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SCSL-2003-10-PT-017  
(241-244)

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**SPECIAL COURT FOR SIERRA LEONE**

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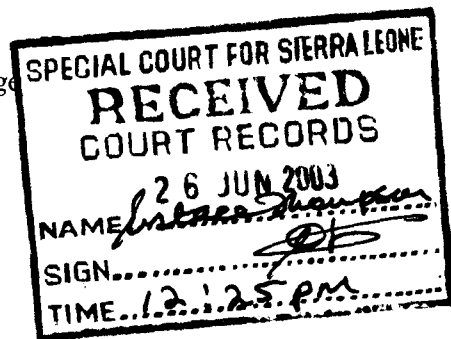
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**THE TRIAL CHAMBER**

Before: Judge Bankole Thompson, Presiding Judge  
Judge Mutanga Itoe  
Judge Pierre Boutet

Registrar: Robin Vincent

Date: The 26<sup>th</sup> day of June 2003



The Prosecutor against

Brima Bazzy Kamara  
(Case No.SCSL-2002-10-PT)

**ORDER ON THE REQUEST BY THE DEFENCE OFFICE FOR SUSPENSION OF  
CONSIDERATION OF PROSECUTION'S MOTION FOR PROTECTIVE  
MEASURES UNTIL COUNSEL IS ASSIGNED**

The Office of the Prosecutor:  
Mr. Luc Côté, Chief of Prosecutions

The Defence Office:  
Mr. John R.W.D Jones

The Defence Counsel:  
Mr. Ken Flemming

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SCSL-2003-10-PT

**THE SPECIAL COURT FOR SIERRA LEONE (“the Special Court”)**

**SITTING AS** the Trial Chamber (“the Chamber”) composed of Judge Bankole Thompson, Presiding Judge, Judge Benjamin Mutanga Itoe, and Judge Pierre Boutet;

**CONSIDERING** the Prosecution Motion for Immediate Protective Measures and for Non-Public Disclosure of the 11<sup>th</sup> day of June 2003 (“the Prosecution Motion for Protective Measures”);

**HAVING RECEIVED** on the 18<sup>th</sup> day of June 2003 the Request by the Defence Office for Suspension of Consideration of Prosecution’s Motion for Protective Measures until Counsel is Assigned (“the Defence Request”) and the Prosecutors Response thereto on the 23<sup>rd</sup> day of June 2003 (“the Prosecution Response”);

**NOTING** the Decision of the Registrar of the 18<sup>th</sup> day of June 2003 to provisionally assign Mr. Ken Fleming as Counsel for the Accused;

**TAKING NOTE** that to the present date, due to unavoidable technical problems, it has not been possible for the Court Management to serve the assigned Counsel for the Accused with the relevant documentation filed in the case against the Accused, in particular with the Prosecution Motion for Protective Measures;

**CONSIDERING** Rule 54 and Rule 7 (C) of the Rules of Procedure and Evidence (“the Rules”);

**CONSIDERING** that the Defence Office as defined in Rule 2 of the Rules is established for the purpose of ensuring the rights of suspects and accused;

**CONSIDERING** the role, duties and responsibilities of the Defence Office under Rule 45 of the Rules;

**NOTING THE SUBMISSION OF THE PARTIES**

1. The Defence Office avers that it is in the interest of all parties to suspend the deliberation on the Prosecution Motion for Protective Measures until Counsel would have been assigned to the Accused and have had sufficient time and opportunity to file a substantive response to the motion in object;

2. The Prosecution submit that the Defence Request should be dismissed because it is ill founded, defeating the purpose of the Defence Office to legally represent the Accused before the Special Court and creating undue delay in the proceedings;

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**AFTER HAVING DELIBERATED**

3. The Defence Office is an innovative and unique appearance in international criminal law. Neither the International Criminal Tribunals for Rwanda and the Former Yugoslavia, nor the newly established International Criminal Court provide for such an institution. Even though the Defence Office is established and maintained by the Registrar, it is and remains an independent organ in the administration of justice, essential for the proper functioning of the Court and whose duties are to ensure that the Rights of Accused and Suspects are respected and that they are afforded an effective defence at the Special Court.

4. This implies as well that the Defence Office has obligations and duties, albeit of a different nature toward the Court to ensure that the Accused receives a fair trial. Therefore as long as a Suspect or Accused has not chosen or has not been assigned a Defence Counsel it is the responsibility of the Defence Office to ensure that his rights are properly and adequately respected. The performance of such duties entails the right and obligation of the Defence Office to actively file motions on behalf of a Suspect or Accused, until he has chosen or has been assigned a permanent Defence Counsel.

5. The current application of the Defence Office accomplishes precisely this function, as during the administration of an assignment of a Defence Counsel the time limit for the Prosecution Motion on Protective Measures was underway. In this administrative process of assignment of counsel and due to strict time limitations it became apparent that there could be a conflict as to who should legally represent and best act for the Accused in the said circumstances. It should be noted that the Defence Counsel was finally assigned a day prior to the expiration of the time limit prescribed to file a response to the motion. From the foregoing it becomes apparent that the issue to be dealt with is therefore not a question of the suspension of the Prosecutions Motion for Protective Measures but more appropriately one on extension of time limits.

6. Although the Special Court concludes that the Defence Office would have had the capacity and authority to act for the Accused it would appear preferable and would provide for more expeditious proceedings, given that the Defence Counsel has now been assigned, to consider, in the interest of all parties, such Counsel as the Counsel of record for this Accused.

7. Pursuant to Rule 7 (C) of the Rules, the time limit for a response to a motion expires seven days from the moment of receipt of the motion. The Trial Chamber may order for an extension or abbreviation of time. Such an extension of time may however only be granted in exceptional circumstances or due to good cause being shown.

8. In the current case the newly assigned Defence Counsel has not yet been served with the Prosecutions Motion on Protective Measures due to technical difficulties. This situation may be considered as exceptional circumstances and consequently in order to ensure that the Accused is able to properly prepare his defence and more specifically

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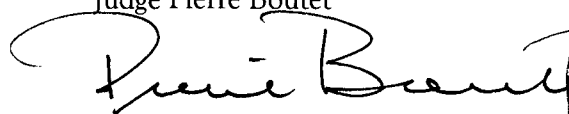
respond to the current motion, it is in the interest of justice that an extension of time be granted.

**NOW THEREFORE**

- 1) **DENIES** the Defence Office request for an order suspending considerations of the Prosecution Motion for Protective Measures until Counsel has been assigned and have had sufficient time and opportunity to file a substantive response to the motion in object,
- 2) **GRANTS** an extension of the time limits prescribed for the filing of a response to the said motion, and
- 3) **ORDERS** that the Defence Counsel for the Accused be granted 7 (seven) days from the moment of the servicing of the Prosecution Motion for Protective Measure to file his response to the said motion.

Done in Freetown, Sierra Leone, this 26<sup>th</sup> day of June 2003

The Trial Chamber  
Judge Pierre Boutet



[Seal of the Special Court]