules do not, or do not adequately, provide for a specific situation. In so doing they may be guided, as appropriate, by the Criminal Procedure Act, 1965, of Sierra Leone", and underlines the fact that this Act does not in itself provide for the detention of suspects, unlike the Constitution of Sierra Leone which only allows for up to ten (10) days of detention[4].

27. "The Chamber" acknowledges that the Constitution of Sierra Leone is indeed the highest legal authoritative instrument within the judicial system of Sierra Leone, but nevertheless, takes issue with the Defence's contention. "The Special Court" was established by means of a bilateral agreement between the United Nations Organisation and the Government of Sierra Leone, and, therefore, "the Special Court" is an independent institution, which is not governed by the Constitution of Sierra Leone. Moreover, it stems clearly from the wording of Article 14 (2) of "the Statute" that the reference made to the *Criminal Procedure Act, 1965* (Sierra Leone) is only a means of guidance for the Judges of "the Special Court", and certainly not legally binding upon them.

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[4] Section 17 (3) of the Constitution of Sierra Leone reads as follows: "Any person who is arrested or detained in such a case as is mentioned in paragraph (e) or (f) of subsection (1) [i.e. "(e) for the purpose of bringing a person before a court or tribunal, as the case may be, in execution of the order of a court; or (f) upon reasonable suspicion of his having committed or being about to commit a criminal offence] and who is not released shall be brought before a court of law (a) within ten days from the date of arrest in cases of capital offences (...) ".

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28. For all the above-stated reasons, "the Chamber" concludes that the Defence's contention that Rule 40 *bis* of "the Rules" is not founded, neither in fact or in law.

On the issue that "the Suspect" may raise the issue of arbitrary arrest and detention before the Designated Judge: Rule 40 bis *(K) of "the Rules"*

29. "The Chamber" finds that the language of Rule 40 *bis* (K) is unambiguous and clearly provides that the *Trial Chamber* is competent to hear all applications relative to the propriety of provisional detention or to the release of suspects. Moreover, "the Chamber" finds that it should also be taken into account that Rule 40 *bis* (K) provides additional protection of the rights of suspects: the fact that the decision on arbitrary arrest and detention is to be made by all three Judges of "the Chamber" is a reinforced guarantee of fairness of the ruling.

30. Furthermore, Rule 40 *bis* (K) provides that applications on the propriety of provisional detention or to the suspect's release may be made "during detention" and such applications can indeed then be made at any time during that period. Nothing in "the Rules" allows for such applications to also be made to the Designated Judge during the hearing under Rule 40 *bis* (J).

"The Suspect"'s procedural rights were violated: Rule 40 bis *(J) of "the Rules"*

31. During the hearing under Rule 40 *bis* (J) of "the Rules", the Defence asserted that "the Suspect"'s procedural rights were violated because he was not informed of the reason for his transfer and detention. Therefore, the Designated Judge requested the Registry to provide a detailed report on the circumstances surrounding the "Suspect"'s arrest and detention. "The Chamber" is mindful of the Interoffice Memorandum consequently issued by the Registry on this matter on the 2nd day of July 2003. This report concludes that "the Suspect"'s procedural rights were complied with in every respect.

32. "The Chamber" accepts the findings of the Registrar's inquiry and thereby rejects the Defence's contention.

Ruling by the Designated Judge under Rule 40 bis *(B) (iii) of "the Rules"*

33. The Defence submits that the requirements set out in Rule 40 *bis* (B) (iii) were not met as regards the "Suspect's" arrest and detention, and consequently, that the Prosecution had no right to request his arrest and transfer to "the Special Court". In support of this contention, the Defence raises several arguments that "the Special Court" deems necessary to examine as follows:

B.

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- Lack of factual basis showing that the requirements of Rule 40 bis (B) (iii) of "the Rules" were met

34. "The Chamber" cannot accept the contention that the Designated Judge was unable to make a learned ruling when assessing the requirements under Rule 40 *bis* (B). Indeed, Rule 40 *bis* (A) provides that when requesting an order for transfer and provisional detention, such a request shall indicate the grounds upon which it is made and shall include provisional charge and a *brief summary* of the material upon which the Prosecution is relying. According to the language of Rule 40 *bis* (B), once the requirements in paragraphs (i), (ii) and (iii) are met, the Designated Judge has to comply with the request and order the transfer and provisional detention of the suspect.

35. In making his ruling pursuant to Rule 40 *bis* (B) (iii), the Designated Judge relied on the statements submitted to him by the Prosecution. The issue was to determine whether such statements were sufficient to satisfy the requirements of Rule 40 *bis* (iii). The Designated Judge found that the information provided was indeed sufficient and could only have dismissed the Prosecution's Request for Transfer and Provisional Detention if there had been valid reasons not to accept, believe or to disregard such information. Although it might have been preferable for the Prosecution to provide more detailed statements, were it possible, it still remains that such is not a requirement under Rule 40 *bis* (A) of "the Rules", nor is there any requirement that there be specified factual basis in support of the request.

36. Hence, the Defence having not shown that the information provided by the Prosecution was insufficient, "the Chamber" declares itself satisfied with such information and would also like to mention that it is certainly not sufficient for the Defence to simply state that the Designated Judge could not have exercised appropriate judicial control without providing any evidence to support the allegation that the disclosure by the Prosecution might not have been "full and frank"[5].

- The transfer and detention of "the Suspect" was unnecessary

37. The Defence submits several reasons which it deems show that "the Suspect" need not have been arrested and transferred into the custody of "the Special Court". "The Chamber" finds that none of the reasons put forward by the Defence suffice to challenge the necessity of "the Suspect"'s arrest and detention.

38. In addition, "the Chamber" would like to underscore that the requirement of "necessity" of the detention deserves a particular understanding as far as international criminal tribunals and courts are concerned. In the case of *The Prosecutor v. Krajisnik and Plavsic*, the Trial Chamber held in its Decision on Momcilo Krajisnik's Notice of Motion for Provisional Release that "provisional release continues to be the exception and not the

[5] Para. 16 of "the Motion".

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rule"[6]. Moreover, in the case of *The Prosecutor v. Hadzihasanovic et al.* before the ICTY[7], the Trial Chamber held that the application of the principles embodied in the International Covenant on Civil and Political Rights (ICCPR) and in the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) "stipulates that *de jure* pre-trial detention should be the exception and not the rule as regards prosecution before an international court". However, it also stated that, since, unlike national courts, the ICTY does not have its own coercive powers to enforce its decisions, "pre-trial detention *de facto* seems to be rather the rule". Therefore, the ICTY Trial Chamber concluded that judicial control of the respect of the fundamental rights of suspects should be made *in concreto*, not *in abstracto*, as regards international criminal courts.

39. "The Chamber" concurs with the above findings and, as regards "the Special Court", wishes to insist on the fact that it is indispensably necessary to bear in mind its specificity as opposed to any other domestic tribunal or court; indeed, given the very serious nature of the crimes which fall under its jurisdiction, certain procedural guarantees may require to be applied differently before it. It is "the Chamber"'s view that this would certainly be the case with regard to provisional release.

- *The proportionality test*

40. "The Chamber" finds that the issue of the necessity of the transfer and detention of "the Suspect" is closely related to that of the proportionality test applicable to provisional release.

41. The Defence submits that, were "the Chamber" of the opinion that a minor risk as spelt out in Rule 40 *bis* (B) (iii) of "the Rules" did exist, it would have to balance such a risk against the obligation to respect "the Suspect"'s fundamental rights. This leads to the issue of the proportionality test to be carried out by the Judges in order to grant or deny provisional release.

42. The Defence refers to the aforementioned case of *The Prosecutor v. Hadzihasanovic et al.* before the ICTY[8], where the Trial Chamber applied the principle of proportionality according to which, when interpreting Rule 65 of the ICTY Rules of Procedure and Evidence[9], the Judges had to consider whether the measure was "suitable, necessary and if its degree of and scope remain in a reasonable relationship to the envisaged target". The Trial Chamber found that "it was no longer necessary to execute the order for the execution on remand pending trial", because the guarantees offered by each of the three

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[6] *The Prosecutor v. Krajisnik and Plavsic*, Decision on Momcilo Krajisnik's Notice of Motion for Provisional Release, IT-00-39, 8 October 2001, para. 12.
[7] *The Prosecutor v. Hadzihasanovic et al.*, Decision Granting Provisional Release, IT-01-47-AR72, 19 December 2001, para. 8.
[8] *Ib.*
[9] On provisional release.

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Co-Accused and by the Government of Bosnia and Herzegovina reasonably safeguarded the proper conduct of the proceedings.

43. However, as regards "the Suspect" before "the Special Court", "the Chamber" takes notice of the fact that no such guarantees have been secured, neither by "the Suspect" himself, nor by the Government of Sierra Leone. Moreover, in the aforementioned case, the ICTY Trial Chamber took into account the fact that the Accused had surrendered voluntarily to the Tribunal. There is no indication that this was the case of "the Suspect" before this Court.

44. Furthermore, it should be noted that the ICTR has been generally reluctant to grant provisional release. This is certainly due to the difficult context to which the ICTR is confronted. "The Chamber" finds that Sierra Leone offers a similar context, which would generally tend to prevent provisional release from being granted.

45. In rendering its Decision on the present matter, and mindful of the proportionality test, "the Chamber" has indeed appropriately balanced the risk against the obligation to respect "the Suspect"'s fundamental rights.

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FOR ALL THE ABOVE-DESCRIBED REASONS, "THE SPECIAL COURT",

HEREBY

DENIES the Defence Urgent Application for Release from Provisional Detention.

Done in Freetown, this 21st day of November 2003

Trial Chamber

Judge Pierre Boutet

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