

Susan Wright

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

SEIZED OF the “Prosecution Motion for Leave to Call Evidence in Rebuttal and for Immediate Protective Measures for Proposed Rebuttal Witness”, filed by the Office of the Prosecutor (“Prosecution”) on the 13th of October 2006 (“Motion”),^[1] wherein the Prosecution, *inter alia*, seek leave of The Chamber to call one witness to rebut the evidence of a witness called by the Second Accused;

NOTING the “Order for Expedited Filing”, issued by The Chamber on the 13th of October 2006,^[2] wherein The Chamber ordered that “[a]ny Response to the Motion shall be filed no later than Monday, the 16th of October 2006, at 4:00 p.m.” and that “[a]ny Reply to the said Response shall be filed no later than Tuesday, the 17th of October 2006, at 4:00 p.m.”;

NOTING the “Fofana Response to Prosecution Motion for Immediate Protective Measures for Proposed Rebuttal Witness”, filed by Court Appointed Counsel for the Second Accused (“Counsel for Fofana”) on the 16th of October 2006 at 9:10 a.m.,^[3] requesting that The Chamber orders the Prosecution to disclose by 12:00 p.m. on the 16th of October 2006 the interview notes and unredacted statement of the proposed rebuttal witness, on a confidential basis, in order to submit proper arguments in response to the Motion;^[4]

NOTING that Rule 66 “Disclosure of Materials by the Prosecutor” of the Rules of Procedure and Evidence of the Special Court (“Rules”) in its relevant parts states that:

(A) Subject to the provisions of Rules 50, 53, 69 and 75, the Prosecutor shall:

[...]

(ii) Continuously disclose to the Defence copies of the statements of all additional prosecution witnesses whom the Prosecutor intends to call to testify, but not later than 60 days before the date for trial, or as otherwise ordered by a Judge of the Trial Chamber either before or after the commencement of the trial, upon good cause being shown by the Prosecution.[...]

NOTING that in the Motion the Prosecution stated that “a shorter disclosure period with respect to rebuttal evidence might be appropriate to avoid delay” and that “[i]n the interests of justice and fair play the Prosecution will disclose interview notes and the unredacted witness statement of the rebuttal witness in its possession to the Defence immediately, if this application is granted”;^[5]

CONSIDERING that, although The Chamber is still deliberating on whether to call the proposed rebuttal witness, it would be in the interests of justice and for the conduct of a fair and expeditious trial that Counsel for Fofana receive the interview notes and the unredacted

statement of the proposed rebuttal witness in order to bring a considered and full response to the arguments advanced by the Prosecution in the Motion;

PURSUANT to Rules 26*bis*, 54 and 66(A)(ii) of the Rules;

HEREBY ORDERS the Prosecution to disclose immediately to Counsel for Fofana and file with the Court, on a confidential basis, today, the 16th of October 2006 by 12:00 p.m., the interview notes and the unredacted witness statement of the Prosecution proposed rebuttal witness;

Done in Freetown, Sierra Leone, this 16th day of October 2006.

Hon. Justice Benjamin Mutanga
Itoe

Hon. Justice Bankole
Thompson
Presiding Judge
Trial Chamber I

Hon. Justice Pierre Boutet

[Seal of the Special Court for Sierra Leone]

[1] SCSL-04-14-T-715.

[2] SCSL-04-14-T-716.

[3] SCSL-04-14-T-717.

[4] *Ibid.*, paras 4-5.

[5] Motion, para. 18.