



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: 29 June 2010

Original: English

**IN TRIAL CHAMBER I**

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

**Registrar:** Mr. John Hocking

**Decision of:** 29 June 2010

**PROSECUTOR**

v.

**MOMČILO PERIŠIĆ**

***PUBLIC***

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**DECISION IN RESPECT OF JOINT SUBMISSION OF  
AGREED FACTS PROPOSED BY THE DEFENCE**

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**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 “Joint Submission of Agreed Facts Proposed by the Defence, with Annex A” filed publicly on 11 June 2010 (“Joint Submission”), whereby the Parties request the Trial Chamber to “take judicial notice” of 161 “proposed agreed facts” (“Proffered Facts”);<sup>1</sup>

**CONSIDERING** that it is the Trial Chamber’s understanding that the relief sought in the Joint Submission is recording Proffered Facts as agreed facts under Rule 65 *ter*(H) of the Rules of Procedure and Evidence (“Rules”) rather than taking judicial notice of facts pursuant to Rule 94(B) of the Rules to which the Prosecution does not oppose;

**NOTING** that Rule 65 *ter*(H) of the Rules provides that “[t]he pre-trial Judge shall record the points of agreement and disagreement on matters of law and fact” and that Rule 65 *ter*(M) of the Rules provides that “[t]he Trial Chamber may *proprio motu* exercise any of the functions of the pre-trial Judge”;

**NOTING** Rule 89(C) of the Rules which provides that “[a] Chamber may admit any relevant evidence which it deems to have probative value” and that Rule 89(D) of the Rules provides that “[a] Chamber may exclude evidence if its probative value is substantially outweighed by the need to ensure a fair trial”;

**CONSIDERING** that the recording of points of agreement between the Parties at the trial stage results in acceptance of those points as evidence pursuant to Rule 89 of the Rules;

**CONSIDERING** that the Proffered Facts are of relevance and probative value to the current case and that their probative value is not substantially outweighed by the need to ensure a fair trial;

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<sup>1</sup> Joint Submission, paras 1, 3; Annex A.

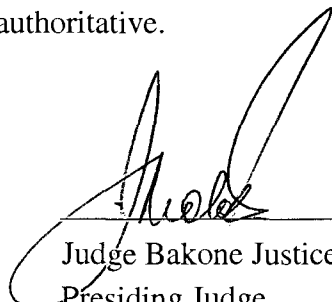
**PURSUANT TO RULES 65 ter(H), 65 ter(M) and 89 of the Rules**

**GRANTS** the Joint Submission;

**RECORDS** the agreement of the Parties regarding the Proffered Facts; and

**ADMITS** the Proffered Facts into evidence.

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



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Judge Bakone Justice Moloto  
Presiding Judge

Dated this twenty ninth day of June 2010

At The Hague

The Netherlands

**[Seal of the Tribunal]**