SPECIAL COURT FOR SIERRA LEONE
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TRIAL CHAMBER I

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

Registrar: Robin Vincent

Date: 1st of June, 2005

PROSECUTOR **Against** **ISSA HASSAN SESAY**
MORRIS KALLON
AUGUSTINE GBAO
(Case No.SCSL-04-15-T)

RULING ON APPLICATION FOR THE EXCLUSION OF CERTAIN SUPPLEMENTAL STATEMENTS OF WITNESS TF1-361 AND WITNESS TF1-122

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

SEIZED of the Application for the Exclusion of Statements of Witness TF1-361, Dated Respectively 18th, 19th, 21st, 24th, 25th, 26th, 27th January and 15th and 18th February 2005

and the Supplemental Statement of TF1-122, Dated 25th November 2004 ("Motion") filed by Defence Counsel for the First Accused, Issa Hassan Sesay, on the 10th of March, 2005;

CONSIDERING the Response to the Motion, filed by the Office of the Prosecutor ("Prosecution") on the 4th of April, 2005 and the Reply thereto, filed on the 11th of April, 2005;

CONSIDERING Article 17 of the Statute of the Special Court for Sierra Leone ("Statute") and Rule 66(A)(ii) of the Rules of Procedure and Evidence ("Rules");

HEREBY ISSUES THIS UNANIMOUS DECISION:

I. INTRODUCTION

1. On the 8th of December 2004, the Prosecution served the unredacted copy of the witness statement of Witness TF1-361, dated the 11th of June 2004. On the 23rd of February 2005, the Prosecution served proofing notes from the same witness taken on the 18th, 19th ,21st, 24th, 25th, 26th and 27th of January 2005 and on the 15th and 18th of February 2005.[1]
2. On the 23rd of February 2005, the Prosecution also served the unredacted copy of the witness statement of Witness TF1-122, dated the 30th of January 2003. On the same date, the Prosecution also served supplemental statements from the same witness dated 13th of January 2004 and the 25th of November 2004.[2]

II. PARTIES SUBMISSIONS

A) The Motion

3. The Defence submits that all the supplemental statements of Witness TF1-361 and the supplemental statement of Witness TF1-122 dated the 25th of November 2004 ("supplemental statements") contain wholly new allegations against Issa Sesay which did not form part of these witnesses' respective original statements. The Defence therefore request that the Trial Chamber exclude such supplemental statements, unless the Prosecution shows good cause pursuant to Rule 66 of the Rules. [3]
4. As far as Witness TF1-361 is concerned, the Defence submits that the supplemental statements contain several new allegations regarding Issa Sesay not previously contained in the original statement, and concerning in particular his responsibility for operations in Makeni, Kono, Koinadugu and Freetown areas, as well as the raping of JPK's wife and connections with Charles Taylor.[4]
5. With particular reference to Witness TF1-122, a Kenema Crime Base witness, the Defence submits that the supplemental statement dated the 25th November 2004 refers for the first time to Issa Sesay, whom the witness has seen in Kenema on two occasions accompanied by SBUs.[5]
6. Based on the reasoning applied in the *Bagosora* Case,[6] already relied upon in previous Decisions of this Chamber, the Defence submits that the determination of

whether evidence is new or not, requires 1) a comparison with the witness' prior statements; 2) any indication in the Indictment and/or the Pre-Trial Brief of the event the witness will testify on, combined with the period of notice to the Defence; and, 3) the extent to which the new evidence alters the incriminating quality of the evidence of which the Defence already has notice.[7]

7. With particular reference to the provisions of Rule 66 of the Rules, the Defence contends that it would be against the purpose and the spirit of this Rule if an allegation contained in a supplemental statement cannot be characterized as new, and therefore allowed only upon showing of good cause, solely on the basis that it is already obliquely mentioned within the general allegations or basic factual allegations set out by the Prosecution in the Amended Consolidated Indictment and in the Pre-Trial Brief.[8]

8. The Defence further submits that under the current interpretation of Rule 66 of the Rules, the Prosecution is introducing, through the supplemental statements of its witnesses, highly incriminating new allegations against the Accused in respect of which the Defence has no specific knowledge, with an adjournment of the witness testimony as the only recourse left to the Defence in order to prepare. Issa Sesay, the Defence further submits, is at risk of becoming the first Accused before any international tribunal, including those of Nuremberg and Tokyo, "to be tried without knowing the case he has to meet until part way through the case against him".[9]

B) The Prosecution Response

9. In its Response, the Prosecution submits that the supplemental statements do not contain "entirely new allegations" within the meaning of the Chamber's jurisprudence and therefore, that there are no grounds for excluding the newly disclosed materials.[10]

10. More specifically, the Prosecution submits that both the jurisprudence of this Chamber and the *Bagosora* Case of the ICTR[11] support the principle that, in ascertaining whether allegations made in a supplemental statement are new, the court is not merely confined to a review of the original statement of the same witness, but ought to engage in an analysis of the material factual allegations of the Amended Consolidated Indictment, the Pre-Trial Brief and the Supplemental Pre-Trial Brief as well as the body of evidence disclosed by the Prosecution in preparation for the commencement of the trial.[12]

11. The Prosecution further contends that Chamber has held that the general and judicially preferred remedy for a breach of a disclosure obligation by the Prosecution is the granting of an extension of time in order to enable the Defence to prepare adequately its case.[13] However, considering that the supplemental statements were, according to the Prosecution, disclosed by February 2005 the latest, the Prosecution submits that the Defence already had sufficient time to prepare for the testimonies of both witnesses TF1-361 and TF1-122 and that an adjournment in this case would therefore be inappropriate.[14]

C) The Reply

12. In its Reply, the Defence reasserts that the relevant supplemental statements of both witnesses TF1-361 and TF1-122 are indeed new.[15]

13. In addition, the Defence submits that the Chamber has a preliminary discretion whether or not to admit new evidence rather than to solely evaluate, as argued by the Prosecution, if there has been sufficient notice to the Defence. According to the Defence, the Chamber were to accept the Prosecution's argument that all "relevant" and "new evidence" is admissible, it would then allow the Prosecution to continuously serve new evidence from existing witnesses.[16]

14. Finally, the Defence argues that in case the Chamber decides to admit the relevant supplemental statements, it does have the discretion to grant an adjournment of the testimony of both witnesses TF1-361 and TF1-122 in order to allow the Defence to prepare fully for the newly disclosed allegations.[17]

III. DELIBERATIONS

A) Confidentiality Issue

15. The Chamber notes that the Motion was filed confidentially due to the fact that its annexes contained references to the statements of protected witnesses. Accordingly, the Prosecution's Response and the Reply thereto were also filed confidentially. However, having regard to the principle requiring that criminal trials be conducted in public and consistent with established jurisprudence of the Court,[18] the Chamber deems it necessary that this Decision be filed publicly, omitting, if necessary and as may be required, any information that could disclose the identity of any protected witnesses.

B) The Applicable Law

16. The Motion is the latest in a series of applications with which the Chamber has been confronted in the judicial task of determining the proper interpretation of Rule 66(A)(ii) of the Rules at the instance of the Defence involving the disclosure of supplemental or "will-say"[19] witness statements.[20]

17. Rule 89 of the Rules provides for the guiding principle governing the admissibility of evidence in these terms:

(B) In cases not otherwise provided for in this Section, a Chamber shall apply rules of evidence which will best favour a fair determination of the matter before it and are consonant with the spirit of the Statute and the general principles of law.

(C) A Chamber may admit any relevant evidence.

18. It is significant to note that even though the statutory schemes laid down by ICTY, ICTR and by this Court for the admissibility of evidence are predicated upon the notion of the pre-eminent need to ensure a fair and expeditious trial, yet there is now clearly a shade of juridical difference between our Rule 89(C) and the corresponding Rules of our sister tribunals. Unlike the ICTY and the ICTR Rules, Rule 89(C) does not require as a condition for admissibility of evidence an evaluation of the probative value of the evidence in question. As expressed by the Appeals Chamber in a recent Decision concerning an application for bail by the Accused Moinina Fofana, "[e]vidence is

admissible once it is shown to be relevant: the question of its reliability is determined thereafter, and is not a condition for its admission".[21] Hence, the object and purpose of Rule 89(C), gathered from its plain and ordinary meaning and the applicable jurisprudence, is to confer upon the Chamber a discretionary power to admit evidence which is relevant and to exclude evidence which is irrelevant and is not concerned with probative value at this stage.

19. The Chamber observes that the right of the Defence to prepare adequately for testimonial evidence is defined and guaranteed by Article 17 of the Statute and by the disclosure obligations set out in various rules, in particular in Rule 66(A)(ii). It is important to recall that the Chamber has recently expounded what it considers to be the true and proper interpretation of Rule 66, the rationale behind the statutory framework for disclosure obligations and the principle to be applied in determining issues of this nature.[22]

20. Firstly, as to the interpretation of the provisions of Rule 66 of the Rules, we noted in the *Norman* Decision that:

"As a matter of statutory interpretation, it is the Chamber's opinion that Rule 66 requires, *inter alia*, that the Prosecution disclose to the Defence copies of the statements of all witnesses which it intends to call to testify and all evidence to be presented pursuant to Rule 92*bis*, within 30 days of the initial appearance of the Accused. In addition, the Prosecution is required to continuously disclose to the Defence, the statements of all additional Prosecution witnesses it intends to call, not later than 60 days before the date of trial, or otherwise ordered by the Trial Chamber, upon good cause being shown by the Prosecution."[23]

Further, explaining the rationale behind Rule 66 and enunciating the applicable principle the Chamber remarked in this same *Norman* Decision that:

"It is evident that the premise underlying the disclosure obligations is that the parties should act *bona fides* at all times. There is authority from the evolving jurisprudence of the International Criminal Tribunals that any allegation by the Defence as to a violation of the disclosure rules by the Prosecution should be substantiated with *prima facie* proof of such a violation."[24]

21. The Chamber further observed that this issue has featured prominently in the jurisprudence of other international tribunals, in cases like the so-called, *Media* Case, the *Nyiramasuhuko* Case and, in particular, the *Bagosora* Case. In this Decision of the ICTR, it was held that a motion concerning the disclosure of additional statements raises a three-fold question, namely:

"First, is this evidence relevant to the charges in the Indictments, or do they constitute entirely new charges? Second, do the will-say statements merely provide additional details of matters already disclosed in [the] original statement, on in other materials disclosed to the Defence? Third, if this is indeed new evidence, should it be admitted and under what conditions?"[25]

22. When determining or evaluating whether additional, supplemental or will-say statements contain new evidence, this Chamber, in its most recent Ruling on the

exclusion of additional statements regarding Witness TF1-141, in February 2005, reiterated the principle that:

"... in determining whether to exclude additional or supplemental statements of prosecution witnesses within the framework of prosecutorial disclosure obligations, a comparative evaluation should be undertaken designed to ascertain (i) whether the alleged additional statement is new in relation to the original statement, (ii) whether there is any notice to the Defence of the event the witness will testify to in the indictment or Pre-Trial Brief of the Prosecution, and (iii) the extent to which the evidentiary material alters the incriminating quality of the evidence of which the Defence already had notice."[26]

23. In our Ruling on Witness TF1-141 on this issue, pursuant to an Oral Motion by Counsel for the First and the Third Accused in the RUF Trial, We held that the supplemental statements disclosed by the Prosecution for this witness contain allegations which are germane to the general and factual allegations set out in the Amended Consolidated Indictment, the Prosecution's Pre-Trial Brief as well as the Prosecution's Supplemental Pre-Trial Brief. In effect, the Trial Chamber concluded that the supplemental statements were not new, and We stated:

"the allegations embodied in the respective statements, taken singly or cumulatively, are not new evidence but rather separate and constituent different episodic events or, as it were, building-blocks constituting an integral part of, and connected with, the same *res gestae* forming the factual substratum of the charges in the Indictment;"[27]

24. As regards the appropriate remedy for the Defence when supplemental statements are found to contain new evidence, this Chamber had earlier held that, as a general rule, the judicially preferred remedy for a breach of disclosure obligations by the Prosecution is an extension of time to enable the Defence to prepare adequately its case rather than the exclusion of the evidence.[28] However, in the case of *Prosecutor v. Sesay et al.*, the Chamber has ruled that evidence not properly disclosed by the Prosecution should be excluded.[29]

25. The Trial Chamber already emphasized in a Ruling concerning the postponement of the testimony of Witness TF1-060 that it possesses discretionary authority to determine the appropriate remedy in case of breach of disclosure obligations and found that this assessment involves a particular factual inquiry into the specific evidence in question.[30]

C) On the Merits of the Motion

26. Consistent with the above case-law, and guided by the reasoning in the said cases and the principles enunciated therein, the key question for determination by the Chamber in disposing of the issue raised in this Motion is whether the Defence has demonstrated or substantiated with *prima facie* proof that the Prosecution is in breach of its disclosure obligations under Rule 66(A)(ii) and that it is in violation of Article 17(4) (a) and (b) statutory rights of the Accused persons on the grounds of disclosing at this stage witness

statements of witness TF1-361 and witness TF1-122 containing, as alleged, entirely new allegations.

27. In order to determine whether there has been such a breach as alleged and an attendant violation of Article 17(4)(a) and (b) of the Statute, the Chamber has carefully reviewed the original statement of Witness TF1-361 dated the 11th of June, 2004, alongside his respective supplemental statements dated the 18th, 19th, 21st, 24th, 25th, 26 and 27th of January, 2005 and the 15th and 18th of February, 2005, the original statement of Witness TF1-122 dated the 30th of January, 2003, alongside with his supplemental statements dated the 13th of January, 2004 and the 25th of November, 2004 as well as the charges in the Amended Consolidated Indictment, the Prosecution's Pre-Trial[31] and Supplemental Briefs,[32] and the various materials filed by the Prosecution in preparation for the commencement of the trial.[33]

28. Having so reviewed the disclosed materials, consistent with the evolving body of jurisprudence on this issue, the Chamber finds as follows in respect of the supplemental statements of Witness TF1-361:

- (i) That the allegations itemised as (b) - (s) in paragraph 14 of the Motion are indeed germane to the general allegations set out at paragraphs 2-8 of the Amended Consolidated Indictment and also the charges specified and particularised in Counts 1-18 thereof (as admitted by the Defence) and pages 7-36 of the Prosecution's Pre-Trial Brief;
- (ii) That the aforesaid allegations referred to in (i) above are also germane to the basic factual allegations as specified and particularised in the Amended Consolidated Indictment and specifically at pages 8-22 of the Prosecutions Pre-Trial Brief, (as conceded by the Defence);
- (iii) That by reason of our findings in (i) and (ii) above, the Defence did have notice that TF1-361 will indeed testify in respect of allegations (a) - (t) and is estopped from asserting the contrary;
- (iv) That the disputed statements cannot therefore be characterised as entirely new in relation to the original statement as the latter provides some general context as to the alleged criminal involvement of the First Accused specifically in such areas as communications and the launching of military offensives and other diverse acts of an allegedly criminal character;
- (v) That the allegations complained of, taken singly or cumulatively, are not new evidence but rather separate and constituent different episodic events, or, as it were, building-blocks constituting an integral part of and connected with, the same *res gestae* forming the factual substratum of the charges in the Indictment;
- (vi) That by reason of our findings in (i) - (v) above, the supplemental statements of TF1-361 do not in a material way significantly alter the incriminating quality of the evidence of which the Defence already has notice.

29. By parity of reasoning, the Chamber also finds as follows in respect of the supplemental statements of Witness TF1-122:

- (i) That the allegations itemised as (a) - (d) in paragraphs 21 of the Motion are indeed of germane to the general allegations set out in paragraphs 2-8 of the Amended Consolidated Indictment and also the charges specified and particularised in Counts 1-18 thereof (as admitted by the Defence);

- (ii) That the aforesaid allegations referred to in (i) above are also germane to the basic factual allegations as specified and particularised in the Amended Consolidated Indictment and at pages 8-22 of the Prosecution's Pre-Trial Brief (as conceded by the Defence);
- (iii) That by reason of the findings in (i) and (ii) above, the Defence did have notice that TF1-122 will indeed testify in respect of allegations (a) - (d) and is estopped from asserting the contrary;
- (iv) That the disputed statements cannot therefore be characterised as entirely new in relation to the original statement as the latter provides some general context for Kenema as one theatre for allegedly AFRC/RUF criminal activities in their alleged search for Kamajor collaborators, the said allegations in the supplementary statements being specific instances of such criminal activities.
- (v) That the allegations complained of, taken singly or cumulatively, are not new evidence but rather separate constituent different episodic events, or, as it were, building-blocks constituting as integral part of, and connected with, the same *res gestae* forming the factual substratum of the charges in the Indictment;
- (vi) That by reason of our findings in (i) - (v) above, the supplemental statement of witness TF1-122 does not in a material way significantly alter the incriminating quality of the evidence of which the Defence already has notice.

30. Predicated upon the foregoing considerations and our specific findings, the Chamber is of the opinion that the Defence has failed to demonstrate or substantiate by *prima facie* proof the allegations of breach by the Prosecution of Rule 66(A)(ii) of the Rules, Article 17(4) of the Statute, and the Chamber's Order for Disclosure.

31. However, with specific reference to the disclosure of the supplemental statement for Witness TF1-122 dated the 25th of November, 2004, it appears that the Prosecution disclosed that statement only on the 23rd of February, 2005, that is about 3 months after the statement had been taken.[34] Although there is no reason to doubt the good faith of the Prosecution in fulfilling its continuous disclosure obligations, the Chamber is indeed concerned at the almost systematic Prosecution practice of producing supplemental or additional statements for its witnesses. The Prosecution bears the onus of ensuring that the Defence is given sufficient time to prepare. The Chamber reminds the Prosecution in this regard that Rule 66 of the Rules requires the parties to act at all times in good faith.

32. Conversely, the Chamber also notes that the Motion was filed more than two weeks after the disclosure of the supplemental statements. Though such delay may be excusable, it must be emphasized that alleged breaches of disclosure obligations should normally be addressed promptly and expeditiously.[35]

IV. DISPOSITION

33. Accordingly, the application for the exclusion or suppression of the evidence contained in certain supplemental statements of both Witness TF1-361 and Witness TF1-122 which are the subject-matter of the application is **DENIED**, on the understanding however, that the Defence reserves its right to cross-examine these witnesses on all issues raised including those that feature in the said statements.

Done at Freetown, Sierra Leone, this 1st day of June, 2005

Hon. Justice Benjamin Mutanga Itoe | Hon. Justice Pierre Boutet | Hon. Justice Bankole Thompson

Presiding Judge
Trial Chamber I

[Seal of the Special Court for Sierra Leone]

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[1] The Prosecution was granted leave to add Witness TF1-361 to its list of witnesses to be called at trial on the 29th of July 2004. See *Prosecution v. Sesay et al.*, Case No. SCSL-04-15, Decision on Prosecution Request for Leave to Call Additional Witnesses, 29 July 2004.
[2] It has to be noted that after the filing of the Motion, on the 15th of April, 2005, the Prosecution also served the unredacted copy of other witness statements of Witness TF1-361, dated the 11th and the 14th of April, 2005. Similarly, on the 21st of March, 2005, the Prosecution previously served the unredacted copy of another witness statement of Witness TF1-122, dated the 15th of March, 2005. See Materials Filed pursuant to Consequential Order to the Decision on Further Renewed Witness List, 5 May 2005, Annex B – RUF Updated Disclosure Chart, May 2005, p. 18 and p. 43. These statements will not be taken into consideration in the present Decision.
[3] Motion, para. 5 and para. 37.
[4] *Id*., paras 14-20. See also Annex A.
[5] *Id*., paras 21-26. See also Annexes B-C.
[6] *Prosecutor v. Bagosora et al.*, ICTR-98-41-T, Decision on the Admissibility of Evidence of Witness DP, 18 November 2003 ("Decision on Witness DP").
[7] Motion, para. 12.
[8] *Id*., paras 27-32.
[9] *Id*., paras 33-36.
[10] Response, para. 19.
[11] In addition to the Decision on Witness DP, *supra* note 6, relied upon by the Defence in its Motion, the Prosecution also quote another Decision from the Bagosora Case. See *Prosecutor v. Bagosora et al.*, ICTR-98-41-T, Decision on Admissibility of Evidence of Witness DBQ, 18 November 2003 ("Decision on Witness DBQ"). See Response, paras 5-7.
[12] Response, paras 4-8.
[13] *Id*., para. 25.
[14] *Id*., para. 31
[15] Reply, paras 16-18.
[16] *Id*., paras 7-14.
[17] *Id*., paras. 21-22.
[18] See, for instance, *Prosecutor v. Sesay et al*., Decision on the Motion by Morris Kallon for Bail, 23 February 2004, paras 19-21. See also *Prosecution v. Brima et al*., Case No. SCSL-04-16-T, Decision on the Confidential Joint Defence Application for Withdrawal by Counsel for Brima and Kamara and on the Request for Further Representation by Counsel for Kanu, 23 May 2005, para. 22. See also *Prosecutor v. Muvunyi*, Case No. ICTR-00-55A-AR73, Decision on Prosecution Interlocutory Appeal Against Trial Chamber II Decision of 23 February 2005, 12

May 2005, paras 2-4.
[19] For a definition of 'will-say" statement, see *Prosecutor v. Simba*, Case No. ICTR-01-76-T, Decision on the Admissibility of Evidence of Witness KDD, 1 November 2004, para. 9.
[20] See, for example: *Prosecutor v. Sesay et al*., Case No. SCSL-04-15-T, Ruling on Oral Application for the Exclusion of Statements of Witness TF1-141 dated Respectively 9th October 2004, 19th and 20th October 2004 and 10th January 2005, 3 February 2005 ("Ruling of Witness TF1-141"); *Id*., Ruling on Oral Application for the Exclusion of "Additional" Statement for Witness TF1-060, 23 July 2004 ("Ruling on Witness TF1-060"); *Id.*, Ruling on the Oral Application of the Exclusion of Part of the Testimony of Witness TF1-199, 26 July 2004 ("Ruling on Witness TF1-199"); *Id.*, Ruling on Disclosure Regarding Witness TF1-015, 28 January 2005; and *Id.*, Ruling on Disclosure Regarding Witness TF1-195, 4 February 2005 ("Ruling on Witness TF1-195"). See also *Prosecutor v. Norman et al.*, Case No SCSL-04-14-T, Decision on Disclosure of Witness Statements and Cross-Examination, 16 July 2004 ("*Norman* Decision"); *Prosecutor v. Sesay et al*., Case No. SCSL-04-15-T, Sesay - Decision on Defence Motion for Disclosure Pursuant to Rules 66 and 68 of the Rules, 9 July 2004.
[21] See *Prosecutor v. Norman et al*., Case No. SCSL-04-14-AR65, Fofana - Appeal Against Decision Refusing Bail, 11 March 2005, para. 24. See also *Prosecutor v. Brima et al*., Case No. SCSL-04-16-T, Decision on Joint Defence Motion to Exclude All Evidence from Witness TF1-277 Pursuant to Rule 89(C) and/or Rule 95, 24 May 2005; *Prosecutor v. Sesay et al*., Case No. SCSL-04-15-T, Ruling on Gbao Application to Exclude Evidence of Prosecution Witness Mr. Koker, 23 May 2005, para. 4.
[22] See Ruling on Witness TF1-060 and *Norman* Decision, *supra* note 20. See also *Prosecutor v. Brima, Kamara and Kanu*, Case No SCSL-04-16-PT, Kanu – Decision on Motions for Exclusion of Prosecution Witness Statements and Stay of Filing of Prosecution Statements, 30 July 2004. See also *Prosecutor v. Sesay et al*., Case No. SCSL-04-15-T, Sesay - Decision on Defence Motion for Disclosure Pursuant to Rules 66 and 68 of the Rules, 9 July 2004, *supra* note 20, paras 21-22. and Ruling on Witness TF1-199, 26 July 2004, *supra* note 20, para. 7.
[23] *Norman* Decision, *supra* note 20, para 5.
[24] *Id*., para 7.
[25] See Decision on Witness DBQ, *supra* note 11, para. 14. See also Ruling on Witness TF1-060, *supra* note 20, para. 12.
[26] Ruling on Witness TF1-141, *supra* note 20, para. 19. See also Ruling of Witness TF1-060, *supra* note 20, para. 11. The foregoing test, not disputed by both Prosecution and Defence, derives from the jurisprudence as established in the *Bagosora* Case. See Decision on Witness DP, *supra* note 6, para. 6.
[27] Ruling on Witness TF1-141, *supra* note 20, para. 22. See also Ruling on Witness TF1-060, *supra* note 20, para. 14.
[28] Ruling on Witness TF1-195, *supra* note 20, para. 7.
[29] *Id*.
[30] *Prosecutor v. Sesay et al.*, Case No. SCSL-04-15-T, Ruling on the Oral Application for the Postponement of the Testimony of Witness TF1-060, 27 July 2004, paras 2-3. See also *Prosecutor v. Bagosora et. al*, Case No. ICTR-41-T, Decision on Certification of Appeal Concerning Will-Say Statements of Witness DBQ, DP and DA, 5 December 2003, para. 7 and 10. See also, *Prosecutor v. Simba*, Case No. ICTR-01-76-T, Decision on the Admissibility of Evidence of Witness KDD, 1 November 2004, *supra* note 19, para. 15; *Id*., Decision on the Admission of Prosecution Exhibit 27 and 28, 31 January 2005, para. 14; See also, generally,

Prosecutor v. Furundzia, Case No. ICTY-95-17/1, Decision on Motion of Defendant Anto Furundzia to Preclude Testimony of Certain Prosecution Witnesses, 29 April 1998.
[31] Prosecution Pre-Trial Brief Pursuant to Order for Filing Pre-Trial Briefs (Under Rules 54 and 73bis) of 13 February 2004, 1 March 2004.
[32] Prosecution Supplemental Pre-Trial Brief Pursuant to Order to the Prosecution to File a Supplemental Pre-Trial Brief of 30 March 2004 as Amended by Order to Extend the Time for Filing of the Prosecution Supplemental Pre-Trial Brief of 2 April 2004, 21 April 2004.
[33] Materials Filed Pursuant to "Order to Prosecution to Produce Witness List and Witness Summaries", 12 July 2004; Prosecution Chart Indicating Documentary and Testimonial Evidence by Paragraph of Consolidated Indictment Pursuant to Trial Chamber Order Dated 1 April 2004; Materials Filed Pursuant to Order to the Prosecution to File Disclosure Materials and Other Materials in Preparation for the Commencement of Trial of 1 April, 2004, 26 April 2004. Pursuant to this Chamber *Consequential Order to the Decision on Further Renewed Witness List* of the 13th of April, 2005 these materials have been recently updated in order to reflect the subsequent modifications in the Prosecution witness list and the amendment of the Indictment. See Materials Filed pursuant to Consequential Order to the Decision on Further Renewed Witness List, 5 May 2005.
[34] See Materials Filed pursuant to Consequential Order to the Decision on Further Renewed Witness List, 5 May 2005, Annex B – RUF Updated Disclosure Chart, May 2005, p. 18.
[35] *Prosecutor v. Bizimungu et al.*, Case No. ICTR-99-50-T, Decision on Prosper Mugiraneza's Motion for Appropriate Relief for Violation of Rule 66, 4 February 2005, paras 9 and 10.