



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-PT  
Date: 29 January 2004  
Original: English

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**IN THE TRIAL CHAMBER**

**Before:** Judge Richard May, Presiding  
Judge Patrick Robinson  
Judge O-Gon Kwon

**Registrar:** Mr. Hans Holthuis

**Decision of:** 29 January 2004

**PROSECUTOR**

**v.**

**JOVICA STANIŠIĆ  
FRANKO SIMATOVIĆ**

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**DECISION ON SUBMISSION OF AMENDED INDICTMENT;  
DEFENCE PRELIMINARY MOTION (JOVICA STANIŠIĆ); AND  
MOTION ON DEFECT IN THE AMENDED INDICTMENT (FRANKO SIMATOVIĆ)**

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**The Office of the Prosecutor**

**Mr. Dermot Groome  
Ms. Melissa Pack**

**Counsel for the Accused**

**Mr. Gerardus Godefridus Johannes Knoops, for Jovica Stanišić  
Mr. Zoran Jovanović, for Franko Simatović**

**THIS TRIAL 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 (“International Tribunal”),

**BEING SEISED OF** the “Defence Preliminary Motion” filed by the Defence of Jovica Stanišić on 5 January 2004 and the “Motion on Defect in the Amended Indictment” filed by the Defence of Franko Simatović on 7 January 2004 (collectively, the “Motions”), both requesting an order that the phrase “included, but were not limited to” be deleted from paragraph 3 of the Amended Indictment dated 9 December 2003 (“Amended Indictment”) against Jovica Stanišić and Franko Simatović (collectively, the “Accused”),<sup>1</sup>

**NOTING** the “Prosecution’s Response to Simatović Defence Preliminary Motion Dated 5 January 2004 and to Stanišić Defence Motion on Defect in the Amended Indictment Dated 7 January 2004” filed by the Office of the Prosecutor (“Prosecution”) on 16 January 2004, requesting the Motions to be denied,

**NOTING** that the Defence of the Accused filed preliminary motions on 3 September 2003 against the initial indictment dated 1 May 2003 (“Initial Indictment”), pursuant to Rule 72 (A)(ii) of the Rules of Procedure and Evidence of the International Tribunal (“Rules”), which governs defects in the form of the indictment,<sup>2</sup>

**NOTING** that the Trial Chamber rendered its decision on 14 November 2003 (“Decision”), which explicitly specified the paragraphs that the Prosecution was ordered to amend and that paragraph 3 of the Initial Indictment was not one of those paragraphs,<sup>3</sup>

**NOTING** that no application for certification for interlocutory appeal of the Decision was filed pursuant to Rule 72 (B) of the Rules,

<sup>1</sup> Amended Indictment, *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-PT, 9 Dec. 2003.

<sup>2</sup> “Defence Preliminary Motion on the Form of the Indictment,” *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-PT, 3 Sept. 2003, filed by the Defence of Jovica Stanišić, and “Defence Preliminary Motion” *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-PT, 3 Sept. 2003, filed by the Defence of Franko Simatović (“Simatović Motion”).

<sup>3</sup> “Decision on Defence Preliminary Motion,” *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-PT, 14 Nov. 2003.

**NOTING FURTHER** that, pursuant to Rule 50 of the Rules governing amended indictments, the Accused is entitled to file preliminary motions pursuant to Rule 72 of the Rules in respect of new charges,<sup>4</sup>

**CONSIDERING** that the Prosecution submitted the Amended Indictment on 9 December 2003 clarifying the ambiguities in the specified paragraphs of the Initial Indictment, as ordered in the Decision, and containing no other amendments,

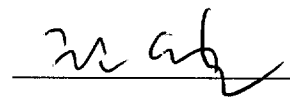
**CONSIDERING** that the Decision was rendered after the Trial Chamber had reviewed the alleged defects raised by the Defence of the Accused, including the current matter of the phrase “included, but were not limited to,”<sup>5</sup>

**CONSIDERING** that the Accused is not raising a matter in respect to new charges related to the amendments in the Amended Indictment and, in effect, is seeking re-consideration of a matter which has already been determined by the Trial Chamber,

**PURSUANT TO** Rules 50 and 54 of the Rules,

**HEREBY ORDERS** that the Amended Indictment is the operative indictment against the Accused and **DISMISSES** the Motions.

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

  
O-Gon Kwon  
Judge

Dated this twenty-ninth day of January 2004  
At The Hague  
The Netherlands

[Seal of the Tribunal]

<sup>4</sup> See Rule 50 (C) of the Rules.

<sup>5</sup> See *supra* note 2, Simatović Motion, paras 29-30.