

IT-04-81-T
D26619 -D26617
22 NOVEMBER 2010

26619

27

**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: 22 November 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: 22 November 2010

PROSECUTOR

v.

MOMČILO PERIŠIĆ

PUBLIC

**DECISION ON DEFENCE MOTION FOR
CLARIFICATION OF TRIAL CHAMBER DECISION OF
4 NOVEMBER 2010**

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 Clarification of Trial Chamber Decision of 4 November 2010” filed on 12 November 2010 (“Motion”);

NOTING that the Defence requests clarification of the Trial Chamber “Decision on Motion to Reopen the Prosecution Case and Tender Documents through the Bar Table” issued on 4 November 2010 (“Decision”);¹

NOTING that the Decision, *inter alia*, granted the Prosecution motion to reopen its case and admitted certain portions of the Mladić Diaries, including XN444 and XN445 (“Documents”);²

NOTING that, in the Motion, the Defence takes issue with the Trial Chamber’s finding that the Documents “relate to VJ assistance to military entities outside the FRY, including the SVK and Fikret Abdić’s forces” and thus are “*prima facie* sufficiently relevant and of probative value to the allegations set out in the Indictment”³ on the grounds that Mr. Perišić is neither charged with assisting military entities outside the FRY nor is he charged with aiding and abetting the SVK;⁴

NOTING that, in the Motion, the Defence itself identifies the portions of the Indictment, wherein it is alleged that Mr. Perišić provided material and logistical assistance to the SVK and the VRS;⁵

CONSIDERING that while the Trial Chamber does not dispute that the Indictment does not allege that the VJ provided assistance to the Fikret Abdić’s forces, it is of the view that the Documents are relevant to several factual issues in the case including Mr. Perišić’s practical ability to provide logistical assistance to other military entities;

HEREBY CLARIFIES that the Trial Chamber’s finding as to the *prima facie* relevance of the Documents in no way extends the allegations against Mr. Perišić beyond those included in the Indictment.

¹ Motion, paras 5, 10.

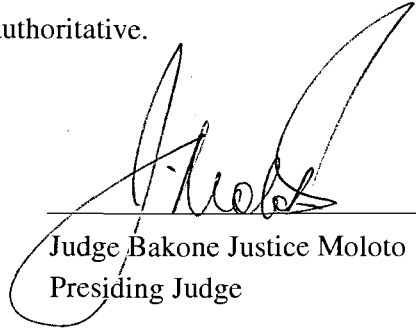
² Decision, paras 11, 15,

³ See Decision, para. 11.

⁴ Motion, paras 6-8.

⁵ Motion, para. 8 citing paras 24-28 of the Second Amended Indictment.

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



Judge Bakone Justice Moloto
Presiding Judge

Dated this twenty-second day of November 2010

At The Hague

The Netherlands

[Seal of the Tribunal]