



# **UNITED NATIONS - NATIONS UNIES**

International Criminal Tribunal for the former Yugoslavia Tribunal Pénal International pour l'ex-Yougoslavie

# CASE INFORMATION SHEET

(IT-03-69)

# STANIŠIĆ&SIMATOVIĆ

The Prosecutor v. Jovica Stanišić & Franko Simatović



JOVICA STANIŠIĆ		
	Head of the State Security Service ("Državna bezbednost" or "DB") of the Ministry of the Internal Affairs of the Republic of Serbia ("Ministarstvo unutrašnjih poslova" or "MUP")	
Indictment	Initial: 1 May 2003; operational indictment filed: 10 July 2008	
Arrested	13 March 2003	
Transferred to ICTY	11 June 2003	
Plea	16 March 2006, pleaded not guilty	
Commencement of Trial	9 June 2009	
Closing arguments	29-31 January 2013	
Trial Chamber Judgement	30 May 2013, found not guilty	
Appeals Chamber Judgement	15 December 2015, retrial ordered	

FRANKO SIMATOVIĆ		
	Employed in the Second Administration of the DB	
Indictment	Initial: 1 May 2003; operational indictment filed: 10 July 2008	
Arrested	13 March 2003	
Transferred to ICTY	30 May 2003	
Plea	16 March 2006, pleaded not guilty	
Commencement of Trial	9 June 2009	
Closing arguments	29-31 January 2013	
Trial Chamber Judgement	30 May 2013, found not guilty	
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### **INDICTMENT**

#### Four counts of crimes against humanity

- Persecutions (Count 1)
- Murder (Count 2)
- Deportation (Count 4)
- Inhumane acts (forcible transfer) (Count 5)

#### One count of the violations of the laws or customs of war

• Murder (Count 3)

Alleged responsibility of the accused

According to the indictment, Stanišić and Simatović were co-perpetrators in a joint criminal enterprise that came into existence no later than April 1991 and continued until at least 31 December 1995, the objective of which was the forcible and permanent removal of the majority of non-Serbs from large areas of Croatia and Bosnia and Herzegovina.

### THE TRIAL

Initially scheduled to commence on 27 February 2008, the trial was postponed to allow a review of Stanišić's health conditions. On 7 and 8 April, the parties examined a neuro-psychiatrist regarding Stanišić's health. Subsequently, on 9 April 2008, the Trial Chamber confirmed that Stanišić was fit to stand trial and scheduled the commencement of the trial for 14 April 2008, provided that the Accused be able to follow the proceedings via video-link from the UN Detention Unit if he was not able to attend court.

The trial eventually commenced on 28 April 2008. However, Stanišić neither attended the proceedings nor followed them from the Detention Unit on any of the trial days. Subsequently, on 16 May 2008, the Appeals Chamber granted the Defence's appeal and ordered that the trial be adjourned for a minimum of three months and that the Accused's state of health be reassessed before determining when the trial should resume.

On 26 June 2008, both accused were granted provisional release. On 6 April 2009, the Prosecution filed a motion for revocation of Stanišić's provisional release and re-assessment of his health. The motion was granted on 24 April 2009 and the Trial Chamber ordered both Stanišić and Simatović to return to the UN Detention Unit in The Hague by 4 May 2009 for the restart of trial, on 9 June 2009.

The Prosecution rested its case on 5 April 2011.

On 5 May 2011, the Trial Chamber issued an oral decision pursuant to Rule 98bis and dismissed the motions for acquittal filed by the Defence of Franko Simatović.

The Defence case commenced on 15 June 2011 and closed on 17 September 2012.

The parties presented their closing arguments on 29 – 31 January 2013.

The Judgement was delivered on 30 May 2013.

### TRIAL CHAMBER JUDGEMENT

In its Judgement, the Trial Chamber found that the units of the Serbian State Security Service committed the crimes charged in the indictment but held that Stanišić and Simatović could not be held criminally responsible for these crimes. After analyzing the evidence, the majority, Judge Picard dissenting, was unable to conclude that the Accused shared the intent to further the common criminal purpose of the joint criminal enterprise. The Chamber also found that the Prosecutor had failed to prove beyond reasonable doubt that Stanišić or Simatović planned or ordered the crimes. With regard to the allegations of aiding and abetting, the majority determined, Judge Picard dissenting, that in the instances when the two Accused rendered assistance to the special units, this assistance was not specifically directed towards the commission of crimes.

On 30 May 2013, the Trial Chamber pronounced its Judgement acquitting both Accused of all charges.

Judge Picard appended a dissenting opinion. Judge Orie appended a separate opinion.

## **APPEALS PROCEEDINGS**

The Prosecution appealed the Judgement. The Appeal Hearing took place on 6 July 2015.

#### APPEALS CHAMBER JUDGEMENT

The Appeals Judgement was pronounced on 15 December 2015. On the basis of errors identified in the Trial Chamber Judgement, the Appeals Chamber, by majority, found that the case gave rise to appropriate circumstances for retrial pursuant to Rule 117(C) of the Tribunal's Rules of Procedure and Evidence. Thus, the Appeals Chamber ordered a retrial of Stanišić and Simatović under all counts of the indictment.

Judge Agius appended a separate and a partially dissenting opinion, and Judge Afande appended a dissenting opinion.

The retrial will be conducted before the Mechanism for International Criminal Tribunals.

### **STATISTICS**

Trial days	226
Prosecution witnesses	97
Prosecution exhibits	3226
Defence witnesses	36
Defence exhibits	1617