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D 3766 - D 3766  
26 January 2012

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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-T  
Date: 26 January 2012  
Original: English

**IN TRIAL CHAMBER I**

**Before:** Judge Alphons Orie, Presiding  
Judge Michèle Picard  
Judge Elizabeth Gwaunza

**Registrar:** Mr John Hocking

**Decision of:** 26 January 2012

**PROSECUTOR**

v.

**JOVICA STANIŠIĆ  
FRANKO SIMATOVIĆ**

***PUBLIC***

**DECISION ON THE REPUBLIC OF SERBIA'S REQUEST FOR  
PROTECTIVE MEASURES FOR ONE DOCUMENT  
PROVIDED TO THE STANIŠIĆ DEFENCE**

**Office of the Prosecutor**  
Mr Dermot Groome

**Counsel for Jovica Stanišić**  
Mr Wayne Jordash  
Mr Scott Martin

**The Government of the Republic of Serbia**  
*Per:* The Embassy of the Republic of Serbia  
to the Kingdom of the Netherlands

**Counsel for Franko Simatović**  
Mr Mihajlo Bakrač  
Mr Vladimir Petrović

**TRIAL CHAMBER I** 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;

**BEING SEISED** of the “Republic of Serbia’s Request for Protective Measures for one Document Provided to the Defence Team of the Accused Jovica Stanišić”, filed confidentially on 27 December 2011 (“Request”), wherein the Republic of Serbia (“Serbia”) requests that one document provided to the Stanišić Defence (“Document”) remain confidential and be used only in its redacted form;

**NOTING** that Serbia proposed to redact the Document so as to withhold from the public the identity of one person mentioned in the Document, in order to protect its national security interests;<sup>1</sup>

**NOTING** that on 5 January 2012, the Prosecution responded to the Request, not objecting to Serbia’s proposed redaction;<sup>2</sup>

**RECALLING AND REFERRING** to the applicable law governing requests for protective measures on national security grounds as set out in previous decisions;<sup>3</sup>

**RECALLING** that information identifying active operatives of the Serbian State Security Service (“BIA”) should remain confidential in order to protect Serbia’s national security interests;<sup>4</sup>

**CONSIDERING** that the person whose identity Serbia seeks to protect is an active BIA operative;<sup>5</sup>

**FINDING** that information revealing the aforementioned person’s identity should therefore be redacted in order to protect Serbia’s national security interests;

**NOTING** that the non-redacted Document is in evidence as exhibit D395, under seal;

**PURSUANT** to Article 29 of the Statute of the Tribunal and Rules 39, 54, and 54 *bis* of the Rules of Procedure and Evidence;

**HEREBY GRANTS** the Request and **DECIDES** that exhibit D395 shall remain under seal;

**REMINDS** the parties generally of their ongoing obligation to review the trial record and request status changes where appropriate;

<sup>1</sup> Request, paras 5-6, 8, 10-11, Annex A.

<sup>2</sup> Prosecution Response to the Republic of Serbia’s Request for Protective Measures for one Document Provided to the Defence Team of the Accused Jovica Stanišić, 5 January 2012, (Confidential) (“Response”), para. 2.

<sup>3</sup> Decision on the Republic of Serbia’s Requests for Protective Measures in relation to Documents Provided to the Prosecution, 7 October 2011 (Confidential), paras 17-23, 35; Second Decision on the Republic of Serbia’s Motion for Protective Measures, 3 November 2009 (Confidential) (“Decision on Second Motion”), paras 4-7.

<sup>4</sup> Decision on Second Motion, para. 9.

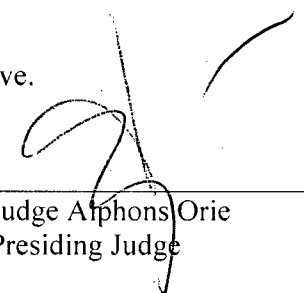
<sup>5</sup> Request, paras 10-11; Response, para. 2.

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**INSTRUCTS** the parties to use the redacted version of D395 during trial proceedings; and

**INSTRUCTS** the Stanišić Defence to submit a public redacted version of D395 in accordance with the Decision on Prosecution Motion for Admission of Redacted Copies of Confidential Exhibits as Public Exhibits, filed on 23 August 2010.

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



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Judge Afphons Orié  
Presiding Judge

Dated this Twenty-six of January 2012  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**