



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: 18 September 2006  
Original: English

**IN TRIAL CHAMBER II**

**Before:** Judge Krister Thelin, Pre-Trial Judge

**Registrar:** Mr. Hans Holthuis

**Decision of:** 18 September 2006

**PROSECUTOR**

v.

**MIĆO STANIŠIĆ**

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**DECISION ON PROSECUTION'S MOTION TO VACATE  
ORDER TO FILE PRE-TRIAL BRIEF**

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**The Office of the Prosecutor:**

Mr. Marks Moore  
Ms. Anna Richterova  
Mr. Fergal Gaynor

**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** “Prosecution’s Motion to Vacate Order to File Pre-Trial Brief” filed on 8 September 2006 (“Motion”) whereby the Prosecution requests that the Trial Chamber in the instant case (“Chamber”) vacate its order that the Prosecution file its Pre-Trial Brief on 1 November 2006 and that defence counsel for Mićo Stanišić (“Defence Counsel”) file its Pre-Trial Brief on 1 December 2006;

**NOTING** that in support of the Motion, the Prosecution submits that (i) as of June 2006, both the Prosecution and the Defence Counsel received access to the archives the Army of Republika Srpska (“VRS archives”), and that a review of these archives will produce materials that are highly relevant to the present case, (ii) the Prosecution is still in the process of reviewing evidence given in other cases that are relevant to the instant case, (iii) the trial of the instant case is not expected to commence for a considerable period;

**NOTING** the “Defence Response to Prosecution’s Motion to Vacate Order to File Pre-Trial Brief” filed on 12 September 2006, whereby Defence Counsel also requests the Chamber to vacate its order that Defence Counsel file the Pre-Trial Brief on 1 December 2006;

**RECALLING** the oral order of 6 June 2005, in which I, pursuant to Rule 65ter(D)(ii) of the Rules of Procedure and Evidence (“Rules”), directed the Prosecution and Defence Counsel to file their respective Pre-Trial Briefs by 1 November 2006 and 1 December 2006 (“Pre-Trial Order”);<sup>1</sup>

**RECALLING** that on 14 June 2006 Defence Counsel filed a submission requesting *inter alia* an extension of time to file the Pre-Trial Brief,<sup>2</sup> and that by oral order I dismissed this specific request,<sup>3</sup> in view of the fact that Defence Counsel had several months to prepare the Pre-Trial Brief in accordance with Rule 65ter (F) of the Rules of Procedure and Evidence;

**CONSIDERING** that by 1 November 2006 and 1 December 2006, the Prosecution and the Defence Counsel (“Parties”) will have had 5 to 6 months respectively to examine the VRS archives, and that therefore the opening of the VRS archives to the Parties does not constitute a valid reason for the vacation of the Pre-Trial Order;

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<sup>1</sup> Status Conference, 6 June 2006.

<sup>2</sup> Defence Counsel’s Motion for the Change of Terms of the Established Work Plan Under Rule 65ter (D)(ii), 14 June 2006.

<sup>3</sup> Status Conference, 20 June 2006.

**CONSIDERING** that the Prosecution has had more than one year to review oral and written evidence given in other cases that are relevant to the instant case,<sup>4</sup> and that therefore the Prosecution's ongoing evidence review does not constitute a valid reason for the vacation of the Pre-Trial Order;

**CONSIDERING** also, that should important facts arise from reviewing the VRS archives, and/or oral or written evidence given in other cases that are relevant to the instant case, the Parties may move to seek changes in the established Pre-Trial work-plan,<sup>5</sup> or request to amend the indictment, or the Pre-Trial Briefs;

**CONSIDERING** immaterial any argument as to when the case will actually be heard on trial, as I have the obligation, as Pre-Trial Judge in these proceedings, to *prepare* the instant case for trial;


For the foregoing reasons, **PURSUANT TO** Rules 54 and 65*ter*, **DISMISS** the Motion.

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

Dated this eighteenth day of September 2006

At The Hague

The Netherlands



Judge Krister Thelin  
Pre-Trial Judge

[Seal of the Tribunal]

<sup>4</sup> As can be seen in *Prosecution's Motion For Judicial Notice of Facts of Common Knowledge and Adjudicated Facts, With Annex*, Prosecutor v. Mićo Stanišić Case No.: IT-04-79-PT, 31 August 2006.

<sup>5</sup> Pre-Trial work plan adopted on 6 June 2006 and modified on 20 June 2006.