

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
Interim Registrar: Mr. Lovemore Munlo SC
Date: 1st December 2005

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

**ORDER FOR SUBMISSIONS AND INTERIM ORDER PURSUANT TO RULE 54 OF
THE RULES**

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.
Clare da Silva (*Legal Assistant*)

Court Appointed Counsel for Moinina Fofana:

Victor Koppe
Arrow Bockarie
Michiel Pestman
Andrew Ianuzzi (*Legal Assistant*)

Court Appointed Counsel for Allieu Kondewa:

Charles Margai
Yada Williams
Ansu Lansana
Martin Michael (*Legal Assistant*)

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;

MINDFUL of the “Order Concerning the Preparation and Presentation of the Defence Case” of the 21st of October 2005 and of the “Consequential Order for Compliance with the Order Concerning the Preparation and Presentation of the Defence Case” of the 28th of November, 2005;

HAVING RECEIVED the “Motion by the Third Accused Allieu Kondewa for Orders of Protective Measures for Defence Witnesses” filed by Defence for the Third Accused on the 17th of November, 2005 (“Motion”) and the Response thereto filed by the Office of the Prosecutor (“Prosecution”) on the 25th of November, 2005;

NOTING that the Defence did not file any Reply to the Prosecution Response within the prescribed time limits;

NOTING that the Motion is unsupported by any documentary or affidavit evidence;[\[1\]](#)

MINDFUL that, when protective measures are sought for witnesses, it must be shown that there is a real fear for the safety of a witness and of his or her family and that there is an objective justification for this fear;[\[2\]](#)

CONSIDERING that Article 17(4)(c) of the Statute of the Special Court provides that the Accused shall be entitled “to be tried without undue delay”;

CONSIDERING that the Special Court is located in Sierra Leone where the offences charged against the Accused are alleged to have been committed and that this fact has a substantial impact on the security considerations for victims and witnesses;[\[3\]](#)

CONSIDERING that, to be able to make an objective assessment of the appropriateness of the measures sought by the Defence in its Motion, the Trial Chamber needs to be in possession of all the relevant information showing that there is a real fear for the Defence witnesses and their families and that there is an objective justification for such fear;[\[4\]](#)

CONSIDERING ALSO that, due to the imminent filing by the Defence of the list of the witnesses it intend to call during its case, it will be in the interest of justice, pending final deliberation on the Defence Motion, that the Defence witnesses for the Third Accused be provisionally referred to by pseudonyms;

PURSUANT TO Article 16 and 17 of the Statute of the Special Court and Rule 26bis, 54, 69 and 75 of the Rules of Procedure and Evidence of the Special Court;

THE TRIAL CHAMBER

ORDERS the Defence to provide adequate and appropriate materials in support of the Motion by no later than Monday, the 5th of December, 2005, at 04:00pm;

ORDERS the Prosecution to provide any further submission in rebuttal of the information filed by the Defence, if it wishes to do so, by no later than Wednesday, the 7th of December, 2005;

and, as an interim measure,

FURTHER ORDERS that, pending final deliberation on the Defence Motion, the witnesses for the Defence for the Third Accused, Allieu Kondewa, shall be referred to by pseudonyms;

Done at Freetown, Sierra Leone, this 1st day of December, 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] See also the Prosecution Response, at paras 3ff.

[2] See, for instance, *Prosecutor against Kondewa*, Case No. SCSL-03-12-PT, Ruling on the Prosecution Motion for Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure and urgent Request for Interim Measures until Appropriate Protective Measures are in Place, 10 October 2003, paras 18-19. See also, *Prosecutor against Simba*, Case

No. ICTR-01-76-I, Decision on Defence Request for Protection of Witnesses, 25 August 2004, para. 5. See also *Prosecutor v. Samuel Hinga Norman*, SCSL-03-08-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. Moinina Fofana*, SCSL-03-11-PD, Decision on the Prosecutor's Motion for Immediate Protective Measures for Witnesses and Victims and for Non-public Disclosure, 16 October 2003.

[3] *Prosecutor against Norman, Fofana and Kondewa*, Case No. SCSL-04-14-T, Order on Protective Measures for Additional Witnesses, 21 September 2004.

[4] See also *Prosecutor against Karera*, Case No. ICTR-01-74-R54, Order for Submission – Rule 54 of the Rules of Procedure and Evidence, 21 November 2005.
