

IT-04-81-T
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07 FEBRUARY 2011

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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: 7 February 2011

Original: English

IN TRIAL CHAMBER I

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

Registrar: Mr. John Hocking

Decision of: 7 February 2011

PROSECUTOR

v.

MOMČILO PERIŠIĆ

PUBLIC

**DECISION ON SECOND DEFENCE MOTION FOR
RECONSIDERATION OF THE TRIAL CHAMBER'S 4
FEBRUARY 2011 DECISION**

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 “Second Motion for Reconsideration of Trial Chamber Decision of 4 February 2011 on Defence Submission Regarding Trial Chamber’s Decision on Defence First and Second Bar Table Motions”, filed publicly on 7 February 2011 (“Motion”), wherein the Defence requests the Trial Chamber to reconsider its “Decision on Defence Submission Regarding Trial Chamber’s Decision on Defence First and Second Bar Table Motions” (“4 February 2011 Decision”) to admit Defence 65*ter* number 00554D based on the translation uploaded as 1D21-0023 and admit OTP 65*ter* number 00554 in its place;¹

NOTING that on 1 December 2010, the Trial Chamber deferred its ruling on the admission of several documents including OTP 65*ter* number 00554 pending the provision of a correct English translation;²

NOTING that the Defence submits that in its Submission of 20 January 2011,³ it requested the Trial Chamber to admit OTP 65*ter* number 00554 into evidence on the grounds that it had uploaded a revised CLSS translation;⁴

RECALLING that a Trial Chamber has inherent discretionary power to reconsider a previous decision if there has been a clear error of reasoning or if particular circumstances exist that justify reconsideration in order to prevent an injustice and that such circumstances may include new facts or arguments that have arisen since the issuance of a decision;⁵

FINDING that the Trial Chamber in its 4 February 2011 Decision erroneously admitted Defence 65*ter* number 00554D into evidence rather than OTP 65*ter* number 00554 and that this error justifies reconsideration;

PURSUANT TO Rules 54 and 89 of the Rules of Procedure and Evidence;

HEREBY GRANTS the Motion;

ADMITS document OTP 65 *ter* number 00554 into evidence in the place of 00554D;

¹ Motion, para. 1.

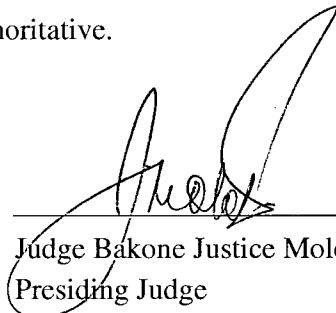
² Decision on Defence Motion for the Admission of Evidence from the Bar Table, para. 6.

³ Mr. Perišić’s Submission Regarding Decision on Defence Motion for the Admission of Evidence from the Bar Table and on Defence Motion to Amend 65*ter* List and Second Bar Table, paras 7-9.

⁴ Motion, para. 3.

REQUESTS the Registry to assign an exhibit number to OTP 65^{ter} number 00554.

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



Judge Bakone Justice Moloto
Presiding Judge

Dated this seventh day of February 2011

At The Hague

The Netherlands

[Seal of the Tribunal]

⁵ Decision on Motion for Reconsideration of the Trial Chamber's Decision of 1 September 2008, 7 October 2008, para. 7.