

TRIAL CHAMBER I ("Trial Chamber") 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 "Prosecution Motion to Amend the Protective Measures for Witnesses TF1-168 & TF1-041", filed urgently and confidentially by the Office of the Prosecutor ("Prosecution") on the 29th of March, 2006 ("Motion") and requesting that the testimonies of Prosecution protected Witnesses TF1-168 and TF1-041 be held entirely in closed session;¹

MINDFUL that, on the 31st of March, 2006 this Chamber, having heard the parties in Court, orally granted the Motion with reference to the testimony of Witness TF1-168;²

NOTING that Defence did not file any response to the Motion with reference to the testimony of Witness TF1-041 within the prescribed time limits;

MINDFUL of the various Decisions and Orders of this Trial Chamber concerning protective measures, including the "Decisions on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure" for each individual accused in the RUF trial³ and, in particular, the "Decision on Prosecution Motion for Modification of Protective Measures for Witnesses" filed on the 5th of July 2004;⁴

NOTING the "Order on Prosecution Motion to Request Protective Measures for Witnesses TF1-041 and TF1-369", filed confidentially on the 28th of February, 2006;

CONSIDERING that Witness TF1-041 is a senior RUF Commander and has been categorized as Group I, Category C Witness (Insider Witness);

¹ Having regard to the principle requiring that criminal trials be conducted in public and consistent with established jurisprudence of the Court, the Chamber deems it necessary that this Decision be now filed publicly, omitting, if necessary and as it may be required, any information that could disclose the identity of the protected Witnesses.

² *Prosecutor v. Sesay, Kallon and Gbao*, Case No. SCSL04-15-T, Transcripts, 31 March 2006, p. 39.

³ *Prosecutor v. Sesay*, Case No. SCSL03-05-PT, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 23 May 2003, *Prosecutor v. Kallon*, Case No. SCSL03-07-PT, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 23 May 2003, and *Prosecutor v. Gbao*, Case No. SCSL03-09-PT, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 10 October 2003.

⁴ *Prosecutor v. Sesay, Kallon and Gbao*, Case No. SCSL04-15-T, Decision on Prosecution Motion for Modification of Protective Measures for Witnesses, 5 July 2004 ("Decision of the 5th of July, 2004"). See also *id.*, Order to Review Current Protective Measures, 31 March 2006.

CONSIDERING that the Prosecution submit that, by virtue of this position, it will be easy for members of the RUF and members of the public to determine the identity of Witness TF1-041 if his testimony is not held in closed session;⁵

CONSIDERING that the Prosecution further submit that Witness TF1-041 has been approached and threatened by persons who said that he will be harmed if he testifies against the Accused;⁶

CONSIDERING further that Witness TF1-041 expressed concerns for himself and members of his family and indicated that he will testify during the RUF Trial only if he is permitted to give his testimony in closed session;⁷

MINDFUL that in its Decision of the 5th of July, 2004 the Trial Chamber noted that insider witnesses and their families were particularly vulnerable to acts of retaliation and potential harm if their identities were to be known to the public;⁸

MINDFUL of the principle that a decision on protective measures requires a balance to be struck between full respect for the rights of the Accused and the protection needs of victims and witnesses, within the legal framework of the Statute and Rules and within the context of a fair trial;⁹

SATISFIED that, in light of the particular circumstances of this witness, the Trial Chamber is of the opinion that it is in the interests of justice that Witness TF1-041 be permitted to testify entirely in closed session.

PURSUANT TO Rule 26bis, 69, 75 and 79 of the Rules of Procedure and Evidence of the Special Court;

THE TRIAL CHAMBER

HEREBY GRANTS the Motion with reference to Witness TF1-041

and, consequently

ORDERS as follows:

⁵ Motion, para. 11.

⁶ *Id.*

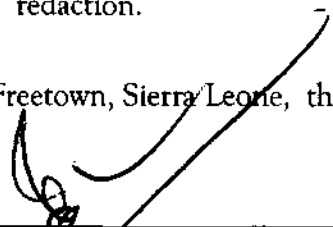
⁷ *Id.*

⁸ Decision of the 5th July, 2004, supra note 4, paras. 33-34.

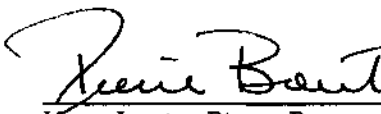
⁹ *Prosecutor v. Sesay, Kallon and Gbao*, Case No. SCSL04-15-T, Order on Protective Measures for Additional Witnesses, 24 November 2004, p. 3.

1. That the testimony of Witness TF1-041 shall be held entirely in closed session;
2. That, in accordance with the norm requiring that criminal trials be conducted in public, the transcripts of Witness TF1-041 testimony shall be publicly released after appropriate redaction.

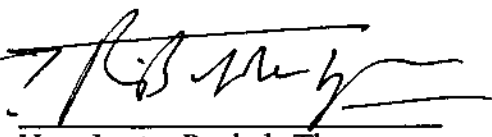
Done at Freetown, Sierra Leone, this 9th day of May, 2006



 Hon. Justice Benjamin Mutanga Itoe



 Hon. Justice Pierre Boutet
 Presiding Judge
 Trial Chamber I



 Hon. Justice Bankole Thompson

