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SCSL-03-01-T
(26631-26633)

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SPECIAL COURT FOR SIERRA LEONE

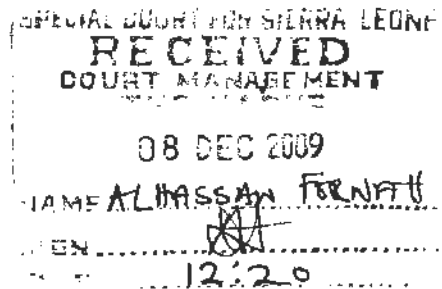
TRIAL CHAMBER II

Before: Justice Richard Lussick, Presiding Judge
Justice Teresa Doherty
Justice Julia Sebutinde
Justice El Hadji Malick Sow, Alternate Judge

Acting Registrar: Binta Mansaray

Case No.: SCSL-03-1-T

Date: 8 December 2009



PROSECUTOR

v.

Charles Ghankay TAYLOR

ORDER RE *EX PARTE* AND CONFIDENTIAL WITH ANNEX A URGENT DEFENCE MOTION FOR
ADDITIONAL PROTECTIVE MEASURES FOR WITNESS DCT-125

Office of the Prosecutor:
Brenda J. Hollis

Defence Counsel for Charles G. Taylor:
Courtenay Griffiths, Q.C.
Terry Munyard
Morris Anyah
Silas Chekera
James Supuwood

TRIAL CHAMBER II ("Trial Chamber") of the Special Court for Sierra Leone ("Special Court");

SEISED of the "Ex Parte and Confidential with Annex A Urgent Defence Motion for Additional Protective Measures for Witness DCT-125", filed on 4 December 2009 ("Motion"),¹ wherein the Defence requests that Witness DCT-125 be granted additional protective measures;²

RECALLING that Witness DCT-125 is subject to protective measures granted by the Trial Chamber in its "Decision on Urgent Defence Application for Protective Measures and for Non-Public Materials", filed on 27 May 2009;³

RECALLING that such measures include that "the Defence may withhold from the Prosecution identifying data of a protected witness or any information which could reveal the identity of such witnesses until 21 days before the witness is due to testify at trial";⁴

NOTING that the Defence has filed the Motion *ex parte* on the basis that the information in the Motion and Annex has a high probability of revealing the identity of the witness to the Prosecution;⁵

CONSIDERING, however, that *ex parte* proceedings should be entertained only where it is thought to be necessary in the interests of justice to do so, and that the party seeking relief on an *ex parte* basis must identify with some care why the disclosure of the fact of the application, or of its detail, to the other party to the proceedings would cause unfair prejudice to the party making the application or some person or persons involved in or related to that application;⁶

¹ SCSL-03-01-T-866.

² Motion, paras 1, 21.

³ *Prosecutor v. Taylor*, SCSL-03-01-T, Decision on Urgent Defence Application for Protective Measures and for Non-Public Materials, 27 May 2009 ("Protective Measures Decision"), p. 13.

⁴ Protective Measures Decision, p. 14.

⁵ Motion, paras 2-3.

⁶ *Prosecutor v. Brđjanin and Talić*, Decision on Second Motion by the Prosecution for Protective Measures, 27 October 2000 ("Brđjanin Decision"), para. 11; *Prosecutor v. Simić et al.*, IT-95-9-PT, Decision on (1) Application by Stevan Todorović to Re-Open the Decision of 27 July 1999, (2) Motion by ICRC to Re-Open Scheduling Order of 18 November 1999, and (3) Conditions for Access to Material, 28 February 2000, paras 41-42. See also *Prosecutor v. Kordić and Cerkez*, IT-95-14/2-A, Order to Prosecution to Refile its Ex Parte Filing in Response to Motion by Kordić for Disclosure in Relation to Witness "AT", 31 March 2003, para 4.

CONSIDERING ALSO that arguments advanced to justify protective measures should, as far as possible, be set out in such a way that the basis for the application is disclosed to the other party without revealing the identity of the particular witness for whom the protection is sought;⁷

HOLDING that, in the interests of justice, the Motion should be disclosed to the Prosecution in order to afford it an opportunity to respond;

SATISFIED that with appropriate redactions of identifying information in the body of the Motion and with the filing of Annex A on an *ex parte* basis, the Motion could be re-filed *inter partes* without revealing the identity of the witness, while disclosing the basis of the application;

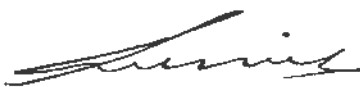
SATISFIED, however, that the Defence is justified in filing the Motion confidentially owing to the sensitive nature of the information contained therein;

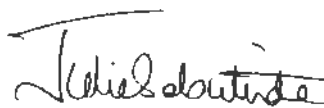
COGNISANT of the provisions of Articles 16(4) and 17 of the Statute of the Special Court for Sierra Leone ("Statute") and Rules 69, 73(A) and 85 of the Rules of Procedure and Evidence ("Rules");

HEREBY ORDERS the Defence to make the necessary redactions and to file a confidential version of the Motion *inter partes* (with an *ex parte* Annex A) by close of business Friday 11 December 2009.

Done at The Hague, The Netherlands, this 8th day of December 2009.


Justice Teresa Doherty


Justice Richard Lussick
Presiding Judge


Justice Julia Sebutinde

[Seal of the Special Court for Sierra Leone]

⁷ *Brdanin* Decision, para. 14.