

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;

NOTING the “Fofana Final Trial Brief”, filed on the 22nd of November 2006;[\[1\]](#)

NOTING the “Norman Final Trial Brief”, filed on the 22nd of November 2006;[\[2\]](#)

NOTING the “Final Trial Brief of the Third Accused Allieu Kondewa”, filed on the 22nd of November 2006;[\[3\]](#)

NOTING the “Prosecution Final Trial Brief”, filed *confidentially* on the 22nd of November 2006;[\[4\]](#)

NOTING that all three Defence Final Trial Briefs 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 Procedure and Evidence of the Special Court (“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 who may be in danger or at risk, until the Judge or Chamber decides otherwise”;

CONSIDERING that the Prosecution Final Trial Brief has been filed confidentially with an explanation in the Court Management Filing Form that “the document contains identifying information with respect to witnesses who testified in closed session”;

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”;[\[5\]](#)

CONSIDERING that it has been the practice of this Chamber that in those cases where witness protection issues arise, both confidential and public motions and responses may be filed;[\[6\]](#)

RECALLING further that the closing arguments of the Parties are scheduled to commence in open session on the 28th and continue, if necessary, on the 29th of November 2006, where the Parties, *inter alia*, “may respond orally to the other Party’s written submissions”;[\[7\]](#)

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

THE CHAMBER ORDERS the Prosecution to file a public version of the Final Trial Brief of the 22nd of November 2006 with redactions as necessary to protect the identity of the witnesses, as soon as possible, but no later than Monday, the 27th of November 2006 by 2 p.m.;

Done in Freetown, Sierra Leone, this 23rd day of November 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-734.

[\[2\]](#) SCSL-04-14-T-735.

[3] SCSL-04-14-T-736.

[4] SCSL-04-14-T-737.

[5] *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-04-14-T-126, “Decision on Prosecution Motion for Modification of Protective Measures for Witnesses”, the 8th of June 2004, para. 39 (footnotes omitted).

[6] *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-04-14-T-465, “Order to the Prosecution on Filing”, the 20th of September 2005, referring to *Prosecutor v. Brdjanin*, Case No. IT-99-36-T, “Decision on Motion for Acquittal Pursuant to Rule 98bis”, the 28th of November 2003, para. 1.

[7] *Prosecutor v. Norman, Fofana, Kondewa*, SCSL-04-14-T-703, “Order for Filing Final Trial Briefs and Presenting Closing Arguments”, of the 29th of September 2006, Order No. 8.
