

IT-04-81-T
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07 FEBRUARY 2011

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**UNITED
NATIONS**



International Tribunal for the Prosecution of
Persons Responsible for Serious Violations of
International Humanitarian Law Committed in
the Territory of Former Yugoslavia since 1991

Case No. IT-04-81-T

Date: 7 February 2011

Original: English

IN TRIAL CHAMBER I

Before: Judge Bakone Justice Moloto, Presiding
Judge Pedro David
Judge Michèle Picard

Registrar: Mr. John Hocking

Decision of: 7 February 2011

PROSECUTOR

v.

MOMČILO PERIŠIĆ

PUBLIC

**DECISION ON DEFENCE MOTION FOR
RECONSIDERATION OF THE TRIAL CHAMBER'S 4
FEBRUARY 2011 DECISION**

The Office of the Prosecutor

Mr. Mark Harmon

Counsel for the Accused

Mr. Novak Lukić
Mr. Gregor Guy-Smith

TRIAL CHAMBER I (“Trial Chamber”) of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991 (“Tribunal”),

BEING SEISED of the Defence “Motion for Reconsideration of Trial Chamber Decision of 4 February 2011 on Defence Submission Regarding Trial Chamber’s Decision on Defence First and Second Bar Table Motions”, filed publicly on 7 February 2011 (“Motion”), wherein the Defence requests the Trial Chamber to reconsider its “Decision on Defence Submission Regarding Trial Chamber’s Decision on Defence First and Second Bar Table Motions” (“4 February 2011 Decision”) admitting document 02004D into evidence and denying the admission of document 02038D;¹

NOTING that the Defence submits that in its Submission of 20 January 2011,² it erroneously referred to 1D21-0020 as a copy of 02004D and attached it to the same document in e-court, whereas 1D21-0020 is in fact the same article as 02038D and not 02004D;³

NOTING that the Defence also withdraws its request for the admission of 02004D;⁴

NOTING that in the 4 February 2011 Decision the Trial Chamber rejected the admission of 02038D on the grounds that it was identical to 02004D and found that the format of the document submitted by the Defence as 02004D (ID 1D21-0020) was reliable;⁵

NOTING the Defence submission that it has “corrected the error in e-court, and 1D21-0020 is now attached to the proper document, to wit 02038D”;⁶

RECALLING that the Trial Chamber has inherent discretionary power to reconsider a previous decision if there has been a clear error of reasoning or if particular circumstances exist that justify reconsideration in order to prevent an injustice and that such circumstances may include new facts or arguments that have arisen since the issuance of a decision;⁷

¹ Motion, para. 1.

² Mr. Perišić’s Submission Regarding Decision on Defence Motion for the Admission of Evidence from the Bar Table and on Defence Motion to Amend 65^{ter} List and Second Bar Table, 20 January 2011 (Submission of 20 January 2011), paras 7-9.

³ Motion, para. 6.

⁴ Motion, para. 1.

⁵ 4 February 2011 Decision, para. 9.

⁶ Motion, para. 8.

⁷ Decision on Motion for Reconsideration of the Trial Chamber’s Decision of 1 September 2008, 7 October 2008, para. 7.

CONSIDERING that the Trial Chamber already found document ID 1D21-0020 to be reliable and of sufficient relevance and probative value to be admissible under Rule 89 of the Rules of Procedure and Evidence (“Rules”) and that the Defence withdraws the admission of 02004D;

FINDING that the Defence submission relating to document 02038D (ID 1D21-0020) constitutes particular circumstances justifying reconsideration;

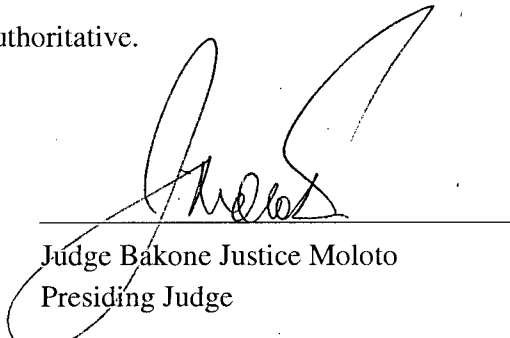
PURSUANT TO Rules 54 and 89 of the Rules;

HEREBY GRANTS the Motion;

ADMITS document 02038D into evidence;

REQUESTS the Registry to assign an exhibit number to *65ter* number 02038D and remove 02004D from the evidence records.

Done in English and French, the English version being authoritative.



Judge Bakone Justice Moloto
Presiding Judge

Dated this seventh day of February 2011

At The Hague

The Netherlands

[Seal of the Tribunal]