

IT-03-69-T
D29021-D29018
01 April 2011

29021
SMS

**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: 1 April 2011
Original: English

IN TRIAL CHAMBER I

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

Registrar: Mr John Hocking

Order of: 1 April 2011

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

**SCHEDULING ORDER AND DECISION ON DEFENCE
REQUESTS FOR ADJUSTMENT OF SCHEDULING ORDER
OF 16 FEBRUARY 2011**

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

TRIAL CHAMBER I 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 (“Chamber”);

RECALLING its scheduling order of 16 February 2011 (“16 February 2011 Order”), wherein the Chamber set out a provisional timetable in respect of (i) the hearing of any oral submissions pursuant to Rule 98 *bis* of the Tribunal’s Rules of Procedure and Evidence (respectively, “Rule 98 *bis* hearing and “Rules”); (ii) the filing of any Defence witness and exhibit lists pursuant to Rule 65 *ter* (G) (“Rule 65 *ter* lists”); (iii) the performance by the Defence teams of any disclosure obligations pursuant to Rule 67(A) following the Chamber’s decision in respect of any Rule 98 *bis* submissions (respectively, “Disclosure Obligations” and “Rule 98 *bis* Decision”); (iv) the scheduling of any Pre-Defence Conference pursuant to Rule 73 *ter* (“Pre-Defence Conference”); and (v) the commencement of any Defence case; but did not set specific dates;

RECALLING further its scheduling order of 2 March 2011 (“2 March 2011 Order”), wherein the Chamber ordered that the Rule 98 *bis* hearing, if any, take place on 7, 8, 11, and 12 April 2011 and that the remainder of the 16 February 2011 Order remain in force until otherwise decided by the Chamber;

BEING SEISED of the Simatović Defence’s request for adjustment of the 16 February 2011 Order (“Simatović Request”),¹

arising from its late appointment to the case, it has been unable to undertake the necessary preparations for Franko Simatović’s Defence case,² and wherein it requests a period of five months – to be reckoned from the date of the Rule 98 *bis* Decision to the start of the Defence case for Jovica Stanišić – in which to prepare Simatović’s Defence case;³

BEING SEISED also of the Stanišić Defence’s request for adjustment of the 16 February 2011 Order (“Stanišić Request”),⁴ wherein the Stanišić Defence requests leave to exceed the word limit⁵ and submits, *inter alia*, that due to the particular problems faced by the Stanišić Defence⁶ and the

¹ Defence Request for Adjustment of the Scheduling Order of 16 February 2011 (Public with Confidential Annex), 25 February 2011.

² Simatović Request, paras 10-16.

³ Simatović Request, paras 25, 27; see also paras 17-24. The Simatović Defence previously submitted that it intends to present its case after presentation of the case for Jovica Stanišić; see Simatović Defence Submissions in Response to Questions from Trial Chamber, 2 February 2011, para. 3.

⁴ Stanišić Request for the Trial Chamber to Amend its 16 February 2011 Scheduling Order (Public with Confidential Annex A), 16 March 2011.

⁵ Stanišić Request, para. 6.

⁶ See Stanišić Request, paras 8-14, 16, 18, 24, 27-32.

“massive disclosures” by the Prosecution during the trial,⁷ further time in preparation of the Defence case is essential to ensure protection of Stanišić’s fair trial rights; and wherein it requests that the time between the Rule 98 *bis* Decision and the filing of the Rule 65 *ter* lists be extended to allow such filing in late May/early June 2011, and that the Defence case commence on 1 July 2011;⁸

NOTING the responses of the Prosecution to the Simatović Request⁹ and the Stanišić Request,¹⁰ wherein the Prosecution ultimately takes no position in relation to scheduling matters within the Chamber’s discretion;

CONSIDERING that there is some merit in the submissions of the Simatović Defence and the Stanišić Defence regarding the need for additional time for preparing the Defence case, if any, and that they have shown good cause for adjustment of the 16 February 2011 Order;

CONSIDERING however that a delay of five months between the date of the Rule 98 *bis* Decision and the commencement of the Stanišić Defence case, if any, as requested by the Simatović Defence, is not necessary to ensure adequate preparation for the Defence case;

CONSIDERING that the Chamber previously anticipated it would issue its Rule 98 *bis* Decision shortly after any Rule 98 *bis* hearing,¹¹ and that this would likely result in the commencement of the Defence case, if any, around mid-May 2011, approximately three months after the hearing of the last Prosecution witness;

CONSIDERING that the implementation of the below time frame will result in a period of over four and a half months between the hearing of the last Prosecution witness and the beginning of the Defence case, if any, and will also result in a longer period between the Rule 98 *bis* Decision and the filing of Rule 65 *ter* lists;

HEREBY GRANTS the Stanišić Defence’s request for extension of the word limit;

⁷ Stanišić Request, paras 8, 15-29, 32.

⁸ Stanišić Request, paras 4, 33.

⁹ Prosecution Response to Defence Request for Adjustment of the Scheduling Order of 16 February 2011, 11 March 2011. On 15 March 2011, the Simatović Defence filed the Defence Request to File a Reply to Prosecution Response to Defence Request for Adjustment of the Scheduling Order of 16 February 2011. By informal communication on 23 March 2011, the Chamber informed the parties that the request for leave to reply was denied.

¹⁰ Prosecution Response to Stanišić Request for Amendment of Scheduling Order, 25 March 2011. By informal communication on 23 March 2011, the Chamber had shortened the deadline for responses to Stanišić Request to 25 March 2011. On 31 March 2011, the Stanišić Defence filed the Stanišić Request for Leave to Reply to Prosecution Response to Stanišić Request for Amendment of Scheduling Order. By informal communication on 1 April 2011, the Chamber informed the parties that the request for leave to reply was denied.

¹¹ See Decision on Urgent Stanišić Motion for Provisional Release, 8 March 2011, para. 6; Decision on Urgent Simatović Motion for Provisional Release, 11 March 2011, para. 13.

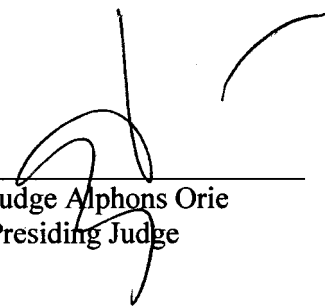
INFORMS the parties that it will announce its Rule 98 *bis* Decision on **5 May 2011**;

GRANTS IN PART both the Simatović Request and the Stanišić Request;

ORDERS that, in the event there is a need for a Defence case:

- a) the Rule 65 *ter* lists shall be filed no later than **6 June 2011**;
- b) the Pre-Defence Conference shall be held on **14 June 2011**;
- c) Disclosure Obligations shall be carried out no later than **7 June 2011**;
- d) the Defence case shall commence on **15 June 2011**;

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



Judge Alphons Orié
Presiding Judge

Dated this first day of April 2011
At The Hague
The Netherlands

[Seal of the Tribunal]