



**TRIAL CHAMBER II** ("Trial Chamber") of the Special Court for Sierra Leone ("Special Court"), composed of Justice Richard Lussick, Presiding Judge, Justice Teresa Doherty and Justice Julia Sebutinde;

**SEISED** of the Confidential Prosecution Motion to Vary Protective Measures, filed 18 October 2006 ("the Motion")<sup>1</sup>;

**NOTING** that the Defence did not file a Response to the Motion;

**NOTING FURTHER** that the Motion was filed confidentially, even though no identifying data of any witness was disclosed therein;

**RECALLING** the Order Changing Venue of Proceedings dated 19 June 2006<sup>2</sup> in which the President of the Special Court found, inter alia, that "the proceedings against Mr. Taylor should be conducted by the Special Court for Sierra Leone sitting at The Hague, the Netherlands and using facilities provided by the International Criminal Court"<sup>3</sup> and authorised Trial Chamber II and the Appeals Chamber "to exercise their functions away from the seat of the Special Court for the purposes of conducting the pre-trial proceedings, trial and any appeal of Charles Ghankay Taylor at the International Criminal Court facilities in The Hague, The Netherlands";<sup>4</sup>

**NOTING** that the Motion seeks to vary the protective measures ordered in respect of all the Prosecution witnesses set to testify in the case of *The Prosecutor v. Charles Ghankay Taylor* in order to permit the Office of the Prosecutor ("OTP") and the Witnesses and Victims Section of the Special Court ("WVS") to provide documents and information that may reveal the names and other identifying data of a protected witness to government or other authorities for the purposes of facilitating his or her travel to and appearance before the Special Court sitting in The Hague, Netherlands;<sup>5</sup>

**NOTING** the Prosecution submissions that "in view of the transfer of the Accused Charles Taylor, to stand trial in The Hague, Prosecution witnesses may be required to travel to the Netherlands to testify, most likely via third countries. In order for WVS to be able to book tickets and obtain passports and visas for witnesses, it will be necessary for the identities of protected witnesses to be disclosed to airlines and governmental authorities of the various States including immigration authorities"<sup>6</sup> and that "in order to put appropriate protective measures in place to enhance or alter the specific measures required by a witness, it may be necessary for the Prosecution and WVS to reveal the identity of a protected witness or his or her dependants to government or other authorities, or to provide to government or other authorities documents or other materials that may reveal the identity of a protected witness or his or her dependants" (sic);<sup>7</sup>

**NOTING** Rules 75 (G) and (H) of the Rules of Procedure and Evidence ("the Rules") which provide:

<sup>1</sup> Document SCSL-03-01-PT-127.

<sup>2</sup> Document SCSL-03-01-PT-108.

<sup>3</sup> *Ibid.*, paragraph 11.

<sup>4</sup> *Ibid.*, paragraph 14.

<sup>5</sup> Motion, paragraphs 7, 8, 9, 10, 11.

<sup>6</sup> Motion, paragraph 7.

<sup>7</sup> Motion, paragraph 8.



- (G) A party to the second proceedings seeking to rescind, vary or augment protective measures ordered in the first proceedings shall apply to the Chamber seized of the second proceedings.
- (H) Before determining an application under Sub-Rule (G) above, if the effect of the change serves to decrease the protective measures granted to the victim or witness by the Chamber in the first proceedings, the Chamber seized of the second proceedings shall obtain all relevant information from the first proceedings, and may consult with any Judge who ordered the protective measures in the first proceedings, or the relevant Chamber.

RECALLING that protective measures have previously been ordered in respect of witnesses or victims in earlier proceedings (“the first proceedings”) before this court<sup>8</sup> and that pursuant to Rule 75 (F) of the Rules of Procedure and Evidence of the Special Court (“Rules”), such protective measures shall continue to have effect *mutatis mutandis* with respect to the same witnesses or victims testifying in the case of *The Prosecutor vs. Charles Ghankay Taylor* (“the second proceedings”);

RECALLING ALSO the protective measures ordered by the Trial Chamber in the second proceedings;<sup>9</sup>

SATISFIED that this is an appropriate case where the proposed variation to the existing protective measures should be granted;

PURSUANT to Rules 54, 75 of the Rules and Article 4(B) of the Practice Direction on Filing Documents before the Special Court for Sierra Leone;<sup>10</sup>

GRANTS THE MOTION AND ORDERS as follows:

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<sup>8</sup> These include the following orders, namely, *Prosecutor v. Brima*, SCSL03-06-PT-36, Decision on the Prosecution’s Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 23 May 2003; *Prosecutor v. Kamara*, SCSL03-10-PT-40, Decision on the Prosecution’s Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 23 October 2003; *Prosecutor v. Kanu*, SCSL2003-13-PT-37, Decision on the Prosecutor’s Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 24 November 2003; *Prosecutor v. Sesay*, SCSL03-05-PT-38, 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*, SCSL03-07-PT-33, Decision on the Prosecutor’s Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 23 May 2003; *Prosecutor v. Gbao*, SCSL03-09-PT-48, Decision on the Prosecutor’s Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 10 October 2003; *Prosecutor v. Sesay et al.*, SCSL04-15-T-180, Decision on Prosecution Motion for Modifications of Protective Measures for Witnesses, 6 July 2004; *Prosecutor v. Brima et al.*, SCSL04-16-T-259, Decision on the Urgent and Confidential Application to Vary Protective Measures Regarding Witnesses TF1-104 and TF1-081, 11 May 2005; *Prosecutor v. Sesay et al.*, SCSL04-15-T-286, Order on Protective Measures for Additional Witnesses, 24 November 2004.

<sup>9</sup> *Prosecutor v. Charles Ghankay Taylor*, SCSL03-01-PT-9, 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 Confidential Prosecution Motion for Immediate Protective Measures for Witnesses and for Non-Public Disclosure and Urgent Request for Interim Measures, 5 May 2006; *Prosecutor v. Charles Ghankay Taylor*, SCSL03-01-PT-120, Decision on Urgent Prosecution Motion for Immediate Protective measures for Witnesses and for Non-Public Disclosure, 15 September 2006 and *Prosecutor v. Charles Ghankay Taylor*, SCSL03-01-PT-125, Decision on Defence Motion to set Aside and/or Reconsider Trial Chamber’s Decision on Urgent Prosecution Motion for Immediate Protective measures for Witnesses and for Non-Public Disclosure, 5 October 2006.

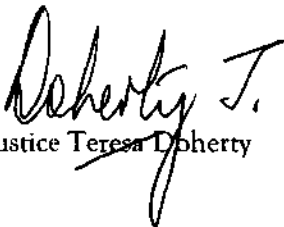
<sup>10</sup> Document SCSL-2004-14-PT-114.




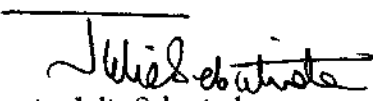


1. That the Motion be classified as "public" by the Court Management Section;
2. Notwithstanding any previous order of this or any other Trial Chamber in relation to a protected witness, the Office of the Prosecutor and the Witness and Victims Section of the Special Court are authorised, as they deem necessary, to provide documents and information to the government or other authority of a State, or to any organisation or individual, for the purposes of facilitating the travel of a protected witness to The Hague, Netherlands, in order to testify at the trial of Charles Ghankay Taylor, provided that if such documents or information divulge the fact that a person is a protected witness, or disclose his or her identity or that of his or her dependants, that information shall be provided on condition of confidentiality and shall be accompanied by a notification of the protective measures in force.

Done at Freetown this 15<sup>th</sup> day of November 2006.

  
Justice Teresa Doherty

  
Justice Richard Lussick  
Presiding Judge

  
Justice Julia Sebutinde

