



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-PT
Date: 22 September 2006
Original: ENGLISH

IN THE TRIAL CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge Krister Thelin
Judge Frank Höpfel

Registrar: Mr. Hans Holthuis

Order of: 22 September 2006

PROSECUTOR

v.

MOMČILO PERIŠIĆ

**ORDER ON APPLICANT'S RENEWED MOTION SEEKING ACCESS TO
CONFIDENTIAL MATERIAL IN THE *MILOŠEVIĆ* CASE WITH ANNEX A**

The Office of the Prosecutor

Ms. Susan Somers

Counsel for Momcilo Perišić

Mr. James Castle

THIS 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 “Applicant’s Renewed Motion Seeking Access to Confidential Material in the *Milosevic* Case with Annex A”, filed by counsel for Momcilo Perišić (“Applicant”) on 25 July 2006 (“Renewed Motion”), in which the Applicant “resubmits” his request for an order granting him access to confidential materials that accompanied the second amended Croatia indictment against Slobodan Milošević;

NOTING that the Applicant filed a motion seeking access to confidential material in the *Milošević* Case on 24 January 2006¹ (“First Motion”) and that the First Motion was denied in relevant part because Milošević was not charged with any crime arising from any event in Zagreb, there was no temporal overlap between the charges against the Accused Momcilo Perišić and those against Milošević with regard to events in Croatia, and no forensic purpose for access to the requested confidential material relating to Croatia has been shown;²

CONSIDERING that the Renewed Motion seeks reconsideration of the Trial Chamber’s decision denying the First Motion (“Trial Chamber’s Decision”);

NOTING the legal standard for reconsideration of a decision that has been established in the jurisprudence of the Tribunal, as follows:

[A] Chamber has inherent discretionary power to reconsider a previous interlocutory decision in exceptional cases “if a clear error of reasoning has been demonstrated or if it is necessary to do so to prevent injustice”;³

CONSIDERING that in the Renewed Motion the Applicant has not sought to explain why the Trial Chamber’s Decision should be reconsidered;

¹ *Prosecutor v. Milošević*, Case No. IT-02-54-T, Applicant’s Motion Seeking Access to Confidential Information in the *Milošević* Case, 24 January 2006.

² *Prosecutor v. Milošević*, Case No. IT-02-54-T, Order on Applicant’s Motion Seeking Access to Confidential Material in the *Milošević* Case, 22 February 2006, pp. 2, 3.

³ *See Prosecutor v. Milošević*, Case No. IT-02-54-AR108bis.3, Confidential Decision on Request of Serbia and Montenegro for Review of the Trial Chamber’s Decision of 6 December 2005, para. 25, note 40 (quoting *Kajelijeli v. Prosecutor*, Case No. ICTR-98-44A-A, Judgement, 23 May 2005, paras 203–204 and referring to *Prosecutor v. Nahimana et al.*, Case No. ICTR-99-52-A, Decision on Jean-Bosco Barayagwiza’s Request for Reconsideration of Appeals Chamber Decision of 19 January 2005, p. 2); *See also Ndindabahizi v. Prosecutor*, Case No. ICTR-01-71-A,

For these reasons and pursuant to Rule 54 of the Tribunal's Rules of Procedure and Evidence, the Trial Chamber,

HEREBY DENIES THE MOTION, without prejudice to resubmission by the Applicant of his request, which sets out the reasons for reconsideration of the Trial Chamber's Decision.

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



Judge Patrick Robinson
Presiding

Dated this twenty-second day of September 2006
At The Hague
The Netherlands

[Seal of the Tribunal]