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25 February 2015

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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 Nos. IT-03-69-A &  
IT-95-5/18-T  
Date: 25 February 2015  
Original: English

**IN THE APPEALS CHAMBER**

**Before:** Judge Fausto Pocar, Presiding  
Judge Carmel Agius  
Judge Liu Daqun  
Judge Arlette Ramaroson  
Judge Koffi Kumelio A. Afande

**Registrar:** Mr. John Hocking

**Decision of:** 25 February 2015

**PROSECUTOR**

v.

**JOVICA STANIŠIĆ  
FRANKO SIMATOVIĆ**

***PUBLIC***

**DECISION ON PROSECUTION REQUEST FOR  
CLARIFICATION OF DECISION ON MOTION FOR ACCESS  
TO CONFIDENTIAL MATERIALS IN THE  
*STANIŠIĆ AND SIMATOVIĆ* CASE**

**The Office of the Prosecutor:**

*Stanišić and Simatović* Appeal  
Ms. Michelle Jarvis  
Mr. Mathias Marcussen

*Karadžić* Trial  
Mr. Alan Tieger  
Ms. Hildegard Uertz-Retzlaff

**Counsel for the Defence:**

Mr. Wayne Jordash and Mr. Scott Martin for Mr. Jovica Stanišić  
Mr. Mihajlo Bakrač and Mr. Vladimir Petrović for Mr. Franko Simatović

**The Accused in the *Karadžić* Trial:**

Mr. Radovan Karadžić

**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);

**RECALLING** the decision issued by the Appeals Chamber on 16 February 2015, in which it granted Radovan Karadžić (“Karadžić”), subject to certain conditions, access to *inter partes* confidential material in the trial record in the *Stanišić and Simatović* case related to events in Croatia with the exception of material provided under Rule 70 of the Rules of Procedure and Evidence of the Tribunal (“Rules”);<sup>1</sup>

**BEING SEISED OF** the “Prosecution Request for Clarification of Decision on Motion for Access to Confidential Materials in the *Stanišić and Simatović* Case” filed by the Office of the Prosecutor (“Prosecution”) on 18 February 2015 (“Request”), in which it seeks clarification as to whether: (i) material concerning “remuneration, provisional release, fitness to stand trial, weekly reports of the reporting medical officer, expert reports on health issues submitted by the Registry, notices of non-attendance in court, modalities of trial, protective measures, subpoenas, video-conference links, and orders to redact the public transcript and the public broadcast of a hearing”, if related to Croatia, should continue to be withheld;<sup>2</sup> and (ii) the Prosecution, Jovica Stanišić (“Stanišić”), and Franko Simatović (“Simatović”) should identify the material relating to Croatia to which Karadžić can be given access or if the parties need only identify material to which Karadžić should not be given access;<sup>3</sup>

**NOTING** that, as the Prosecution is unclear as to its obligations under the Decision of 16 February 2015, it further requests that the deadlines imposed therein run from the date of receipt of the decision on the Request;<sup>4</sup>

**RECALLING** that “unless a legitimate forensic purpose can be demonstrated, no access should be granted to confidential filings or transcripts concerning remuneration, provisional release, fitness to stand trial, weekly reports of the reporting medical officer, expert reports on health issues submitted by the Registry, notices of non-attendance in court, modalities of trial, protective measures,

<sup>1</sup> Decision on Motion by Radovan Karadžić for Reconsideration of Decision on Motion for Access to Confidential Materials in the *Stanišić and Simatović* Case, 16 February 2015 (“Decision of 16 February 2015”), pp. 4-6.

<sup>2</sup> Request, paras 1, 3-4, quoting Decision on the Prosecution’s Motion Regarding the Terms of Access by Radovan Karadžić to Confidential Materials, 2 May 2014 (“Decision of 2 May 2014”), p. 2.

<sup>3</sup> Request, paras 1, 6.

<sup>4</sup> Request, para. 7.

subpoenas, video-conference links, and orders to redact the public transcript and the public broadcast of a hearing”;<sup>5</sup>

**CONSIDERING** that the Decision of 16 February 2015 did not grant Karadžić access to such items as he did not demonstrate any legitimate forensic purpose;

**CONSIDERING FURTHER** that it is for the parties to identify to the Registry the material which is to be disclosed to an applicant pursuant to a chamber’s decision granting him or her access to it;<sup>6</sup>

**PURSUANT TO** Rules 54, 75, and 107 of the Rules,

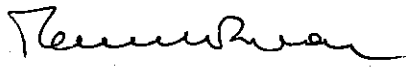
**HEREBY ORDERS** that the *inter partes* confidential material in the trial record in the *Stanišić and Simatović* case related to events in Croatia, to which Karadžić was granted access pursuant to the Decision of 16 February 2015, shall not include confidential material containing sensitive information, which has no legitimate forensic purpose and concern remuneration, provisional release, fitness to stand trial, weekly reports of the reporting medical officer, expert reports on health issues submitted by the Registry, notices of non-attendance in court, modalities of trial, protective measures, subpoenas, video-conference links, and orders to redact the public transcript and the public broadcast of a hearing;

**ORDERS** the Prosecution, Stanišić, and Simatović to identify to the Registry, without undue delay, the *inter partes* confidential material to be disclosed to Karadžić pursuant to this decision and the Decision of 16 February 2015, subject to the conditions as set out therein; and

**VARIES** the time limits as set out in the Decision of 16 February 2015 such that they shall run from the date of this decision.

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

Dated this twenty-fifth day of February 2015,  
at The Hague,  
The Netherlands.

  
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Judge Fausto Pocar  
Presiding Judge

[Seal of the Tribunal]

<sup>5</sup> Decision of 2 May 2014, p. 2 and references cited therein.  
<sup>6</sup> See, e.g., Decision of 2 May 2014, p. 2; Decision on Goran Hadžić’s Motion for Access to Confidential Material in the *Stanišić and Simatović* Case, 1 November 2013, para. 15; *Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-A & IT-09-92-T, Decision on Motion by Ratko Mladić for Access to Confidential Material, 20 February 2013, p. 3; *Prosecutor v. Nikola Šainović et al.*, Case No. IT-05-87-A, Decision on Vlastimir Đorđević’s Motion for Access to Transcripts, Exhibits and Documents, 16 February 2010, paras 21-22.