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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 the Former Yugoslavia
since 1991

Case No.

IT-03-69-T

Date:

17 September 2010

Original:

English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Michèle Picard
Judge Elizabeth Gwaunza

Registrar: Mr John Hocking

Decision of: 17 September 2010

PROSECUTOR

v.

JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ

PUBLIC

THIRD DECISION AMENDING MODALITIES FOR TRIAL

Office of the Prosecutor

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The Accused Stanišić's attendance in court since September 2009

1. On 29 May 2009, the Chamber issued its Decision on Start of Trial and Modalities for Trial ("Modalities Decision"). On 9 June 2009, the Chamber issued its Decision Amending Modalities for Trial and on 1 September 2009, the Chamber issued its Second Decision Amending Modalities for Trial.¹ Since then, the trial has proceeded with a sitting schedule of two days per week, although there have been a number of adjournments.² On 30 November 2009, the Accused Stanišić ("the Accused") participated in court proceedings for the first time since the start of the trial, through video-conference link from the United Nations Detention Unit ("UNDU").³ On 20 January 2010, the Accused attended the hearing in court in person for the first time since the start of the trial.⁴ The Accused has been present in court at all court sessions since that date, with the exception of the sessions of 1-2 June 2010, for which the Accused waived his right to be present⁵ and 22 June 2010, when no evidence was heard and for which the Accused waived his right to be present.⁶ Further, the Accused was not present at the session of 5 July 2010 and had not waived his right to be present. The Chamber heard no evidence on this occasion and adjourned the session after having dealt with a number of procedural matters that the Counsel of the Accused confirmed could be dealt with in the absence of the Accused.⁷ The Chamber considers that the above developments are important and they will be reflected in the amended modalities for the trial, as set out in the Annexes to this decision, in particular with regard to the frequency of medical reporting and the status of the medical reports.

Submissions on increased sitting schedule

2. On 28 June 2010, the Chamber invited the parties to make submissions with regard to an increased number of court sitting days per week after the summer recess, and to file these no later than 9 July 2010.⁸ On 1 July 2010, the Stanišić Defence requested through the Chamber that the Reporting Medical Officer ("RMO") address a number of questions related to the Accused's health and an increased number of sitting days per week ("Request").⁹ On 6

¹ See also Corrigendum to Second Decision Amending Modalities for Trial, 7 September 2009.

² See, for example, Decision on Motion for Adjournment of Proceedings by the Simatović Defence, 15 October 2009 ("First Simatović Adjournment Decision").

³ See T. 2201-2203.

⁴ See T. 2736.

⁵ T. 5508-5511.

⁶ T. 5909-5910, 5960.

⁷ T. 6102-6115.

⁸ T. 5962-5963.

⁹ Stanišić Defence Request for Medical Opinion from Reporting Medical Officer, 1 July 2010.

July 2010, the Prosecution responded that it did not object to the Request and requested that two additional questions be put to the RMO.¹⁰ On 8 July 2010, the Chamber extended the deadline for the Stanišić Defence to make its submissions and requested the RMO and the independent experts to address the following question:

The Chamber is considering gradually increasing the court sitting days from two to four days per week after the summer recess. The increased sitting schedule will last approximately until the winter recess, although it might be extended beyond that. In your view, are there any objective medical reasons which would prevent [the Accused] from participating in such an increased sitting regime during this period, either in person or, if he so wishes, through the video-conference link from the [UNDU]? If so, please provide explanations for your opinion. In your explanations, please also provide references to any medical literature on which you rely. Please also take into account that an increased number of days in court would involve an increase in trial preparation for [the Accused] out of court.¹¹

3. On 14 July 2010, the RMO submitted his response, stating that the Accused's "general health state, although troubled by kidney stone attacks, seen in the light of [his] capacity to participate in activities, has clearly improved greatly these last months".¹² He added that this was also the opinion of the medical team at the UNDU.¹³ The RMO added further details, including that the Accused's pouchitis and colitis were not expected to give short term problems, that the Accused's back problems and osteoporosis had given little trouble during the last months, and that the Accused's depression, although less intense, was still present and being treated.¹⁴ The RMO concluded that "[the Accused] is able to participate in the proceedings 3 days per week in the court for up to 5 hours if divided in periods of 1 hour and 15 minutes separated by a 30 minutes break", and that, in his opinion, a schedule of hearings on four days per week should be possible.¹⁵ He added that the possibility for the Accused to participate via the video-conference link from the UNDU and a temporary return to a less frequent schedule "to prevent a detrimental impact on [the Accused's] health" should remain options.¹⁶

¹⁰ Prosecution Submission on "Stanišić Defence Request for Medical Opinion from Reporting Medical Officer", 6 July 2010, paras 2-3.

¹¹ Decision on Stanišić Defence Request for Medical Opinion from Reporting Medical Officer and Related Requests to Medical Experts, 8 July 2010, para. 4. The deadline set for the RMO was 16 July 2010 and for independent experts and the Stanišić Defence 23 July 2010. On 19 July 2010, the deadline for the Stanišić Defence was extended to three days after the filing of the reports by the independent experts (T. 6308-6309). On 26 July 2010, the Chamber decided that the three days would start running from the day the Stanišić Defence had received the report and informed the parties accordingly through an informal communication.

¹² Medical report by Dr Michael Eekhof, Reporting Medical Officer, dated 13 July 2010, filed on 14 July 2010 through Registry Submission of Medical Report ("14 July 2010 RMO Report").

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

4. On 23 July 2010, the two independent experts, Dr Siersema and Dr de Man, submitted their responses to the question above.¹⁷ Dr Siersema had no objections to an increased sitting schedule but recommended that the increase be gradual over a period of three months.¹⁸ Dr de Man concluded that “[d]espite the recurring signs of pouchitis, causing loss of sleep quality and [...] use of sedating pain medication the general mental health of [the Accused] is still improving”.¹⁹ He concluded that a schedule with four court hearings per week could be introduced “provided that [the Accused’s] physical condition and/or the medication prescribed by his treating physicians do not interfere”.²⁰

5. On 2 July 2010, the Prosecution submitted that it defers matters of scheduling to the Chamber and generally supports any increase in the number of sitting days per week.²¹ The Prosecution requested that any decision to increase the number of sitting days be delivered at least one month prior to such an increase, to allow sufficient time to reschedule witnesses.²² The Prosecution also submitted that the Chamber may want to consider adopting an approach that allows some flexibility in the schedule so that, for example, if the schedule were increased to three sitting days per week, there would be a regular possibility to go into a partial fourth day to conclude a particular witness’s testimony.²³

6. The Simatović Defence stated that the present composition of the defence team was formed only in September 2009 and referred to its previous submissions on the problems and difficulties this had caused, including in relation to readiness for cross-examination.²⁴ The Simatović Defence added that any increase in sitting days would undermine its ability to adequately prepare for cross-examination of Prosecution witnesses.²⁵ The Simatović Defence further emphasized that the Chamber had taken into account a sitting schedule of two days per week in two decisions on adjournments in October 2009 and February 2010, respectively.²⁶ It added that, if an increase in hearing days is “inevitable”, an increase to more than three days per week would “make impossible any competent and professional representation of Mr. Simatović”.²⁷ It further added that the Prosecution’s concerns with regard to witness

¹⁷ Medical report by Dr Siersema, dated 21 July 2010 and Psychiatric Evaluation by Dr de Man, dated 23 July 2010, filed on 23 July 2010 through Registry Submission of Medical Expert Reports.

¹⁸ Ibid., p. 4.

¹⁹ Ibid., p. 7.

²⁰ Ibid.

²¹ Prosecution Submission on Hearing Schedule After July 2010, 2 July 2010, para. 2.

²² Ibid., para. 2.

²³ Ibid., para. 3.

²⁴ Defence Submission on Hearing Schedule, 8 July 2010, para. 4.

²⁵ Ibid., para. 6.

²⁶ Ibid., para. 5. See First Simatović Adjournment Decision and Decision on Urgent Simatović Defence Request for Adjournment, 23 February 2010.

²⁷ Ibid., para. 7.

scheduling could be alleviated by scheduling hearings at the end of one week and the beginning of the following week.²⁸

7. On 29 July 2010, the Stanišić Defence submitted that the conclusions provided by the RMO and the two independent experts that the Accused is sufficiently well to deal with an increase in the sitting schedule to four days per week were likely wrong since they had not considered the volume of work to be done outside court sitting hours.²⁹ The Stanišić Defence argued that the ongoing Defence preparations were substantial, in particular since “[d]uring the last two years the Prosecution’s case against both Accused has undergone a substantial transformation in its factual underpinnings”.³⁰ It submitted that any increase to four days per week should be delayed until the parties have been provided an opportunity to examine the RMO and the independent experts in court.³¹ The Stanišić Defence finally submitted that it would not be able to conduct the requisite defence preparation in circumstances where the court sits for more than three days per week, and even then it would be forced to make ad hoc applications to adjourn or cancel certain court hearings.³²

8. The Chamber considers these submissions, also in light of other factors referred to in this decision, and its considerations will be reflected in the amended modalities for the trial, as set out in the Annexes to this decision.

Scheduling in other cases

9. As set out in the Modalities Decision, the scheduling of other cases in which the Judges in the present Chamber are involved is a factor when considering the scheduling in the present case. In this respect, the Chamber notes that the final arguments in the *Prosecutor v. Ante Gotovina et al.* case, on which Judge Orić and Judge Gwaunza are sitting, were heard on 30-31 August and 1 September 2010, after which the Trial Chamber in that case adjourned the proceedings *sine die*.³³ The Pre-Defence conference in the *Prosecutor v. Momčilo Perišić* case, on which Judge Picard is sitting, was held on 10 February 2010 and the Trial Chamber in that case then decided to grant the Defence 180 hours in which to present its case.³⁴ These schedules are reflected in the amended modalities for the trial, as set out in the Annexes to this decision.

²⁸ Ibid., para. 8.

²⁹ Defence Submission on Court Sitting Days After Summer Recess Period, 29 July 2010, para. 11.

³⁰ Ibid., paras 16-21.

³¹ Ibid., para. 12.

³² Ibid., paras 14, 22.

³³ *Prosecutor v. Ante Gotovina et al.*, T. 29457.

³⁴ *Prosecutor v. Momčilo Perišić*, T. 9845.

The role of the RMO

10. In December 2009, the Prosecution and the Stanišić Defence made submissions on the role of the RMO, following a Rule 33 (B) submission of 14 December 2009 by the Deputy Registrar.³⁵ With regard to the role of the RMO, the Registry submitted that the position was relatively new and that it “was established in order to respond to increasing requests for medical information and facilitate reports on detainees both from judicial organs of the Tribunal and from detainees’ legal representatives”.³⁶ It added that the RMO acts under the supervision of the Medical Officer and is part of the Medical Service of the UNDU.³⁷ The Prosecution argued, based on its interpretation of statements made by the Chamber, that the RMO should have no treatment responsibilities toward the Accused and should serve the function of an independent medical expert.³⁸ The Chamber accepts that the position of the RMO is part of the Medical Service of the UNDU and that his role is primarily one of reporting, rather than treating.

11. Both the Prosecution and the Stanišić Defence agreed that information from the RMO should be sought by the parties on an *inter partes* basis and through a request to the Chamber, and this has also been the practice in this case until now.³⁹ The Chamber endorses this practice. The Prosecution, in a submission of 10 December 2009, requested the Chamber to issue an order to the Stanišić Defence to produce all *ex parte* communications with the RMO since the commencement of trial, arguing that it needed this information to address the provisional release request at the time.⁴⁰ The Chamber does not find that the Prosecution has

³⁵ Registry Submission Pursuant to Rule 33(B) of the Rules Regarding Defence Requests for Medical Reports, 14 December 2009 (“Rule 33 (B) Submission”); Prosecution Response to Registry Submission Regarding Defence Requests for Medical Reports and Motion for Clarification from Trial Chamber, 17 December 2009 (“Prosecution’s RMO Submission”); Defence Response to registry Submission Pursuant to Rule 33(B) of the Rules Regarding Defence Requests for Medical Reports with Confidential Annex, 18 December 2009 (“Defence’s RMO Submission”); Defence Addendum to “Defence Response to Registry Submission Pursuant to Rule 33 (B) of the Rules Regarding Defence Requests for Medical Reports with Confidential Annex”, 23 December 2009. On 14 December 2009, the Chamber instructed the parties that any responses to the Rule 33 (B) Submission should be filed no later than 18 December 2009 and informed the parties accordingly through an informal communication. Parts of the submissions made by the Stanišić Defence were discussed in an *ex parte* meeting between the Presiding Judge of the Chamber, a representative of the Office of Legal Aid and Detention Matters in the Registry, and two representatives of the Stanišić Defence on 6 July 2010, and therefore do not have to be addressed in this Decision (see T. 6103-6105, 6116).

³⁶ Rule 33 (B) Submission, para. 5

³⁷ *Ibid.*, para. 6.

³⁸ Prosecution’s RMO Submission, paras 7-10.

³⁹ Prosecution Response to “Urgent Stanišić Defence Motion for Provisional Release”, 26 October 2009, para. 10; Defence’s RMO Submission, para. 2. The request made by the Prosecution in the Response to Third Urgent Stanišić Defence Motion for Provisional Release of 10 December 2009 for the Chamber to prohibit any further direct communication with the RMO by the parties is thereby moot.

⁴⁰ Prosecution Response to Third Urgent Stanišić Defence Motion for Provisional Release, 10 December 2009, paras 27, 29.

demonstrated that an order to the Stanišić Defence for the purpose mentioned would be necessary and therefore denies the request.

12. Finally, the Chamber accepts the system of regular reporting by the RMO and therefore finds that there is no longer any need to refer to independent medical experts in the modalities for the trial.

Conclusion

13. Based on the above, the Chamber concludes that changed circumstances, in particular in relation to the health of the Accused and his participation in the court proceedings, warrant a number of modifications in the modalities for the trial. In this respect, the Chamber has considered the reports by the RMO and the independent experts, the developments since the Second Decision Amending Modalities for Trial, and the other trial commitments of the Judges in the present Chamber.

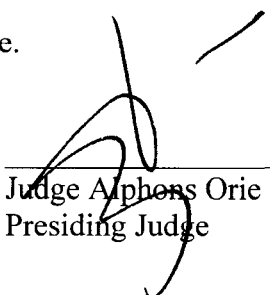
Disposition

14. In light of the foregoing, the Chamber **DECIDES** to make the necessary amendments to the modalities for the trial. The changes to the modalities are highlighted in Annex A to this decision. The new operative modalities are attached as Annex B to this decision and they will be operative, starting the week of 25 October 2010.

15. The Chamber further **DENIES** the Prosecution's request to order the Stanišić Defence to produce all *ex parte* communications with the RMO since the commencement of trial.

16. The Chamber further **INSTRUCTS** the Registry to make the necessary arrangements for the modalities as attached as Annex B to be operative.

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



Judge Alphons Orié
Presiding Judge

Dated this seventeenth day of September 2010
At The Hague
The Netherlands

[Seal of the Tribunal]

ANNEX A

(Additions to the Modalities for Trial of 1 September 2009 are marked in bold and deletions are struck-through)

Modalities for the trial in the case *Prosecutor v. Jovica Stanišić and Franko Simatović*

1. ~~As set out in the Scheduling Order for Recommencement of Trial of 24 April 2009,~~ The Chamber will ~~only~~ hold hearings in the present case ~~two~~**three** days a week. **Unless otherwise decided by the Chamber**~~If decided by the Chamber upon a request by Mr Stanišić,~~ the daily hearings will be divided into sessions of 1 hour and 15 minutes, with breaks lasting 30 minutes. Mr Stanišić can at all times address the Chamber if he has a need for additional breaks. Whenever and insofar as the courtroom schedule of the Tribunal allows this, the hearings will be conducted on consecutive days and in a manner as to avoid long interruptions of the presentation of evidence. **To the extent possible,** the hearings will also take place in the afternoon in order to facilitate any determination of the medical status of Mr Stanišić prior to the hearing.
2. The schedule set out in item 1 is valid until decided otherwise by the Chamber. In addition, the Chamber will make any adjustments to this schedule that it deems fit, in particular taking into account the Judges' trial schedule and the health of Mr Stanišić. The Chamber may invite submissions of the parties with regard to any such adjustments.
3. During Mr Stanišić's detention at the United Nations Detention Unit ("UNDU"), the UNDU Reporting Medical Officer ~~or an independent medical expert~~ will submit a written report to the Chamber on the medical condition of the Accused once a week, so as to allow for adjustments in the schedule set out in item 1, if necessary. In addition, Mr Stanišić is to be examined at least once every ~~eight~~**twelve** weeks by a gastroenterologist who will report in writing to the Chamber on the Accused's medical condition after each examination. Mr Stanišić is also to be examined by a psychiatrist who will report in writing to the Chamber on the Accused's medical condition once every ~~eight~~**twelve** weeks. If the Chamber considers it necessary, based on the regular reporting set out above, it will request that any other medical specialist examine Mr Stanišić and report in writing to the Chamber. All the reports referred to in this item should be filed ~~confidentially~~**publicly** unless the Chamber indicates otherwise. ~~Any sensitive personal information about Mr Stanišić or third parties that is not directly related to Mr Stanišić's ailments should be filed confidentially in a separate annex to the report.~~

4. Mr Stanišić will be physically present in court during the court hearings. As all accused before the Tribunal, Mr Stanišić may waive his right to be present in court. If he waives this right due to illness, Mr Stanišić is to follow the procedure set out by the Registry, including filling out the form for waiving the right as will be provided to him by the staff of the UNDU.

5. In order to further accommodate Mr Stanišić, the Chamber will allow him, if he opts to, not to be present in court but instead follow the proceedings via a video-conference link from the UNDU. For this purpose, an observation room with toilet facility has been arranged at the UNDU in close vicinity to Mr Stanišić's cell. Mr Stanišić should inform the staff of the UNDU of this decision at the earliest possible time. The staff of the UNDU should convey this message to the Chamber, via the Court Officer, before the start of the hearing on any particular day. A video-conference link will allow Mr Stanišić to follow the proceedings, to see the witnesses at all times, and to address the court. The Chamber and the parties in the courtroom will also be able to see Mr Stanišić at the video-conference link. A telephone line will allow Mr Stanišić to communicate with his counsel in the courtroom and a member of the Defence team may be present with Mr Stanišić at the UNDU. Mr Stanišić will also have access to eCourt and Livenote transcript in the observation room.

6. On each court day, the Commanding Officer, Deputy Commanding Officer or any other authorized officer of the UNDU shall remind Mr Stanišić of the court schedule for the day and that the normal arrangements are in place for his transport to court. If Mr Stanišić indicates that he is too unwell to attend court in person, the Commanding Officer is to remind him of his right to be present in court, ask him if he waives his right to attend and offer him the opportunity to communicate with counsel. The Commanding Officer shall also inform Mr Stanišić that he may make use of the video-conference link from the UNDU, should he opt not to physically attend court.

7. If Mr Stanišić does not waive his right to be physically present and does not opt to participate in the proceedings via video-conference link from the UNDU but claims that he is too ill to go to court, he shall be medically examined before the court session. The Reporting Medical Officer at the UNDU ~~or an independent medical expert~~ shall familiarize him or herself with the medical condition of Mr Stanišić and submit, through the Court Officer, a written report to the Chamber. This report will be filed **confidentially** ~~publicly~~ unless the Chamber indicates otherwise. ~~Any sensitive personal information about Mr Stanišić or third parties that is not directly related to Mr Stanišić's ailments should be filed confidentially in a separate annex to the report.~~ The Reporting Medical Officer at the UNDU ~~or the independent medical expert~~ shall also be ready to report orally to the Chamber at the beginning of the court

session. The Commanding Officer, Deputy Commanding Officer or any other authorized officer of the UNDU shall inform the Chamber, through the Court Officer, about the above as soon as possible, including that Mr Stanišić is being or has been medically examined. At the beginning of the court session, Defence Counsel shall confirm to the Chamber that Mr Stanišić has not waived his right to be present. The Chamber shall then, if it deems necessary, hear the Reporting Medical Officer ~~or the independent medical expert~~ in court or through the video-conference link on the medical condition of Mr Stanišić. The Chamber may also seek further information about the condition of Mr Stanišić from other sources, as it deems fit.

8. Upon hearing the Reporting Medical Officer ~~or the independent medical expert~~, if the Chamber has deemed it necessary to do so, the Chamber will determine that either:

(a) Mr Stanišić is well enough to participate in the proceedings, either in person or, if he elects, via video-conference link, in which case Mr Stanišić shall be deemed to have waived his right to be present and the trial will continue in his absence; or

(b) Mr Stanišić is too unwell to participate in the proceedings in either way, in which case the Chamber shall adjourn the proceedings until the next scheduled court session.

ANNEX BModalities for the trial in the case *Prosecutor v. Jovica Stanišić and Franko Simatović*

1. The Chamber will hold hearings in the present case three days a week. Unless otherwise decided by the Chamber, the daily hearings will be divided into sessions of 1 hour and 15 minutes, with breaks lasting 30 minutes. Mr Stanišić can at all times address the Chamber if he has a need for additional breaks. Whenever and insofar as the courtroom schedule of the Tribunal allows this, the hearings will be conducted on consecutive days and in a manner as to avoid long interruptions of the presentation of evidence. To the extent possible, the hearings will also take place in the afternoon in order to facilitate any determination of the medical status of Mr Stanišić prior to the hearing.
2. The schedule set out in item 1 is valid until decided otherwise by the Chamber. In addition, the Chamber will make any adjustments to this schedule that it deems fit, in particular taking into account the Judges' trial schedule and the health of Mr Stanišić. The Chamber may invite submissions of the parties with regard to any such adjustments.
3. During Mr Stanišić's detention at the United Nations Detention Unit ("UNDU"), the UNDU Reporting Medical Officer will submit a written report to the Chamber on the medical condition of the Accused once a week, so as to allow for adjustments in the schedule set out in item 1, if necessary. In addition, Mr Stanišić is to be examined at least once every twelve weeks by a gastroenterologist who will report in writing to the Chamber on the Accused's medical condition after each examination. Mr Stanišić is also to be examined by a psychiatrist who will report in writing to the Chamber on the Accused's medical condition once every twelve weeks. If the Chamber considers it necessary, based on the regular reporting set out above, it will request that any other medical specialist examine Mr Stanišić and report in writing to the Chamber. All the reports referred to in this item should be filed confidentially unless the Chamber indicates otherwise.
4. Mr Stanišić will be physically present in court during the court hearings. As all accused before the Tribunal, Mr Stanišić may waive his right to be present in court. If he waives this right due to illness, Mr Stanišić is to follow the procedure set out by the Registry, including filling out the form for waiving the right as will be provided to him by the staff of the UNDU.
5. In order to further accommodate Mr Stanišić, the Chamber will allow him, if he opts to, not to be present in court but instead follow the proceedings via a video-conference link from the UNDU. For this purpose, an observation room with toilet facility has been arranged

at the UNDU in close vicinity to Mr Stanišić's cell. Mr Stanišić should inform the staff of the UNDU of this decision at the earliest possible time. The staff of the UNDU should convey this message to the Chamber, via the Court Officer, before the start of the hearing on any particular day. A video-conference link will allow Mr Stanišić to follow the proceedings, to see the witnesses at all times, and to address the court. The Chamber and the parties in the courtroom will also be able to see Mr Stanišić at the video-conference link. A telephone line will allow Mr Stanišić to communicate with his counsel in the courtroom and a member of the Defence team may be present with Mr Stanišić at the UNDU. Mr Stanišić will also have access to eCourt and Livenote transcript in the observation room.

6. On each court day, the Commanding Officer, Deputy Commanding Officer or any other authorized officer of the UNDU shall remind Mr Stanišić of the court schedule for the day and that the normal arrangements are in place for his transport to court. If Mr Stanišić indicates that he is too unwell to attend court in person, the Commanding Officer is to remind him of his right to be present in court, ask him if he waives his right to attend and offer him the opportunity to communicate with counsel. The Commanding Officer shall also inform Mr Stanišić that he may make use of the video-conference link from the UNDU, should he opt not to physically attend court.

7. If Mr Stanišić does not waive his right to be physically present and does not opt to participate in the proceedings via video-conference link from the UNDU but claims that he is too ill to go to court, he shall be medically examined before the court session. The Reporting Medical Officer at the UNDU shall familiarize him or herself with the medical condition of Mr Stanišić and submit, through the Court Officer, a written report to the Chamber. This report will be filed confidentially unless the Chamber indicates otherwise. The Reporting Medical Officer at the UNDU shall also be ready to report orally to the Chamber at the beginning of the court session. The Commanding Officer, Deputy Commanding Officer or any other authorized officer of the UNDU shall inform the Chamber, through the Court Officer, about the above as soon as possible, including that Mr Stanišić is being or has been medically examined. At the beginning of the court session, Defence Counsel shall confirm to the Chamber that Mr Stanišić has not waived his right to be present. The Chamber shall then, if it deems necessary, hear the Reporting Medical Officer in court or through the video-conference link on the medical condition of Mr Stanišić. The Chamber may also seek further information about the condition of Mr Stanišić from other sources, as it deems fit.

8. Upon hearing the Reporting Medical Officer, if the Chamber has deemed it necessary to do so, the Chamber will determine that either:

9. Mr Stanišić is well enough to participate in the proceedings, either in person or, if he elects, via video-conference link, in which case Mr Stanišić shall be deemed to have waived his right to be present and the trial will continue in his absence; or
10. Mr Stanišić is too unwell to participate in the proceedings in either way, in which case the Chamber shall adjourn the proceedings until the next scheduled court session.