



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: 9 June 2006

Original: English

**IN TRIAL CHAMBER III**

**Before :** Judge Patrick Robinson, Presiding  
Judges Krister Thelin  
Judge Frank Höpfel

**Registrar:** Mr. Hans Holthuis

**Decision of:** 9 June 2006

**PROSECUTOR**

v.

**JOVICA STANIŠIĆ  
FRANKO SIMATOVIĆ**

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**DECISION ON DEFENCE REQUEST TO FILE PERLIMINARY MOTION ON REVISED  
SECOND AMENDED INDICTMENT**

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**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

**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 (“Tribunal”),

**BEING SEIZED** of the “Defence Request to file Preliminary Motion on Revised Second Amended Indictment”, filed on 31 May 2006 (“Defence Request”), in which the Defence for the Accused Simatović (“Simatović Defence”) requests leave of the Trial Chamber to file a preliminary motion challenging the Revised Second Amended Indictment, on the basis that it believes the Office of the Prosecutor (“Prosecution”) has not complied with this Trial Chamber’s “Decision on Defence Motions regarding defects in the form of the Second Amended Indictment”, filed on 12 April 2006 (“Decision of 12 April 2006”),

**NOTING** the Prosecution’s “Revised Second Amended Indictment”, filed on 15 May 2006, wherein the Prosecution amended its Indictment in order to comply with the Decision of 12 April 2006,

**NOTING** the “Order on Prosecution Submission of Revised Second Amended Indictment”, filed on 31 May 2006 (“Order of 31 May 2006”), wherein this Trial Chamber, *inter alia*, confirmed that the Prosecution has complied with its Decision of 12 April 2006<sup>1</sup> and that the Revised Second Amended Indictment is the operative indictment in this case,

**CONSIDERING** therefore that this Trial Chamber has already determined the issue of whether the Prosecution has complied with the Trial Chamber’s Decision of 12 April 2006, and that the Simatović Defence has offered no arguments that would allow this Trial Chamber to reconsider its Order of 31 May 2006,

**CONSIDERING** that, regarding any further challenges to the form of the Revised Second Amended Indictment, it should be emphasised that the right conferred by Rule 50(C) of the Rules of Procedure and Evidence (“Rules”) on the Accused to file a preliminary motion alleging defects in the form of an amended indictment is directed to the material added by way of amendment, and not to material present in the original indictment which was not objected to at an earlier stage,<sup>2</sup>

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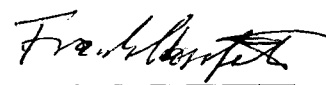
<sup>1</sup> Order of 31 May 2006, para. 2.

<sup>2</sup> *Prosecutor v. Mile Mrksić et al.*, Case No. IT-95-13/1-PT, Decision on Form of Modified Consolidated Amended Indictment, 20 July 2004, para. 25; *Prosecutor v. Mile Mrksić et al.*, Case No. IT-95-13/1-PT, Decision on form of

**FOR THE FOREGOING REASONS**, pursuant to Rules 50 and 54 of the Rules,

**DENIES** the Defence Request.

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



Frank Höpfel  
Judge

Dated this ninth day of June 2006  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**

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Second Modified Consolidated Amended Indictment, 29 October 2004, para. 5; *See also Prosecutor v Milorad Krnojelac*, Case No IT-97-25-PT, Decision on Preliminary Motion on Form of Amended Indictment, 11 February 2000, para. 15.