



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-A  
Date: 9 October 2013  
Original: English

IT-03-69-A  
AG14-AG10  
09 October 2013

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**IN THE APPEALS CHAMBER**

**Before:** Judge Theodor Meron, Pre-Appeal Judge  
**Registrar:** Mr. John Hocking  
**Decision of:** 9 October 2013

**PROSECUTOR**

v.

**JOVICA STANIŠIĆ  
FRANKO SIMATOVIĆ**

***PUBLIC***

**DECISION ON STANIŠIĆ AND SIMATOVIĆ DEFENCE  
MOTIONS FOR EXTENSION OF TIME TO FILE RESPONSES  
TO THE PROSECUTION APPEAL BRIEF**

**The Office of the Prosecutor:**

Mr. Peter Kremer QC  
Mr. Mathias Marcussen

**Counsel for Jovica Stanišić:**

Mr. Wayne Jordash and Mr. Scott Martin

**Counsel for Franko Simatović:**

Mr. Mihajlo Bakrač and Mr. Vladimir Petrović

I, **THEODOR MERON**, Judge of the Appeals 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 (“Appeals Chamber” and “Tribunal”, respectively), and Pre-Appeal Judge in the *Stanišić and Simatović* case;<sup>1</sup>

**NOTING** the Judgement rendered in the present case by Trial Chamber I on 30 May 2013;<sup>2</sup>

**NOTING** the notice of appeal filed by the Office of the Prosecutor (“Prosecution”) on 28 June 2013;<sup>3</sup>

**BEING SEISED OF** the (1) “Urgent Stanišić Defence Request for Extension of Time to File Response to Appellant Brief” filed by Jovica Stanišić (“Stanišić”) on 25 September 2013 (“Stanišić Motion”), and the (2) “Urgent Simatović Defence Request for Extension of Time” filed by Franko Simatović (“Simatović”) on 27 September 2013 (“Simatović Motion”) by which Stanišić and Simatović request the Appeals Chamber to grant an extension of 30 days to file their respective Respondent’s brief;<sup>4</sup>

**NOTING** the “Prosecution Response to Stanišić’s and Simatović’s Requests for Extension of Time to File Response Briefs” filed by the Prosecution on 4 October 2013 (“Response”), in which the Prosecution opposes both the Stanišić Motion and the Simatović Motion (“Motions”) and requests, in the alternative, that the Prosecution be granted a similar extension of time in which to prepare its brief in reply should the Appeals Chamber grant the Motions;<sup>5</sup>

**NOTING** the “Stanišić Defence Reply to Prosecution Response to Urgent Stanišić Defence Request for Extension of Time to File Response to Appellant Brief” filed by Stanišić on 7 October 2013 (“Stanišić Reply”), in which Stanišić *inter alia* states that he does not oppose an extension of time for the Prosecution to prepare its brief in reply should the Appeals Chamber grant the Stanišić Motion;<sup>6</sup>

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<sup>1</sup> Order Designating a Pre-Appeal Judge, 8 October 2013.

<sup>2</sup> *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-T, Judgement, 30 May 2013 (with confidential Appendix C) (“Trial Judgement”).

<sup>3</sup> Prosecution’s Notice of Appeal, 28 June 2013. See also Prosecution Appeal Brief, 11 September 2013 (confidential; a public redacted version of the Prosecution Appeal Brief was filed on 25 September 2013), Notice of Filing of Public Redacted Version of Prosecution Appeal Brief and Corrigendum, 25 September 2013.

<sup>4</sup> Stanišić Motion, paras 2, 17; Simatović Motion, paras 2, 10.

<sup>5</sup> Response, paras 3-4, 14-15.

<sup>6</sup> Stanišić Reply, para. 10.

**NOTING** the “Simatovic [*sic*] Defence Joinder to Stanisic [*sic*] Defence Reply” filed by Simatović on 7 October 2013 (“Simatović Reply”) in which Simatović joins the arguments in the Stanišić Reply;<sup>7</sup>

**NOTING** that the Prosecution Appeal Brief was filed on 11 September 2013 and that the Respondent’s briefs are due to be filed no later than 21 October 2013;<sup>8</sup>

**RECALLING** that, pursuant to Rules 127(A)(i) and 127(B) of the Rules, the Pre-Appeal Judge may, on good cause being shown, enlarge the time prescribed under the Rules;

**NOTING** the submissions of Stanišić and Simatović that good cause exists for granting the requested extensions of time in light of, *inter alia*, the breadth of the Appeal Brief, including the all-encompassing nature and scope of the grounds of appeal,<sup>9</sup> as well as the length of the Trial Judgement, the volume of the trial record, and the Prosecution’s attempt to seek a *de novo* review of the evidence, which, according to Stanišić, requires him to address both the findings and the potential for new findings;<sup>10</sup>

**NOTING** that Stanišić and Simatović contend further that the requested extension of time will not influence the expeditiousness of the procedure to any significant extent, nor will it occasion any prejudice to the Prosecution;<sup>11</sup>

**NOTING** that the Prosecution submits that Stanišić and Simatović failed to show good cause warranting an extension of the time limit for filing their respective Respondent’s brief, arguing in particular that: (1) neither has shown that the Trial Judgement is extraordinarily long nor that the Prosecution appeal is extraordinarily complex;<sup>12</sup> (2) they had sufficient notice before the Prosecution Appeal Brief to anticipate and begin their analysis and consultations on the three grounds of appeal;<sup>13</sup> (3) Stanišić’s Defence counsel are intimately acquainted with the case and the trial record;<sup>14</sup> (4) the deadlines in the Rules already account for broad legal challenges;<sup>15</sup> and (5) the

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<sup>7</sup> Simatović Reply, para. 2.

<sup>8</sup> Rule 112(A) of the Tribunal’s Rules of Procedure and Evidence (“Rules”).

<sup>9</sup> In their respective submissions, Stanišić and Simatović underscore that the Prosecution: (1) has appealed each count of an indictment that covers a five-year time frame and the majority of the territory of Croatia and Bosnia and Herzegovina; (2) has also appealed the two most comprehensive modes of liability, namely Joint Criminal Enterprise liability and aiding and abetting; and (3) has made a comprehensive challenge to numerous factual findings of the Trial Chamber. Stanišić Motion, paras 5-12; Simatović Motion, paras 4-6.

<sup>10</sup> Stanišić Motion, paras 5, 13–15; see also Simatović Motion, paras 4-5.

<sup>11</sup> Stanišić Motion, para. 2; Stanišić Reply, para. 9; Simatović Motion, para. 8.

<sup>12</sup> Response, paras 1, 5-14.

<sup>13</sup> Response, paras 2, 8-10.

<sup>14</sup> Response, para. 13.

<sup>15</sup> Response, para. 6.

requested extension would delay the appellate proceedings by nearly doubling the usual time for filing Respondent's briefs;<sup>16</sup>

**NOTING** that in reply, Stanišić and Simatović argue, *inter alia*, that they did not have sufficient time to accurately prepare their respective Respondent's brief within the time allotted by Rule 112(A) of the Rules in view of *inter alia* (1) the lack of specificity of the Notice of Appeal and (2) the timing of the notification of the resources available to the Defence;<sup>17</sup>

**CONSIDERING** that the Tribunal's deadlines for the filing of briefs pursuant to Rule 112(A) of the Rules are essential to ensure the expeditious preparation of the case;<sup>18</sup>

**NOTING** that Defence counsel have already started working on the respective appeals;<sup>19</sup>

**CONSIDERING**, however, that it is in the interests of justice that the parties have sufficient time to prepare meaningful briefs in full conformity with applicable provisions;<sup>20</sup>

**FINDING** that good cause exists for granting Stanišić, Simatović and the Prosecution an extension of time on that basis;

**FINDING**, however, that the extension of 30 days requested by Stanišić and Simatović is not justified by the circumstances of the case, and that a shorter extension of 15 days is more appropriate;

**FINDING FURTHER** that it is in the interests of justice to grant the Prosecution an extension of five days to file its brief in reply;

**FOR THE FOREGOING REASONS,**

**HEREBY GRANT** the Motion **IN PART**; and

<sup>16</sup> Response, para. 1.

<sup>17</sup> Stanišić Motion, paras 6-8.

<sup>18</sup> *Prosecutor v. Vujadin Popović, Ljubiša Beara, Drago Nikolić, Radivoje Miletić, Milan Gvero and Vinko Pandurević*, Case No. IT-05-88-A, Decision on Motions for Extension of Time and for Permission to Exceed Word Limitations, 20 October 2010, p. 4; *Prosecutor v. Ljube Bošković and Johan Tarčulovski*, Case No. IT-04-82-A, Decision on Johan Tarčulovski's Motion for Extension of Time to File Appeal Brief, 16 October 2008, p. 2; *Momir Nikolić v. Prosecutor*, Case No. IT-02-60/1-A, Decision on Defence Motion for Extension of Time to File Revised Brief in Reply, 2 September 2005, p. 3.


<sup>19</sup> *Prosecutor v. Nikola Šainović, Dragoljub Ojdanić, Nebojša Pavković, Vladimir Lazarević and Sreten Lukić (Prosecutor v. Šainović et al.)*, Case No. IT-05-87-A, Decision on Joint Defence Motion Seeking Extension of Time to File Appeal Briefs, 29 June 2009 p. 4.

<sup>20</sup> *Prosecutor v. Zdravko Tolimir*, Case No. IT-05-88/2-A, Decision on Zdravko Tolimir's Motion for an Extension of Time to File a Notice of Appeal, 3 January 2013, p. 1; *Prosecutor v. Šainović et al.*, Case No. IT-05-87-A, Decision on Defence Requests for Extension of Time and Word Limits to File Reply Briefs, 20 January 2010, p. 2; *Prosecutor v. Šainović et al.*, Case No. IT-05-87-A, Decision on Joint Request for Extension of Time to File Respondent's Brief, 27 July 2009, p. 4.

**ORDER** that:

1. Stanišić and Simatović file their respective Respondent's brief no later than 5 November 2013; and
2. the Prosecution file its brief in reply no later than 25 November 2013.

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



Judge Theodor Meron  
Pre-Appeal Judge

Dated this 9th day of October 2013,  
At The Hague,  
The Netherlands.

**[Seal of the Tribunal]**