



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: 25 January 2011
Original: English

IN TRIAL CHAMBER I

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

Registrar: Mr John Hocking

Decision of: 25 January 2011

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

**DECISION ON STANIŠIĆ DEFENCE MOTION FOR
ADJOURNMENT OF PROCEEDINGS**

Office of the Prosecutor
Mr Dermot Groome

Counsel for Jovica Stanišić
Mr Wayne Jordash
Mr Geert-Jan Alexander Knoops

Counsel for Franko Simatović
Mr Mihajlo Bakrač
Mr Vladimir Petrović

I. PROCEDURAL HISTORY AND SUBMISSIONS OF THE PARTIES

1. On 17 December 2010, the Stanišić Defence filed confidentially the “Stanišić Motion for Adjournment of Proceedings” (“Motion”), wherein it requested a one-month adjournment of trial proceedings in order “to properly analyze, review and investigate the recently-tendered Mladić diaries, and materials related thereto”.¹ The Simatović Defence joined the Motion on 20 December 2010.²

2. In the Motion, the Stanišić Defence argued that all of the material in question - namely, the diaries of Ratko Mladić (“Mladić diaries”), the English translation of which totals approximately 4,800 pages, as well as other material including 93 audio cassettes, ten video cassettes, two CD ROMs and eight DVDs, together consisting of 113 hours of recordings - and not just those portions of the Mladić diaries upon which the Prosecution seeks to rely, would require careful analysis as to their reliability.³

3. The “Prosecution Response to Defence Motion for Adjournment of Proceedings”, was filed confidentially on 21 December 2010 (“Response”) and ultimately did not oppose the Motion. On 29 December 2010, the Chamber informed the parties by way of an informal communication of its decision to grant an adjournment of two weeks.

II. DISCUSSION

4. In deciding to grant a two-week adjournment, the Chamber recalled that on 13 September 2010, the Prosecution had filed its notification of its intention to use 21 excerpts from the Mladić diaries comprising approximately 120 pages.⁴ It recalled further that, on 7 October 2010, the Chamber had granted the Prosecution’s motion to add the Mladić diaries to its Rule 65 *ter* exhibit list.⁵ In its decision on that motion, the Chamber had agreed with a system proposed by the Prosecution, whereby the Prosecution would give advance notice of the parts of the Mladić diaries it intended to use, in order to allow “adequate time from the moment of notification for the Defence to prepare before these portions may be used in court”.⁶ In the same decision, the Chamber had also

¹ Motion, para. 10. See also para. 1.

² Simatović Defence Joinder in Stanišić Motion for Adjournment of Proceedings, filed confidentially on 20 December 2010.

³ Motion, paras 3, 5, 6, 7.

⁴ First Prosecution Notification of Excerpts from Mladić Notebooks, 13 September 2010.

⁵ Sixteenth Prosecution Motion for Leave to Amend its Rule 65 *ter* Exhibit List with Confidential Annex (Mladić Notebooks), filed publicly with confidential Annex on 14 May 2010.

⁶ Decision on Sixteenth Prosecution Motion for Leave to Amend Its Rule 65 *ter* Exhibit List with Confidential Annex, 7 October 2010, para. 15.

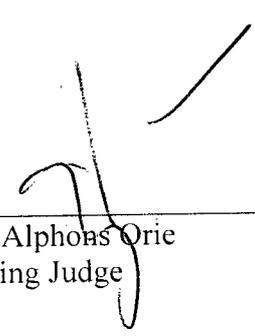
granted the Prosecution leave to use the 21 excerpts. On 10 December 2010, the Prosecution tendered those 21 excerpts of the Mladić diaries into evidence through a bar table motion and notified the Defence of two additional excerpts comprising a total of nine pages.⁷

5. In assessing the Motion, the Chamber considered that the Defence would not require additional time to analyse the 21 excerpts (comprising 120 pages) and the additional two excerpts (comprising nine pages) of the Mladić diaries, given the limited amount of material tendered and to further explore the material for its own defence purposes. However, taking into account also that the Prosecution case is nearing its end, the Chamber considered that the Defence would require extra time to assess the Mladić materials more broadly, in order to assess the context in which those excerpts appeared. Using its discretion, and considering particularly the volume and length of the audio and video material to be analysed, the Chamber was therefore of the view that a four-week adjournment was not warranted but that two weeks were appropriate. Both in respect of the time needed to study the tendered material and the broader orientation, the Chamber considered that since the disclosure of the material the Chamber has been sitting on average no more than three days a week.

III. DISPOSITION

6. For the foregoing reasons, the Chamber **GRANTS** the Motion in part and adjourns the proceedings until the week of 24 January 2011.

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



Judge Alphons Orie
Presiding Judge

Dated this twenty-fifth day of January 2011.
At The Hague
The Netherlands

⁷ Prosecution Motion for Admission of Excerpts from Mladić Notebooks and Second Prosecution Notification of Excerpts from Mladić Notebooks, 10 December 2010. See Annex B for the notification of the two new excerpts.