



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: 6 December 2004
Original: English

IN THE TRIAL CHAMBER

Before: Judge Patrick Robinson, Presiding
Judge O-Gon Kwon
Judge Iain Bonomy

Registrar: Mr. Hans Holthuis

Decision of: 6 December 2004

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

**DECISION ON DEFENCE REQUEST FOR EXTENSION OF PAGE LIMIT
PERTAINING TO DEFENCE PRE-TRIAL BRIEF**

The Office of the Prosecutor

**Mr. Dermot Groome
Mr. David Re**

Counsel for the Accused

**Mr. Geert-Jan Alexander Knoops and Mr. Wayne Jordash, 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 a “Defence Request for Extension of Page Limit Pertaining to Defence Pre-Trial Brief” filed on 8 November 2004 (“Motion”) by the Defence of Jovica Stanišić, requesting “permission for an extension of the maximum page limit pertaining to the Defence Pre-Trial Brief,”¹

NOTING that the Office of the Prosecutor (“Prosecution”) did not file a response to the Motion and orally indicated that it does not object to the Motion,²

NOTING that the Practice Direction on the Length of Briefs and Motions of the International Tribunal (“Practice Direction”) provides that “the pre-trial briefs will not exceed 50 pages or 15,000 words, whichever is greater,”³ and that “a party must seek authorisation in advance from the Chamber to exceed the page limits in this Practice Direction and must provide an explanation of the exceptional circumstances that necessitate the oversized filing,”⁴

RECALLING that, pursuant to a Prosecution’s motion requesting “permission to file a pre-trial brief of no more than 100 pages,”⁵ the Prosecution was ordered to file its pre-trial brief of no more than 100 pages,⁶

RECALLING that the Prosecution filed its pre-trial brief of 91 pages on 19 July 2004,⁷ and that the Defence teams of Jovica Stanišić and Franko Simatović, the two accused, were ordered to file their respective pre-trial briefs by 18 January 2005,⁸

NOTING that paragraph (F) of Rule 65 *ter* of the Rules of Procedure and Evidence of the International Tribunal (“Rules”) provides:

¹ Motion, para. 3.

² Rule 65 *ter* Conference, 23 Nov. 2004, T. 164.

³ Practice Direction, paras (C)(3).

⁴ *Ibid.*, (C)(7).

⁵ *Prosecutor v. Stanišić and Simatović*, Case No. IT-03-69-PT, “Prosecution Request to Exceed Page Limit for Pre-Trial Brief, 12 July 2004.

⁶ *Prosecutor v. Stanišić and Simatović*, Case No. IT-03-69-PT, “Decision on Prosecution Request to Exceed Page Limit for Pre-Trial Brief, 16 July 2004.

⁷ *Prosecutor v. Stanišić and Simatović*, Case No. IT-03-69-PT, partially confidential, “Prosecution’s Pre-Trial Brief,” 19 July 2004. Due to omissions to file pages 49-82 of the pre-trial brief and incorrect numbering of the footnotes, the Prosecution re-filed the entire pre-trial brief, save for Annex B and confidential Annex A, to rectify the mistakes. See *Prosecutor v. Stanišić and Simatović*, Case No. IT-03-69-PT, “Corrigendum to Prosecution’s Pre-Trial Brief,” 22 July 2004.

⁸ Status Conference, 23 Sept. 2004, T. 440.

After the submission by the Prosecutor of the items mentioned in paragraph (E), the pre-trial Judge shall order the defence, within a time-limit set by the pre-trial Judge, and not later than three weeks before the Pre-Trial Conference, to file a pre-trial brief addressing the factual and legal issues, and including a written statement setting out:

- (i) in general term, the nature of the accused's defence;
- (ii) the matters with which the accused takes issue in the Prosecutor's pre-trial brief; and
- (iii) in the case of each such matter, the reason why the accused takes issue with it.

NOTING that the reasons set out in the Motion for the request to exceed the page limit include (i) the length of the Prosecution's pre-trial brief and (ii) "the fact that it is the Accused's wish to extensively deal with issues of facts and substantial law already within the Pre-Trial Brief,"⁹

CONSIDERING that the Prosecution was ordered to file its pre-trial brief of no more than 100 pages against the two accused, and that the Motion does not indicate the additional number of pages needed for the Defence pre-trial briefs,

CONSIDERING that the pre-trial brief is not a tool to extensively deal with issues of fact and law during the pre-trial stage of the proceedings,

CONSIDERING HOWEVER that there are exceptional circumstances necessitating an oversized filing of the Defence pre-trial briefs because the present case against the two accused covers crimes allegedly committed during a period of over 4 years, and in regions in both Bosnia and Herzegovina, and Croatia,

PURSUANT TO Rules 54, 65 *ter* and 73 of the Rules and the Practice Direction,

HEREBY GRANTS the Motion and **ORDERS** that the Defence of the two accused shall file their respective pre-trial briefs of no more than 100 pages by Tuesday, 18 January 2005.

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



Judge Patrick Robinson
Presiding

Dated this sixth day of December 2004
At The Hague
The Netherlands

[Seal of the Tribunal]

⁹ Motion para. 2.