



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 March 2006

Original: English

IN THE TRIAL CHAMBER

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

Registrar: Mr. Hans Holthuis

Order of: 6 March 2006

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

ORDER SCHEDULING FURTHER APPEARANCE

The Office of the Prosecutor

Ms. Hildegard Uertz-Retzlaff
Mr. David Re
Mr. Marek Michon

Counsel for Jovica Stanišić

Mr. Geert-Jan Alexander Knoops
Mr. Wayne Jordash

Counsel for Franko Simatović

Mr. Zoran Jovanović

I, O-GON KWON, Judge of Trial Chamber III 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 (“Tribunal”),

HAVING BEEN APPOINTED, pursuant to Rule 65 *ter*(A) of the Rules of Procedure and Evidence of the Tribunal (“Rules”), as pre-trial Judge in this case by virtue of an order of Trial Chamber III dated 2 June 2003,¹

BEING SEIZED OF the “Defence Request for Further Appearance of the Accused Franko Simatović via Video/Phone Conference Link”, filed on 13 February 2006 (“Simatović Request”), in which the Defence of Franko Simatović (“Accused Simatović”) requests that the further appearance of the Accused Simatović to plead to new charges in the Second Amended Indictment take place “by a video conference link according to Rule 71bis or by telephone”,²

BEING ALSO SEIZED OF the “Defence Request for a Delay of the Further Appearance of the Accused Stanisić or Appearance of the Accused by Video-Conference Link in Accordance with Rule 71bis with Confidential Annex A”, filed on 22 February 2006 (“Stanišić Request”), in which the Defence of Jovica Stanišić (“Accused Stanišić”) requests that the Trial Chamber postpone a decision on the further appearance of the Accused Stanišić “until after the decision on the Accused’s fitness to stand trial” or, in the alternative, order that the further appearance “be conducted by video-conference link”,³

NOTING the “Prosecution’s Response to Defence Requests for Further Appearance via Video-Conference or Telephone-Conference Link”, filed on 3 March 2006 (“Prosecution Response”), in which the Prosecution does not object to either Accused being allowed to make his further appearance by video-conference link,⁴ but does object to the making of such appearance by telephone-conference link,⁵ and to the delay of the Accused Stanišić’s further appearance until after the Trial Chamber’s decision on his fitness to stand trial,⁶

NOTING the “Decision on Prosecution Motion for Leave to Amend the Amended Indictment”, issued on 16 December 2005 (“Decision Granting Leave”), in which the Trial Chamber granted the

¹ *Prosecutor v. Stanišić and Simatović*, Case No. IT-03-69-I, Order Appointing a Pre-Trial Judge, 2 June 2003, p. 1.

² Simatović Request, para. 13.

³ Stanišić Request, para. 12.

⁴ Prosecution Response, para. 6.

⁵ *Ibid.*, para. 7.

Prosecution's motion to amend the Amended Indictment to include certain allegations related to Srebrenica, and stated its intention to "schedule a further appearance of the Accused with respect to the new charge in due course",⁷

NOTING the Prosecution's "Submission of Second Amended Indictment", filed on 20 December 2005, containing a Second Amended Indictment with new charges under Counts 2 and 3 in relation to events alleged at and around Srebrenica,⁸

NOTING the "Decision on Defence Requests for Certification to Appeal Decision Granting Prosecution Leave to Amend the Amended Indictment", issued on 8 February 2006, in which the Trial Chamber denied the respective requests of the Accused to certify for interlocutory appeal the Decision Granting Leave,⁹

NOTING the Trial Chamber's two decisions on provisional release of 28 July 2004, which respectively require that each Accused "remain within the confines of the municipality of Belgrade",¹⁰

NOTING the "Decision on Stanišić Defence's Motion for Temporary Modification of Provisional Release Conditions" of 8 February 2006, which allowed the Accused Stanišić to leave the municipality of Belgrade for the Igalo Institute in Montenegro "for a period of no more than four consecutive weeks (or 28 consecutive days) beginning on 11 February 2006",¹¹ and the "Defence Submission of Date of Return of the Accused Stanisic from the Igalo Institute pursuant to 'Decision on Stanisic Defence's Motion for Temporary Modification of Provisional Release Conditions'", filed on 2 March 2006, in which the Accused Stanišić informs the Trial Chamber that his return to Belgrade from the Igalo Institute took place on 2 March 2006,¹²

⁶ *Ibid.*, para. 10.

⁷ *Stanišić and Simatović*, Decision on Prosecution Motion for Leave to Amend the Amended Indictment, 16 December 2005, p. 5.

⁸ *Stanišić and Simatović*, Prosecution's Submission of Second Amended Indictment, 20 December 2005; *Stanišić and Simatović*, Second Amended Indictment, 20 December 2005, paras. 55–65.

⁹ *Stanišić and Simatović*, Decision on Defence Requests for Certification to Appeal Decision Granting Prosecution Leave to Amend the Amended Indictment, 8 February 2006, pp. 3–4.

¹⁰ *Prosecutor v. Stanišić*, Case No. IT-03-69-PT, Decision on Provisional Release, 28 July 2004, para. 43; *Prosecutor v. Simatović*, Case No. IT-03-69-PT, Decision on Provisional Release, 28 July 2004, para. 34.

¹¹ *Stanišić and Simatović*, Decision on Stanišić Defence's Motion for Temporary Modification of Provisional Release Conditions, 8 February 2006, p. 4.

¹² *Stanišić and Simatović*, Defence Submission of Date of Return of the Accused Stanisic from the Igalo Institute pursuant to 'Decision on Stanisic Defence's Motion for Temporary Modification of Provisional Release Conditions, 2 March 2006, p. 1.

CONSIDERING that, pursuant to Rule 62 of the Rules, the Accused Simatović appeared at the seat of the Tribunal on 2 June 2003 and entered pleas of not guilty to all counts in the original Indictment,¹³ and that the Accused Stanišić appeared at the seat of the Tribunal on 13 June 2003 and entered pleas of not guilty to all counts in the original Indictment,¹⁴

CONSIDERING Rule 50(B) of the Rules, which provides that “[i]f the amended indictment includes new charges and the accused has already appeared before a Trial Chamber in accordance with Rule 62, a further appearance shall be held as soon as practicable to enable the accused to enter a plea on the new charges”,

CONSIDERING that no provision in the Statute or the Rules of the Tribunal prohibits the making of a further appearance by video-conference link,

CONSIDERING that, as the Second Amended Indictment contains new charges in relation to events alleged at and around Srebrenica, each Accused must enter a plea on these new charges,

CONSIDERING that the Accused Stanišić framed his request for a postponement of the decision on his further appearance as an alternative to an order that such appearance be conducted by video-conference link, and that it is therefore unnecessary to address his request for postponement,

¹³ *Stanišić and Simatović*, T. 3–4 (2 June 2003).

¹⁴ *Stanišić and Simatović*, T. 9–10 (13 June 2003).

PURSUANT TO Rules 50 and 65 *ter* of the Rules,

HEREBY GRANT the Simatović Request and Stanišić Request **IN PART** and **ORDER AS FOLLOWS**:

- (1) A further appearance to enable each Accused to enter a plea on the new charges in the Second Amended Indictment shall be held on Monday, 13 March 2006, at 11 a.m. in Courtroom 1.
- (2) The Registry shall make all necessary arrangements so that each Accused may enter his respective plea by video-conference link from an appropriate location in Belgrade.
- (3) The Simatović Request and Stanišić Request are **DENIED** in all other respects.

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



O-Gon Kwon
Pre-Trial Judge

Dated this sixth day of March 2006
At The Hague
The Netherlands

[Seal of the Tribunal]