



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-98-29/1-A  
Date: 12 July 2012  
Original: English

**THE PRESIDENT OF THE TRIBUNAL**

**Before:** Judge Theodor Meron, President  
**Registrar:** Mr. John Hocking  
**Order of:** 12 July 2012

**PROSECUTOR**

v.

**DRAGOMIR MILOŠEVIĆ**

***PUBLIC***

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**DECISION ON MOTION FOR RECONSIDERATION**

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**Office of the Prosecutor**

Mr. Peter Kremer QC

**Counsel for Dragomir Milošević**

Mr. Stéphane Bourgon

**Counsel of Record**

Mr. Branislav Tapušković

Ms. Branislava Isailović

**I, THEODOR MERON**, President 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 “Motion on Behalf of Dragomir Milošević Seeking Disclosure of Rule 68 Material”, filed publicly with confidential annexes by Dragomir Milošević on 29 May 2012 (“Motion”);

**NOTING** the “Order Assigning a Trial Chamber to Consider Dragomir Milošević’s Motion Seeking Disclosure of Rule 68 Material”, issued on 27 June 2012 (“Order Assigning a Trial Chamber”), by which I assigned the Motion to Trial Chamber I of the Tribunal;

**NOTING** the “Motion for Reconsideration of Order Assigning a Trial Chamber to Consider Dragomir Milošević’s Motion Seeking Disclosure of Rule 68 Material”, filed by the Office of the Prosecutor (“Prosecution”) on 2 July 2012 (“Motion for Reconsideration”), in which the Prosecution requests that I reconsider the Order Assigning a Trial Chamber and re-assign the Motion to the same bench of the Appeals Chamber of the Tribunal that rendered the Judgement in this case;<sup>1</sup>

**RECALLING** that reconsideration is permitted where, *inter alia*, the impugned decision presents a clear error of reasoning or particular circumstances justify its reconsideration in order to avoid an injustice;<sup>2</sup>

**CONSIDERING** that the Appeals Chamber of the International Criminal Tribunal for Rwanda has recently held that it lacks jurisdiction to consider a post-appeal motion for disclosure of exculpatory material when there is no proceeding pending before it;<sup>3</sup>

**CONSIDERING** that the *Niyitegeka* Decision overruled the precedent related to post-appeal requests for disclosure relied upon by the Prosecution in the Motion for Reconsideration;<sup>4</sup>

**CONSIDERING**, therefore, that the Prosecution has failed to demonstrate that reconsideration of the Order Assigning a Trial Chamber is warranted;

<sup>1</sup> Motion for Reconsideration, paras 1-2, 4.

<sup>2</sup> *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-T, Decision on Request for Review of Decision on Defence Team Funding, 31 January 2012, para. 38 and references cited therein. See also *ibid.*, para. 37.


<sup>3</sup> See *Eliézer Niyitegeka v. The Prosecutor*, Case No. ICTR-96-14-R, Decision on Motion for Disclosure, 10 May 2011 (“*Niyitegeka* Decision”), para. 4.

<sup>4</sup> See *Niyitegeka* Decision, para. 4 n. 8 (referring to *Eliézer Niyitegeka v. The Prosecutor*, Case No. ICTR-96-14-R, Decision on Motion to Order the Prosecution to Comply with a Trial Chamber Decision, 6 October 2010, and *Jean de Dieu Kamuhandu v. The Prosecutor*, Case No. ICTR-99-54A-R68, Decision on Motion for Disclosure, 4 March 2010). See also Motion for Reconsideration, para. 3 n. 6. The remaining precedent cited by the Prosecution is not relevant. See Motion for Reconsideration, para. 3 nn. 7-8.

**HEREBY DENY** the Motion for Reconsideration.

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

Done this 12th day of July 2012,  
At The Hague,  
The Netherlands.

  
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Judge Theodor Meron  
President

**[Seal of the Tribunal]**