



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: 30 June 2006

Original: English

IN THE TRIAL CHAMBER

Before: Judge Frank Höpfel, Pre-trial Judge

Registrar: Mr. Hans Holthuis

Order of: 30 June 2006

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

**DECISION ON PROSECUTION MOTION TO VACATE ORDER TO FILE
CONSOLIDATED PRE-TRIAL BRIEFS**

The Office of the Prosecutor

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, FRANK HÖPFEL, Judge 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 “Motion to vacate Order to file consolidated Pre-trial Brief” and its confidential and *ex parte* Annex A, filed by Office of the Prosecutor (“Prosecution”) on 19 June 2006 (“Prosecution Motion”), in which the Prosecution requests the Trial Chamber to vacate its “Order on Pre-Trial Briefs” filed on 7 June 2006 (“Order of 7 June 2006”),

NOTING the “Defence Response to Prosecution Motion to vacate Order to file consolidated Pre-trial Brief”, filed by the Accused Stanišić on 23 June 2006, as well as the “Defence Response to Prosecution Motion to vacate Order to file consolidated Pre-trial Brief” filed by the Accused Simatović on 29 June 2006,

NOTING that both Accused do not object to the relief requested by the Prosecution in its Motion,

RECALLING the Order of 7 June 2006, in which the Trial Chamber directed the Prosecution to file a final consolidated Pre-trial Brief within four (4) weeks from the date of that Order,¹

NOTING the reasons for which the Prosecution has requested a delay of filing of a consolidated Pre-trial Brief, namely that (1) the Prosecution recently received access to the entire archive of the Army of the Republika Srpska (VRS), and that a search of this archive will most likely produce materials highly relevant to the present case, (2) the Prosecution is in the process of reviewing evidence given in other cases before this Tribunal that overlap with the current case, (3) the Prosecution has to “deploy its legal resources to cases that are either in trial, on appeal, or listed for trial in the near future” and that “a skeleton legal staff only is working on preparing this case for trial”, and lastly (4) the Prosecution needs additional time for reasons set out in confidential and *ex parte* Annex A to the Prosecution Motion,

NOTING that the Prosecution have offered to provide the Trial Chamber with “a progress report in the near future on an anticipated time-table for completion of the evidence review, the results of the archive search, and thus when it can file a consolidated and focused Pre-Trial Brief”,

CONSIDERING that neither the lack of resources of the Prosecution nor the evidence review by the Prosecution of other cases before this Tribunal constitute valid reasons for a vacation of the Order of 7 June 2006,

CONSIDERING however, that the recently received access of the Prosecution to the VRS archive *could* justify the vacation of the order of 7 June 2006, as the results of a search of this archive could necessitate yet another additional Pre-trial Brief that would need to be consolidated with the existing Pre-trial Brief,

CONSIDERING that the information set out in confidential and *ex parte* Annex A to the Prosecution Motion could also be a factor in favour of a vacation of the Order of 7 June 2006,

CONSIDERING that the Trial Chamber, given the *ex parte* nature of Annex A to the Prosecution Motion, and in order to safeguard the rights of the Accused to a fair trial, believes it necessary to verify the information provided by the Prosecution in its Motion and in particular the information contained in confidential and *ex parte* Annex A to the Prosecution Motion,

CONSIDERING that the Prosecution should provide this Trial Chamber, if necessary on an *ex parte* basis, with the underlying materials regarding its access to the VRS files and the information set out in confidential and *ex parte* Annex A to the Prosecution Motion,

CONSIDERING that, on the basis of a review of aforementioned materials provided by the Prosecution, the Trial Chamber will consider whether the Order of 7 June 2006 should be vacated,

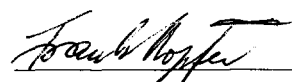
FOR THE FOREGOING REASONS, pursuant to Rule 54 of the Rules of Procedure and Evidence of the Tribunal,

HEREBY ORDER the Prosecution to provide the Trial Chamber with the underlying materials regarding access to the VRS files and the information set out in confidential and *ex parte* Annex A to the Prosecution Motion.

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

¹ The Trial Chamber notes that the Registry only communicated the Order of 7 June 2006 to the Prosecution on 13 June 2006. Accordingly, the allocated time of four (4) weeks mentioned in the Order of 7 June 2006 commenced at 13 June 2006.

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Frank Höpfel
Pre-Trial Judge

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

[Seal of the Tribunal]