

SPECIAL COURT FOR SIERRA LEONE
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TRIAL CHAMBER I

Before: Hon. Justice Pierre Boutet, Presiding Judge
Hon. Justice Bankole Thompson
Hon. Justice Benjamin Mutanga Itoe

Registrar: Robin Vincent

Date: 20th of September, 2005

PROSECUTOR **Against** **SAM HINGA NORMAN**
MOININA FOFANA
ALLIEU KONDEWA
(Case No.SCSL-04-14-T)

ORDER TO THE PROSECUTION ON FILING

Office of the Prosecutor:

Luc Côté
James Johnson
Kevin Tavener

Court Appointed Counsel for Sam Hinga Norman:

Dr. Bu-Buakei Jabbi
John Wesley Hall, Jr.
Ibrahim Yillah

Court Appointed Counsel for Moinina Fofana:

Victor Koppe
Arrow Bockarie
Andrew Ianuzzi
Michiel Pestman

Court Appointed Counsel for Allieu Kondewa:

Charles Margai
Yada Williams
Ansu Lansana

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

NOTING the *Motion for Judgement of Acquittal of the First Accused Samuel Hinga Norman*, filed on the 3rd of August, 2005;

NOTING the *Confidential Prosecution Response to Motion for Judgement of Acquittal of the First Accused Samuel Hinga Norman*, filed on the 18th of August, 2005;

NOTING the *Fofana Motion for Judgement of Acquittal*, filed on the 4th of August, 2005;

NOTING the *Confidential Prosecution Response to Fofana Motion for Judgement of Acquittal*, filed on the 18th of August, 2005;

NOTING the *Motion for Judgement of Acquittal of the Third Accused Allieu Kondewa*, filed on the 4th of August, 2005;

NOTING the *Confidential Prosecution Response to Motion for Judgement of Acquittal of the Third Accused Allieu Kondewa*, filed on the 18th of August, 2005;

NOTING that all three Defence Motions have been filed publicly;

CONSIDERING that Article 17(2) of the Statute of the Special Court provides that “[t]he accused shall be entitled to a fair and public hearing, subject to measures ordered by the Special Court for the protection of victims and witnesses”;

CONSIDERING that Rule 69(A) of the Rules of the Procedure and Evidence (“Rules”) provides that “[i]n exceptional circumstances, either of the parties may apply to a Judge of the Trial Chamber or the Trial Chamber to order the non-disclosure of the identity of a victim or witness may be in danger or at risk, until the Judge or Chamber decides otherwise”;

CONSIDERING that the three Responses have been filed confidentially with an explanation in the Court Management Filing Form that the “Response contains transcript quotes and other references to testimony from closed court session. Such sessions were closed to protect the identity of witnesses in accordance with the Witness Protection Order. A public filing of this document could potentially identify the names of protected witnesses.”;

CONSIDERING that generally hearings should be conducted publicly but “this preference has to be balanced with other mandated interests”, among them protective measures for victims and witnesses”;[\[1\]](#)

CONSIDERING therefore, that for the interests of conducting a public hearing the Prosecution must file a redacted public version of their Responses, in addition to the confidential Responses already filed;

CONSIDERING that it is the practice of the other International Criminal Tribunals that in those cases where witness protection issues arise, both confidential and public motions and responses may be filed;[\[2\]](#)

THE CHAMBER ORDERS the Prosecution to file a public version of each of the three Responses filed on the 18th of August 2005 with redactions as necessary to protect the identity of the witnesses;

Done in Freetown, Sierra Leone, this 20th day of September, 2005

Hon. Justice Benjamin Mutanga
Itoe

Hon. Justice Pierre Boutet
Presiding Judge,
Trial Chamber I

Hon. Justice Bankole
Thompson

[Seal of the Special Court for Sierra Leone]

[1] *Prosecutor v. Sam Hinga Norman, Moinina Fofana, Allieu Kondewa*, Decision on Prosecution Motion for Modification of Protective Measures for Witnesses, dated the 8th of June, 2004, para. 39 (footnotes omitted).

[2] E.g. *Prosecutor v. Brdjanin*, Case No. IT-99-36-T, Decision on Motion for Acquittal Pursuant to Rule 98bis, 28 November 2003, para. 1.