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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: 31 October 2008
Original: English

IN TRIAL CHAMBER I

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

Registrar: Mr. Hans Holthuis

Order of: 31 October 2008

PROSECUTOR

v.

MOMČILO PERIŠIĆ

PUBLIC

**ORDER TO PROSECUTION IN RELATION TO
DEFENCE MOTION TO PRECLUDE ADDITIONAL
REPORTS FROM PROSECUTION WITNESS REYNAUD
THEUNENS**

The Office of the Prosecutor

Mr. Mark Harmon
Mr. Daniel Saxon

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 “Confidential Motion to Preclude Additional Reports from Prosecution Witness Reynaud Theunens” (“Motion”), filed on 13 October 2008, whereby the Defence requests the Trial Chamber to preclude the Prosecution from filing an additional report of Mr. Theunens, which is in the process of being prepared;

NOTING the Prosecution “Response to Defence Confidential Motion to Preclude Additional Reports from Prosecution Witness Reynaud Theunens”, filed confidentially on 23 October 2008, whereby the Prosecution requests the Trial Chamber to dismiss the Defence Motion without prejudice, as it is premature;

NOTING that in the alternative, the Prosecution requests to be reserved the right to respond to the substance of the Defence Motion, should the Trial Chamber find it appropriate to decide on the preclusion of Mr. Theunens’ additional report at this stage of the proceedings;

RECALLING that on 14 June 2006, the pre-trial Judge ordered the Prosecution “to provide the reports of any expert witnesses to be called” and set the deadline for doing so at 20 October 2006;¹

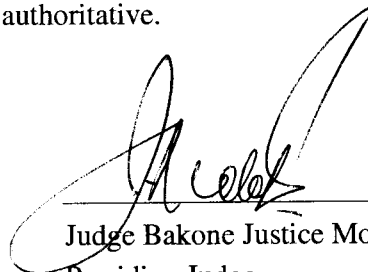
FINDING that, before reviewing Mr. Theunens’ additional report and deciding on its potential admissibility, the Trial Chamber must be satisfied that the Prosecution has shown a good cause for providing the additional report more than two years after the deadline set by the pre-trial Judge;

PURSUANT to Rules 54, 126 *bis* and 127 of the Rules of Procedure and Evidence;

HEREBY ORDERS the Prosecution to file a further response to the Defence Motion presenting the good cause justifying a departure from the pre-trial Judge order of 14 June 2006, within fourteen days from the filing of this order.

¹ Motion, paras 2-7; Status Conference, 14 June 2006, T. 50. On 5 October 2006, the Prosecution filed a “Motion to Vacate Order of 14 June 2006 Concerning Filing Time for Military Experts Reports with Confidential Annex A”. This motion was denied on 11 October 2006. *See* Decision on Prosecution’s Motion to Vacate Order of 14 June 2006. *See also* Status Conference, 11 October 2006, T. 66.

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



Judge Bakone Justice Moloto
Presiding Judge

Dated this thirty-first day of October 2008

At The Hague

The Netherlands

[Seal of the Tribunal]