515) SCSL-03-01-T (17248 - 17251) 17248

SPECIAL COURT FOR SIERRA LEONE

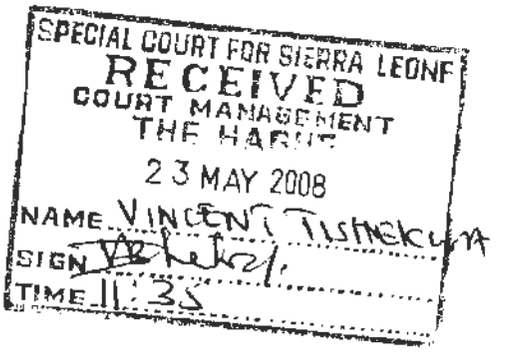
TRIAL CHAMBER II

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

Registrar: Herman von Hebel

Case No.: SCSL-03-1-T

Date: 22 May 2008



PROSECUTOR

v.

Charles Ghankay TAYLOR

DECISION ON CONFIDENTIAL URGENT PROSECUTION MOTION FOR ADDITIONAL PROTECTIVE MEASURES FOR WITNESSES TF1-338 AND TF1-579

Office of the Prosecutor:
Brenda J. Hollis
Kirsten Keith

Defence Counsel for Charles G. Taylor:
Courtenay Griffiths, Q.C.
Terry Munyard
Andrew Cayley
Morris Anyah

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

SEISED of the "Confidential Urgent Prosecution Motion for Additional Protective Measures for Witnesses TF1-338 and TF1-579", filed on 22 April 2008 ("Motion"),[1] wherein the Prosecution applies for an order that witnesses TF1-338 and TF1-579 be granted additional protective measures as set out in Annex A to the Motion[2] and more specifically requests that the two witnesses testify behind a screen, with voice and facial distortion and partially in closed or private session when required,[3] as the witnesses "are concerned for their safety and privacy and for that of their families" if they testify openly, and these concerns have "heightened since the commencement of the trial";[4]

NOTING in particular the Prosecution's submissions requesting protective measures sought in Annex A to be used during the testimony of witnesses TF1-338 and TF1-579 on the grounds that (1) the existing pre-trial protective measures which include the use of a pseudonym, non-disclosure of the identity of the witness to the public and the delayed disclosure of the identity of the witness to the Defence[5] are not sufficient to protect the identity of the witnesses during their testimony;[6] (2) the witnesses have expressed fears for themselves or their family members if they testify "openly" in view of the general security situation in Sierra Leone and Liberia;[7] (3) the request for use of facial and/or voice distortion is consistent with the rights of the accused and does not violate the Accused's right to a fair trial;[8]

NOTING the "Confidential Defence Response to 'Urgent Prosecution Motion for Additional Protective Measures for Witnesses TF1-338 and TF1-579'", filed on 28 April 2008 ("Response")[9], wherein the Defence opposes the request for Witnesses TF1-338 and TF1-579 to testify with voice distortion and face distortion, and further opposes the request for partial closed session testimony;[10]

NOTING in particular the Defence submissions that (1) whether or not to grant the protective measures requested has to be determined on a case-by-case basis and the Prosecution has to provide specific details of threats to the witnesses;[11] (2) the declaration given in support of the security situation is not objective or sufficient;[12] (3) the protective measures must be balanced with the Accused's right to a public trial and that the requested use of facial and voice distortion will result in an impression of "in camera" justice for the Accused;[13] and (4) the allegations against supporters of the Accused are unspecified and unsupported by the information provided in the Motion;[14]

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[1] SCSL-03-01-T-482 ("Motion").
[2] Motion, para. 20.
[3] Motion para. 6.
[4] Motion, para. 8.
[5] Motion, para. 5.
[6] Motion, para. 7.
[7] Motion, para. Para. 8.
[8] Motion, para. 10; Annex B.
[9] SCSL-03-01-T-492 ("Response").
[10] Response, para. 32.
[11] Response, para. 11.
[12] Response, para. 14-20.
[13] Response, para. 27-31.
[14] Response, para. 21-26.

NOTING the "Confidential Prosecution Reply to Defence Response to Urgent Prosecution Motion for Additional Protective Measures for Witnesses TF1-338 and TF1-579", filed 2 May 2008 ("Reply");[15]

HAVING CAREFULLY EXAMINED and balanced the need to safeguard the security of witnesses and victims with the rights of the Accused to a fair trial;[16]

SATISFIED that the additional protective measures of image distortion, screen and voice distortion sought by the Prosecution adequately balance the rights of the Accused to a fair and public trial with due regard for the protection of the witnesses concerned, but that it is appropriate that any application for closed or private session be dealt with as it arises;[17]

FOR THE ABOVE REASONS

PURSUANT TO Article 17(2) of the Statute of the Special Court ("Statute"), and Rules 75(A), 78, 79(A);

GRANTS the Motion; and

ORDERS additional protective measures to be used during the testimony of witnesses TF1-338 and TF1-579 as set out in Annex A to this Decision.

Done at The Hague, The Netherlands, this 22nd day of May 2008.

Justice Richard Lussick

Justice Teresa Doherty
Presiding Judge

Justice Julia Sebutinde

[Seal of the Special Court for Sierra Leone]

[15] SCSL-03-01-T-496 ("Reply").

[16] SCSL-03-1-T-498, Decision on Confidential and Urgent Prosecution Motion for Additional Protective Measures for Witness TF1-585 and TF1-590 AND On Public and Confidential Prosecution Motion for Leave to Substitute Condifential Urgent Prosecution Motion SCSL-03-01-T-435 with Amended Motion, 7 May 2008; SCSL-03-01-T-427, Decision on Confidential Prosecution Motions SCSL-03-01-T-372 and SCSL-03-01-T-385 for the Testimonies of Witnesses to be held in Closed Session, 26 February 2008.;

[17] *Prosecutor v. Sesay* et al., SCSL-04-15-T-180, Decision on Prosecution Motion Modification of Protective Measures for Witnesses, 5 July 2004, para. 33-34; *Prosecutor v Rwamakuba*, ICTR-98-44-T, Decision on the Prosecutor's Motion for Protective Measures for Witnesses, 22 September 2000, para. 14.

Annex A

Additional Protective Measures required during the Giving of Testimony

Witness	Additional Protective Measures Requested for Testimony
TF1-338	Use of Image Distortion, Screen and Voice Distortion
TF1-579	Use of Image Distortion, Screen and Voice Distortion