



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-04-79-PT
Date: 30 August 2006
Original: English

IN TRIAL CHAMBER II

Before: Judge Krister Thelin, Pre-Trial Judge

Registrar: Mr. Hans Holthuis

Order of: 30 August 2006

PROSECUTOR

v.

MIĆO STANIŠIĆ

**ORDER REQUESTING CLARIFICATION OF
DEFENCE NOTICE PURSUANT TO RULE 67(A)(i)**

The Office of the Prosecutor:

Mr. Marks Moore
Ms. Anna Richterova

Counsel for the Accused:

Mr. Stevo Bezbradica

I, Judge Krister Thelin, Judge at 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”) and Pre-Trial Judge in these proceedings;

NOTING the “Notice to the Prosecutor Pursuant to Rule 67(A) of the Rules of Procedure And Evidence” filed on 18 July 2006 (“Notice”), whereby counsel for the accused Mićo Stanišić (“Defence”) states that, although it intends to offer the defence of alibi, at present it is unable to provide the Prosecution with the specific information set out in Rule 67 (A)(i) of the Rules of Procedure and Evidence (“Rules”) in view of (a) the imprecision of the indictment against the accused Mićo Stanišić (“Indictment”) with regard to the time and location of the alleged crimes, and (b) the recent assignment of counsel to the instant case;¹

NOTING that on 4 May 2005, the Defence filed a preliminary motion challenging the form of the Indictment, and in particular the time and location of some of the crimes charged,² and that on 19 July 2005, the Trial Chamber in the instant case granted partly the motion and requested, *inter alia*, that the Prosecution amend the Indictment with regard to the time period and location of some of the crimes charged, including the crime of persecutions on political, racial and religious grounds, and the crimes of deportation and inhumane acts (forcible transfer);³

CONSIDERING that on 22 September 2005, the Prosecution filed a revised Indictment specifying, *inter alia*, the time period and location of the crimes charged as requested in the Trial Chamber’s decision, and that on 11 October 2005 the Trial Chamber accepted the amended Indictment;⁴

NOTING that the Defence was assigned to the instant case on 5 May 2006, and that the deadline to file a notification of alibi or any special defence pursuant to Rule 67(A)(i) of the Rules was postponed from 1 July 2006 to 31 July 2006 in order to give the Defence adequate time to get acquainted with the instant case;

NOTING that Rule 67 (A)(i) of the Rules provides that within the time-limit prescribed by the Trial Chamber or by the pre-trial Judge appointed pursuant to Rule 65*ter*, the defence shall notify the Prosecutor of its intent to offer (a) the defence of alibi, in which case the notification shall specify the place or places at which the accused claims to have been present at the time of the alleged crime and the names and addresses of witnesses and any other evidence upon which the

¹ Notice, paras 7-9 and 11.

² Motion Objecting to the Form of the Indictment, 4 May 2005.

³ Decision on Defence Preliminary Motion on the Form of the Indictment, 19 July 2005.

⁴ Order Accepting Amendments to the Indictment, 11 October 2005.

accused intends to rely to establish the alibi, and (b) any special defence, including that of diminished or lack of mental responsibility, in which case the notification shall specify the names and addresses of witnesses and any other evidence upon which the accused intends to rely to establish the special defence;

CONSIDERING that the Notice does not specify (a) the place or places at which the accused Mićo Stanišić claims to have been present at the time of the alleged crime(s), (b) the name and address of each witness upon which the Defence intends to rely to establish the alibi and/or any special defence, (c) any other evidence upon which the Defence intends to rely to establish the alibi and/or any special defence;

CONSIDERING that because of the absence of such information the Trial Chamber is not able to assess adequately whether the Defence is giving notice to the Prosecutor of its intent to offer (a) the defence of alibi, and/or (b) any special defence, including that of diminished or lack of mental responsibility, or whether it intends to do so at a later stage;

PURSUANT TO Rule 54 of the Rules of Procedure and Evidence, **ORDERS** the Defence to expressly provide, by and no later than 15 September 2006, the following information to the Trial Chamber:

1) whether it intends to offer a defence of alibi, and if so:

- (a) the place or places at which the accused Mićo Stanišić claims to have been present at the time of the alleged crime(s);
- (b) the name and address of each witness upon which Defence intends to rely to establish the alibi;
- (c) any other evidence upon which the Defence intends to rely to establish the alibi; and

2) whether it intends to offer any special defence, and if so:


- (a) the name and address of each witness upon which Defence intends to rely to establish the special defence;
- (b) any other evidence upon which the Defence intends to rely to establish the special defence.

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

Dated this thirtieth day of August 2006

At The Hague

The Netherlands



Judge Krister Thelin
Pre-Trial Judge

[Seal of the Tribunal]