

**SPECIAL COURT FOR SIERRA LEONE
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TRIAL CHAMBER I

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

Registrar: Robin Vincent

Date: 14th of April, 2005

PROSECUTOR

Against

**SAM HINGA NORMAN
MOININA FOFANA
ALLIEU KONDEWA
(Case No.SCSL-04-14-T)**

**ORDER ON DISCLOSURE AND CHARACTERISATION
OF THE AGE OF WITNESS TF2-080**

Office of the Prosecutor:

Luc Côté
James Johnson
Kevin Tavener

**Court Appointed Counsel for Sam Hinga
Norman:**

Dr. Bu-Buakei Jabbi
John Wesley Hall, Jr.

Court Appointed Counsel for Moinina Fofana:

Michiel Pestman
Arrow Bockarie
Victor Koppe

Court Appointed Counsel for Allieu Kondewa:

Charles Margai
Yada Williams
Ansu Lansana

TRIAL CHAMBER I (“The Trial Chamber”) of the Special Court for Sierra Leone (“Special Court”) composed of Hon. Justice Benjamin Mutanga Itoe, Presiding Judge, Hon. Justice Bankole Thompson, and Hon. Justice Pierre Boutet;

NOTING that during the trial proceedings on the 9th of March, 2005, the Prosecution informed the Trial Chamber that the next witness it would be calling was a Child Witness with pseudonym TF2-080 and that this witness would testify through closed-circuit television;

NOTING that upon being asked the age of the witness by the Trial Chamber, the Prosecution informed that the witness was not clear of his age and had no documentary evidence to prove his age, however, he would testify that in 2002 he was disarmed and gave the age of 12 years at that time, which would make him approximately 15 years of age at the time of testifying;

NOTING that the Prosecution further submitted that in consultation with the Psychosocial Counsellor for the Witness Support Unit, they determined that the witness was a vulnerable witness and a child soldier during the time of his involvement with the CDF;

NOTING that Court Appointed Counsel for the First, Second and Third Accused responded that this additional information on the age of the witness had not been disclosed to them and that the only information in their possession on the age of the witness was contained in the Witness' Statement of 8th of May, 2003, disclosed to them, and that identified the witness as being 19 years of age at the time of giving the Statement;

NOTING that Court Appointed Counsel for the First, Second and Third Accused insisted on full disclosure of all statements and briefing notes in the possession of the Prosecution for Witness TF2-080;

NOTING that while Court Appointed Counsel for the Second Accused represented that the Second Accused would not be prejudiced if Witness TF2-080 was called to give testimony without delay, Court Appointed Counsel for the First Accused stated that they needed more time to prepare for this witness, and Court Appointed Counsel for the Third Accused submitted that although they wanted to proceed as soon as possible, they would need full disclosure on this material issue before the calling of Witness TF2-080;

NOTING that the Trial Chamber adjourned the hearing of the testimony of Witness TF2-080 until the Fifth Trial Session in order to rule and direct on the issues raised;

MINDFUL OF Article 1 of the United Nations Convention on the Rights of the Child, which entered into force on the 2nd of September 1990 and Article 2 of the African Charter on the Rights and Welfare of the Child, which entered into force on the 29th of November 1999, which defines a child as “every human being below the age of 18 years”;

NOTING that the *Decision on Prosecution Motion for Modification of Protective Measures for Witnesses* (“Protective Measures Decision”), rendered by the Trial Chamber on the 8th of June, 2004, which granted Child Witnesses listed in Category B of Annex 38 of the underlying Prosecution Motion, the protective measure of testifying by closed-circuit television;

CONSIDERING that the Prosecution has failed to comply with its disclosure obligations pursuant to Rule 66(A)(i);

CONSIDERING that it is necessary in the interests of justice to ascertain the age of the witness by independent and objective assessment;

CONSIDERING that it is important to protect vulnerable witnesses and child witnesses from psychological harm and that protective measures may be granted for this purpose;

PURSUANT TO Rules 54 and 66(A)(ii) of the Rules of Procedure and Evidence of the Special Court (“Rules”);

FOR THE ABOVE REASONS, THE TRIAL CHAMBER

FINDS that Witness TF2-080 is a vulnerable witness and is considered to be a Category B witness who will testify by closed-circuit television, pursuant to the Trial Chamber’s Decision on Protective Measures;

ORDERS the Prosecution to disclose immediately to all Defence Teams the statements and briefing notes relating to Witness TF2-080 that are in their possession, and any information they may have in relation to the age of this witness; and

ORDERS the Prosecution to ascertain the age of Witness TF2-080 by independent and objective assessment and disclose this assessment to the Defence Teams and the Trial Chamber by the 2nd of May, 2005.

Done in Freetown, Sierra Leone, this 14th of April, 2005

Hon. Justice Pierre Boutet

Hon. Justice Benjamin Mutanga
Itoe
Presiding Judge,
Trial Chamber I

Hon. Justice Bankole
Thompson

[Seal of the Special Court for Sierra Leone]