



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: 11 March 2005
Original: ENGLISH

IN THE TRIAL CHAMBER

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

Registrar: Mr. Hans Holthuis

Decision: 11 March 2005

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

**DECISION ON DEFENCE MOTION TO RECEIVE
HARD COPIES OF RULE 66 MATERIAL**

Office of the Prosecutor:
Mr. Dermot Groome
Mr. David Re

Defence Counsel for Mr. Jovica Stanišić:
Mr. Geert-Jan Alexander Knoops
Mr. Wayne Jordash

Defence Counsel for Mr. Franko Simatović:
Mr. Zoran Jovanović

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 “Motion to Receive Hard Copies of All Rule 66 Material,” filed by the Defence of Jovica Stanišić (“Stanišić Defence”) on 4 February 2005 (“Motion”),

NOTING that the Motion specifically seeks “to . . . [p]rimarily order the Prosecution to provide hard copies of all Rule 66 material disclosed thus far, and all Rule 66 materials which will be disclosed henceforth; or [a]lternately grant any other relief that the Trial Chamber may deem appropriate in order to provide the Defence with the requested hard copies, for example, by instructing the Registrar to grant an additional allotment of hours for the specific purpose of reproducing hard copies from the CD Roms disclosed by the Prosecution pursuant to Rule 66,”¹

NOTING the “Prosecution’s Response to ‘Motion to Receive Hard Copies of All Rule 66 Material,’” filed 18 February 2005 (“Response”), requesting the Trial Chamber to deny the Motion and, “[i]n relation to the alternative relief sought, . . . invit[ing] the Defence to make (ex-parte) appropriate submissions to the Registrar to determine whether or not a Defence resources issue exists,”²

NOTING the “Request to File a Reply to ‘Motion to Receive Hard Copies of All Rule 66 Materials,’” and the “Reply to the Prosecution Response to ‘Motion to Receive Hard Copies of All Rule 66 Materials,’” filed by the Stanišić Defence on 25 February 2005,

NOTING that the Stanišić Defence concedes that it previously conveyed to the Prosecution its preference to receive Rule 66 materials only in electronic form,³

NOTING that the Stanišić Defence asserts, as a basis for its request for hard copies of all Rule 66 material, that the Electronic Disclosure Suite (EDS) system’s archive of relevant Rule 66 material is incomplete,⁴

NOTING ALSO that the Prosecution states that “within about two weeks, all Rule 66 material will be available in an indexed form on the EDS (subject to redacting), thus providing the Defence with an alternative web-based method of retrieval”,⁵

¹ Motion, at para. 29 (*viz* 32).

² Response, at para. 16.

³ Motion, at para. 14.

⁴ Motion, at paras. 6-8.

CONSIDERING that the Prosecution explains that to order it to provide hard copies of all Rule 66 material would impose an unfair burden considering the fact that it does not keep hard copies of Rule 66 material it discloses,⁶

PURSUANT to Rules 54, 66, and 126*bis* of the Rules of Procedure and Evidence of the International Tribunal,

HEREBY GRANTS the Defence's request for leave to file the Reply, **DENIES** the Motion, and **INVITES** the parties to continue their communication regarding the current indexing system used for electronic versions of Rule 66 material.

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



Judge Robinson
Presiding

Dated this eleventh day of March 2005
At The Hague
The Netherlands

[Seal of the Tribunal]

⁵ Response, at para. 8.

⁶ Response, at para. 10.