

**SPECIAL COURT FOR SIERRA LEONE
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TRIAL CHAMBER I

Before: Hon. Justice Bankole Thompson, Presiding Judge
Hon. Justice Pierre Boutet
Hon. Justice Benjamin Mutanga Itoe
Registrar: Mr. Lovemore G. Munlo SC
Date: 22nd of November 2006

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

Public Document

ORDER TO VARY PROTECTIVE MEASURES

Office of the Prosecutor:

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

HAVING RECEIVED a confidential Memorandum from Mr. Saleem Vahidy, Chief of Witnesses and Victims Section of the Special Court (“WVS”) on the 20th of November 2006, entitled “Amendment of Order of Protective Measures for Witnesses” (“Memorandum”);

NOTING that the Memorandum identifies and seeks a variation of the protective measures of protected Witness TF1-305 as well as Witness SCSL-P 0700 purely on humanitarian and compassionate grounds, namely in order to allow these Witnesses to travel outside the jurisdiction of the Special Court to undergo specialized surgery;

MINDFUL that, pursuant to Article 16 of the Statute of the Special Court (“Statute”), the Special Court guarantees in its Rules the protection of victims and witnesses, and, in particular, Article 16(4) provides that WVS shall provide protective measures and security arrangements, counselling and other appropriate assistance for witnesses and victims who appear before the Court and others who are at risk on account of testimony given by such witnesses;

MINDFUL that pursuant to Rule 26*bis* of the Rules of Procedure and Evidence of the Special Court (“Rules”) the Trial Chamber is mandated to ensure, *inter alia*, that proceedings before the Special Court are conducted with full respect for the rights of the accused and due regard for the protection of victims and witnesses;

MINDFUL of the 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 trial^[1] and, in particular, the *Decision on Prosecution Motion for Modification of Protective Measures for Witnesses* filed on the 5th of July 2004;^[2]

NOTING that, in particular, Witness TF1-305 was granted protective measures under these Decisions, including, *inter alia*, that “documents of the Special Court identifying witnesses shall not be disclosed to the public or media”^[3] and testified during the trial of *Prosecutor v. Sesay, Kallon and Gbao*, Case No. SCSL-04-15, on the 27th of July 2004;

NOTING that, according to the Memorandum, Witness SCSL-P 0700 was initially characterized as a potential witness for the Office of the Prosecutor (“Prosecution”), but subsequently did not testify at any trial before the Special Court and was eventually dropped as a witness for the Prosecution;

CONFIRMING that disclosure of any information identifying protected witnesses to governmental or non-governmental authorities would be prohibited under the current applicable protective measures regime;

CONSIDERING that orders for disclosure of confidential material involving protected witnesses require that the subject in receipt of the confidential material shall be bound, *mutatis mutandis*, by the applicable witness protection orders;[\[4\]](#)

SATISFIED that, in the circumstances, a variation of the current applicable protective measures is justified and is necessary in order to allow WVS to provide information and documentation to the appropriate governmental and non-governmental authorities, further particularized in the Memorandum, as required for the travel of these Witnesses as well as for the provision of the specialized surgery;

PURSUANT to Article 16 of the Statute and Rules 26*bis*, 34, 54 and 75 of the Rules;

THE CHAMBER HEREBY *PROPRIO MOTU*

ORDERS that in relation to Witnesses TF1-305 and SCSL-P 0700, the Chief of Witnesses and Victims Section of the Special Court is authorised to provide documents and information to the appropriate governmental and non-governmental authorities as necessary, provided that if such materials might reveal the identity of these Witnesses they shall be provided only on grounds of confidentiality and shall be accompanied by a notification to these authorities of the protective measures in force with respect to these Witnesses;

Done at Freetown, Sierra Leone, this 22nd day of November 2006

Hon. Justice Benjamin Mutanga
Itoe

Hon. Justice Bankole
Thompson
Presiding Judge
Trial Chamber I

Hon. Justice Pierre Boutet

[Seal of the Special Court for Sierra Leone]

[\[1\]](#) *Prosecutor v. Sesay*, SCSL-03-05-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*, SCSL-03-07-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*, SCSL-03-09-PT, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 10 October 2003. [\[2\]](#) *Prosecutor v. Sesay, Kallon and Gbao*, SCSL-04-15-T, Decision on Prosecution Motion for Modification of Protective Measures for Witnesses, 5 July 2004.

[3] *Id.*, Disposition para. d.

[4] *Prosecutor v. Bagosora et al.*, Case No. ICTR-98-41-T, Decision on Nzirorera Request for Access to Protected Material, 19 May 2006, para. 4.
