



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 Nos. IT-03-69-A &
IT-95-5/18-T
Date: 11 March 2015
Original: English

IN THE APPEALS CHAMBER

Before: Judge Fausto Pocar, Presiding
Judge Carmel Agius
Judge Liu Daqun
Judge Arlette Ramaroson
Judge Koffi Kumelio A. Afandé

Registrar: Mr. John Hocking

Decision of: 11 March 2015

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

**DECISION ON STANIŠIĆ REQUEST FOR EXTENSION OF
TIME TO COMPLY WITH THE DECISION ON MOTION FOR
ACCESS TO CONFIDENTIAL MATERIALS IN THE STANIŠIĆ
AND SIMATOVIĆ CASE**

The Office of the Prosecutor:

Stanišić and Simatović Appeal
Ms. Michelle Jarvis
Mr. Mathias Marcussen

Karadžić Trial
Mr. Alan Tieger
Ms. Hildegard Uertz-Retzlaff

Counsel for the Defence:

Mr. Wayne Jordash and Mr. Scott Martin for Mr. Jovica Stanišić
Mr. Mihajlo Bakrač and Mr. Vladimir Petrović for Mr. Franko Simatović

The Accused in the *Karadžić* Trial:

Mr. Radovan Karadžić

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THE APPEALS 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 (“Appeals Chamber” and “Tribunal”, respectively);

RECALLING the decision issued by the Appeals Chamber on 16 February 2015, in which, subject to certain conditions, it granted Radovan Karadžić (“Karadžić”) access to *inter partes* confidential material in the trial record in the *Stanišić and Simatović* case related to events in Croatia with the exception of material provided under Rule 70 of the Rules of Procedure and Evidence of the Tribunal (“Rules”) and, *inter alia*, ordered the Office of the Prosecutor (“Prosecution”), Jovica Stanišić (“Stanišić”) and Franko Simatović (“Simatović”) to file before the Appeals Chamber and the Registry of the Tribunal (“Registry”), within ten working days of that decision, lists identifying any material provided under Rule 70 of the Rules, and to apply to the Appeals Chamber for additional protective measures or redactions, if required;¹

RECALLING FURTHER the decision issued by the Appeals Chamber on 25 February 2015, in which it: (i) ordered that the *inter partes* confidential material in the trial record in the *Stanišić and Simatović* case related to events in Croatia, to which Karadžić was granted access pursuant to the Decision of 16 February 2015, shall not include certain confidential material containing sensitive information, which has no legitimate forensic purpose; (ii) ordered the Prosecution, Stanišić, and Simatović to identify to the Registry, “without undue delay”, the *inter partes* confidential material to be disclosed to Karadžić; and (iii) varied the time limits as set out in the Decision of 16 February 2015 such that they should run from the date of the Decision of 25 February 2015;²

BEING SEISED OF the “Stanišić Request for Extension of Time to Comply with the Decision on Prosecution Request for Clarification of Decision on Motion for Access to Confidential Materials in the Stanišić and Simatović Case” filed by Stanišić on 10 March 2015 (“Request”), in which Stanišić requests an extension of 14 working days to identify the relevant *inter partes* confidential material;³

NOTING that the Prosecution responded on 10 March 2015 that it does not oppose the Request and requests that, if granted, the same extension of time be granted to all parties in this case;⁴

¹ Decision on Motion by Radovan Karadžić for Reconsideration of Decision on Motion for Access to Confidential Materials in the *Stanišić and Simatović* Case, 16 February 2015 (“Decision of 16 February 2015”), p. 4.

² Decision on Prosecution Request for Clarification of Decision on Motion for Access to Confidential Materials in the *Stanišić and Simatović* Case, 25 February 2015 (“Decision of 25 February 2015”), p. 2.

³ Request, para. 7.

⁴ Prosecution Response to Stanišić Request for Extension of Time to Comply With Decisions on Access to Confidential Materials in the *Stanišić and Simatović* Case, 10 March 2015, para. 1. The Appeals Chamber considers that it is in the interests of justice that it rules on the Request without awaiting a response from other parties. See *Prosecutor v. Veselin Šljivančanin*, Case No. IT-95-13/1-R.1, Decision on Motion on Behalf of Veselin Šljivančanin Concerning the 12 October Review Hearing, 7 October 2010, fn. 4.

NOTING that Stanišić contends that, while work has been underway to identify the relevant material, it will not be possible to identify this material to the Registry by 11 March 2015 due to: (i) the “significant amount of time” required to conduct a comprehensive review of the relevant material; and (ii) “circumstances”, including other employment obligations and lack of remuneration for such task, which significantly limit the ability to comply with the deadline;⁵

CONSIDERING that the deadline of ten working days set out in the Decision of 16 February 2015, as varied in the Decision of 25 February 2015, applies only to: (i) the filing of lists identifying any material provided under Rule 70 of the Rules; and (ii) the application to the Appeals Chamber for additional protective measures or redactions, if required;⁶

CONSIDERING that Stanišić has not provided any particulars as to the volume of material and progress made to date to discharge his above-mentioned obligations;

RECALLING that the Appeals Chamber has emphasised that when accepting to represent an accused before the Tribunal, absolute priority must be given to this mandate;⁷

FINDING THEREFORE that Stanišić has failed to show good cause for the extension of time;

CONSIDERING that the Decision of 25 February 2015 ordered the Prosecution, Stanišić, and Simatović to identify to the Registry, “without undue delay”, the *inter partes* confidential material to be disclosed to Karadžić, which shall not include confidential material containing sensitive information which has no legitimate forensic purpose, and that the deadline of ten working days does not apply in this regard;⁸


FINDING THEREFORE that, with respect to this obligation, since this obligation has no deadline the Request is without basis;

PURSUANT TO Rules 54, 75, 107, and 127 of the Rules,

HEREBY DENIES the Request.

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

Dated this eleventh day of March 2015,
at The Hague,
The Netherlands.



Judge Fausto Pocar
Presiding Judge

[Seal of the Tribunal]

⁵ Request, paras 4-6.

⁶ Decision of 16 February 2015, p. 4; Decision of 25 February 2015, p. 2.

⁷ *Prosecutor v. Momčilo Krajišnik*, Case No. IT-00-39-A, Judgement, 17 March 2009, para. 64.

⁸ Decision of 25 February 2015, p. 2.