



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

Case No.: IT-05-88/2-T

Date: 1 June 2012

Original: English

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**IN TRIAL CHAMBER II**

**Before:** Judge Christoph Flügge, Presiding  
Judge Antoine Kesia-Mbe Mindua  
Judge Prisca Matimba Nyambe

**Registrar:** Mr. John Hocking

**Decision of:** 1 June 2012

**PROSECUTOR**

v.

**ZDRAVKO TOLIMIR**

**PUBLIC**

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**DECISION ON ACCUSED MOTION FOR RECONSIDERATION  
OF THE DECISION OF 14 MAY 2012**

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**Office of the Prosecutor**  
Mr. Peter McCloskey

**The Accused**  
Zdravko Tolimir

**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”);

**NOTING** the “Scheduling Order on Final Trial Briefs and Closing Arguments” issued on 14 February 2012, in which the Chamber ordered the Final Trial Briefs to be submitted no later than Thursday, 31 May 2012;

**NOTING** the “Consolidated Decision on the Prosecution’s Bar Table Motions and the Accused’s Motion for Extension of Time” issued on 14 May 2012 (“Decision”), in which the Chamber granted in part the Accused’s request for an extension of the deadline for his Final Trial Brief to be submitted no later than Monday, 11 June 2012;<sup>1</sup> therein, the Chamber was mindful of the fact that the Accused spent time preparing the response to the Prosecution’s bar table motion of 30 March 2012 and “prepar[ed] for the contingency that the Proposed Exhibits might be admitted”;<sup>2</sup> the Chamber also “[took] into account the fact that none of the Proposed Exhibits [were] admitted into evidence” therefore “an extension until 20 June 2012 would be disproportionate”;<sup>3</sup>

**BEING SEISED OF** the “Defence Motion for Review of the Trial Chamber’s Decision of 14 May 2012”, submitted by the Accused Zdravo Tolimir (“Accused”) in BCS on 29 May 2012 and filed in English on 30 May 2012 (“Motion”), in which the Accused requests that the Chamber reconsider its partial grant of an extension of time for the submission of the Final Trial Briefs;

**NOTING** that the Accused submits that the Chamber erred when applying the “criterion of proportionality”,<sup>4</sup> stating that the Accused “had to spent a significant amount of time on analysing [the documents proffered in the Prosecution’s bar table motion of 30 March 2012] and [take] a position on their possible influence on the final outcome of the proceedings, inspecting each document individually” and that “the fact that the Chamber rejected the Prosecution’s bar table motions cannot compensate [him] for the time [he] spent on analysing these documents”;<sup>5</sup>

**NOTING** the “Prosecution’s Response to Defence Motion for Review of the Trial Chamber’s Decision of 14 May 2012” filed on 31 May 2012 (“Response”), in which the Prosecution submits that it does not oppose the Accused’s request for an extension;<sup>6</sup>

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<sup>1</sup> The Chamber also ordered that the extension of time shall apply equally to both Parties. Decision, p. 15.

<sup>2</sup> *Ibid.*, para. 48.

<sup>3</sup> *Ibid.*

<sup>4</sup> Motion, paras. 4, 7.

<sup>5</sup> *Ibid.*, paras. 5–6.

<sup>6</sup> Response, p. 1.

**NOTING** that the standard for reconsideration is such that a Chamber has “inherent discretionary power to reconsider a previous decision in exceptional cases if a clear error of reasoning has been demonstrated or if it is necessary to do so to prevent an injustice”;<sup>7</sup>

**CONSIDERING** that in his Motion, the Accused presents the same arguments as previously considered in the Chamber’s Decision of 14 May 2012;

**CONSIDERING** that, as stated above, in the Decision the Chamber carefully assessed the request for an extension of time based on the Accused’s need to review the proffered documents, including two which were of a substantial nature;

**CONSIDERING** that none of the documents were admitted from the bar table, so that review of the documents was necessary only for the purposes of preparing a response;

**CONSIDERING** that under Article 20 (1) of the Statute of the Tribunal, the Chamber has a duty to ensure fair and expeditious proceedings to preserve the rights of the Accused;

**CONSIDERING** that, despite the Accused’s assurance that a further extension of time “would not affect the schedule for the oral arguments”,<sup>8</sup> the requested extension would truncate the period of time allotted for the Chamber and Parties to review the Final Trial Briefs in anticipation of the closing arguments scheduled for 21 and 22 August 2012; as such, the extension sought would affect the scheduled presentation of the oral arguments and ultimately the finalisation of the trial and such impact on the scheduling is contrary to expeditious proceedings and the rights of the Accused;

**CONSIDERING** that, therefore, the Accused has not demonstrated a clear error of reasoning in the Decision or that a further extension of time is required to prevent an injustice;

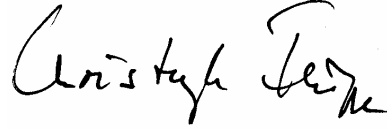
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<sup>7</sup> See, e.g., Decision on Prosecution’s Request for Reconsideration of the Admission of Written Evidence of Witness No. 39 Pursuant to Rule 92 *bis*, 4 November 2011, para. 17; Decision on Second Preliminary Motion on the Indictment Pursuant to Rule 72 of the Rules, 1 October 2008, para. 33; *Prosecutor v. Tolimir*, Case No. IT-05-88/2-AR73.1, Decision on Zdravko Tolimir’s Request for Reconsideration of Appeals Chamber’s Decision of 28 March 2008, 18 June 2008, para. 8.

<sup>8</sup> Motion, para. 10.

**HEREBY DENIES** the Motion.

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



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Judge Christoph Flügge  
Presiding Judge

Dated this first day of June 2012  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**