

IT-03-69-T  
D 18032 - D 18025  
01 September 2009

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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: 1 September 2009  
Original: English

IN TRIAL CHAMBER I

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

**Registrar:** Mr John Hocking

**Decision of:** 1 September 2009

PROSECUTOR

v.

JOVICA STANIŠIĆ  
FRANKO SIMATOVIĆ

*PUBLIC*

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SECOND DECISION AMENDING MODALITIES FOR TRIAL

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**Office of the Prosecutor**

Mr Dermot Groome  
Ms Doris Brehmeier-Metz

**Counsel for Jovica Stanišić**

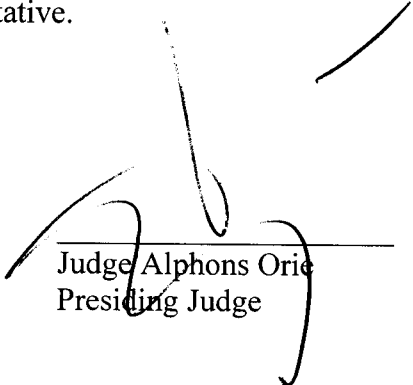
Mr Geert-Jan Alexander Knoops  
Mr Wayne Jordash

**Counsel for Franko Simatović**

Mr Vladimir Domazet

1. On 29 May 2009, the Chamber issued its Decision on the Start of Trial and Modalities for Trial.<sup>1</sup> On 9 June 2009, the Chamber issued its Decision Amending the Modalities for Trial.<sup>2</sup>
2. On 6 August 2009, the Chamber issued a decision, addressing among other things, whether medical reports submitted to the Chamber should be filed publicly or under seal.<sup>3</sup> As a consequence of the Chamber's decision in this respect, it makes one amendment to the Modalities for Trial. The Chamber also makes a few additional minor amendments to the Modalities for Trial.
3. The changes of the Modalities for Trial are highlighted in Annex A to this Decision. The new operative Modalities for Trial are attached as Annex B to this Decision.

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



Judge Alphons Orie  
Presiding Judge

Dated this 1st September 2009  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**

<sup>1</sup> Decision on Start of Trial and Modalities for Trial, 29 May 2009.

<sup>2</sup> Decision Amending Modalities for Trial, 9 June 2009.

<sup>3</sup> Decision on Urgent Defence Request for Further Submissions of Psychiatric Medical Expert and Decision on Defence Motion to Redact Medical Reports, 6 August 2009, paras 18-19.

## ANNEX A

*(Additions to the Modalities for Trial of 9 June 2009 are marked in bold and deletions are struck-through)*

Modalities for the trial in the case *Prosecutor v. Jovica Stanišić and Franko Simatović*

1. As set out in the Scheduling Order for Recommencement of Trial of 24 April 2009, the Chamber will only hold hearings in the present case two days a week. **If decided by the Chamber upon a request by Mr Stanišić**, the daily hearings will be divided into sessions of 1 hour and 15 minutes, with breaks lasting 30 minutes. Mr Stanišić can at all times address the Chamber if he has a need for additional breaks. Whenever and insofar as the courtroom schedule of the Tribunal allows this, the hearings will be conducted on consecutive days and in a manner as to avoid long interruptions of the presentation of evidence. The hearings will also take place in the afternoon in order to facilitate any determination of the medical status of Mr Stanišić prior to the hearing.
2. The schedule set out in item 1 is valid **until decided otherwise by the Chamber**. In addition, the Chamber will make any adjustments to this schedule that it deems fit, in particular taking into account the Judges' trial schedule and the health of Mr Stanišić. The Chamber may invite submissions of the parties with regard to any such adjustments.
3. During Mr Stanišić's detention at the United Nations Detention Unit ("UNDU"), the UNDU Reporting Medical Officer or an independent medical expert will submit a written report to the Chamber on the medical condition of the Accused once a week, so as to allow for adjustments in the schedule set out in item 1, if necessary. In addition, Mr Stanišić is to be examined at least once every **eight** weeks by a gastroenterologist who will report in writing to the Chamber on the Accused's medical condition after each examination. Mr Stanišić is also to be examined by a psychiatrist who will report in writing to the Chamber on the Accused's medical condition once every eight weeks. If the Chamber considers it necessary, based on the regular reporting set out above, it will request that any other medical specialist examine Mr Stanišić and report in writing to the Chamber. All the reports referred to in this item should be filed publicly unless the Chamber indicates otherwise. **Any sensitive personal information about Mr Stanišić or third parties that is not directly related to Mr Stanišić's ailments should be filed confidentially in a separate annex to the report.**
4. Mr Stanišić will be physically present in court during the court hearings. As all accused before the Tribunal, Mr Stanišić may waive his right to be present in court. If he waives this

right due to illness, Mr Stanišić is to follow the procedure set out by the Registry, including filling out the form for waiving the right as will be provided to him by the staff of the UNDU.

5. In order to further accommodate Mr Stanišić, the Chamber will allow him, if he opts to, not to be present in court but instead follow the proceedings via a video-conference link from the UNDU. For this purpose, an observation room with toilet facility has been arranged at the UNDU in close vicinity to Mr Stanišić's cell. Mr Stanišić should inform the staff of the UNDU of this decision at the earliest possible time. The staff of the UNDU should convey this message to the Chamber, via the Court Officer, before the start of the hearing on any particular day. A video-conference link will allow Mr Stanišić to follow the proceedings, to see the witnesses at all times, ~~to make a statement pursuant to Rule 84 bis of the Rules of Procedure and Evidence if he chooses to do so,~~ and to ~~otherwise~~ address the court. The Chamber and the parties in the courtroom will also be able to see Mr Stanišić at the video-conference link. A telephone line will allow Mr Stanišić to communicate with his counsel in the courtroom and a member of the Defence team may be present with Mr Stanišić at the UNDU. Mr Stanišić will also have access to eCourt and Livenote transcript in the observation room.

6. On each court day, the Commanding Officer, Deputy Commanding Officer or any other authorized officer of the UNDU shall remind Mr Stanišić of the court schedule for the day and that the normal arrangements are in place for his transport to court. If Mr Stanišić indicates that he is too unwell to attend court in person, the Commanding Officer is to remind him of his right to be present in court, ask him if he waives his right to attend and offer him the opportunity to communicate with counsel. The Commanding Officer shall also inform Mr Stanišić that he may make use of the video-conference link from the UNDU, should he opt not to physically attend court.

7. If Mr Stanišić does not waive his right to be physically present and does not opt to participate in the proceedings via video-conference link from the UNDU but claims that he is too ill to go to court, he shall be medically examined before the court session. The Reporting Medical Officer at the UNDU or an independent medical expert shall familiarize him or herself with the medical condition of Mr Stanišić and submit, through the Court Officer, a written report to the Chamber. This report will be filed publicly unless the Chamber indicates otherwise. **Any sensitive personal information about Mr Stanišić or third parties that is not directly related to Mr Stanišić's ailments should be filed confidentially in a separate annex to the report.** The Reporting Medical Officer at the UNDU or the independent medical expert shall also be ready to report orally to the Chamber at the beginning of the court

session. The Commanding Officer, Deputy Commanding Officer or any other authorized officer of the UNDU shall inform the Chamber, through the Court Officer, about the above as soon as possible, including that Mr Stanišić is being or has been medically examined. At the beginning of the court session, Defence Counsel shall confirm to the Chamber that Mr Stanišić has not waived his right to be present. The Chamber shall then, if it deems necessary, hear the Reporting Medical Officer or the independent medical expert in court or through the video-conference link on the medical condition of Mr Stanišić. The Chamber may also seek further information about the condition of Mr Stanišić from other sources, as it deems fit.

8. Upon hearing the Reporting Medical Officer or the independent medical expert, **if the Chamber has deemed it necessary to do so**, the Chamber will determine that either:

(a) Mr Stanišić is well enough to participate in the proceedings, either in person or, if he elects, via video-conference link, in which case Mr Stanišić shall be deemed to have waived his right to be present and the trial will continue in his absence, ~~unless the Chamber uses its discretion to adjourn the proceedings taking into account Mr Stanišić's health problem;~~ or

(b) Mr Stanišić is too unwell to participate in the proceedings in either way, in which case the Chamber shall adjourn the proceedings until the next scheduled court session.

## ANNEX B

Modalities for the trial in the case *Prosecutor v. Jovica Stanišić and Franko Simatović*

1. As set out in the Scheduling Order for Recommencement of Trial of 24 April 2009, the Chamber will only hold hearings in the present case two days a week. If decided by the Chamber upon a request by Mr Stanišić, the daily hearings will be divided into sessions of 1 hour and 15 minutes, with breaks lasting 30 minutes. Mr Stanišić can at all times address the Chamber if he has a need for additional breaks. Whenever and insofar as the courtroom schedule of the Tribunal allows this, the hearings will be conducted on consecutive days and in a manner as to avoid long interruptions of the presentation of evidence. The hearings will also take place in the afternoon in order to facilitate any determination of the medical status of Mr Stanišić prior to the hearing.
2. The schedule set out in item 1 is valid until decided otherwise by the Chamber. In addition, the Chamber will make any adjustments to this schedule that it deems fit, in particular taking into account the Judges' trial schedule and the health of Mr Stanišić. The Chamber may invite submissions of the parties with regard to any such adjustments.
3. During Mr Stanišić's detention at the United Nations Detention Unit ("UNDU"), the UNDU Reporting Medical Officer or an independent medical expert will submit a written report to the Chamber on the medical condition of the Accused once a week, so as to allow for adjustments in the schedule set out in item 1, if necessary. In addition, Mr Stanišić is to be examined at least once every four weeks by a gastroenterologist who will report in writing to the Chamber on the Accused's medical condition after each examination. Mr Stanišić is also to be examined by a psychiatrist who will report in writing to the Chamber on the Accused's medical condition once every eight weeks. If the Chamber considers it necessary, based on the regular reporting set out above, it will request that any other medical specialist examine Mr Stanišić and report in writing to the Chamber. All the reports referred to in this item should be filed publicly unless the Chamber indicates otherwise. Any sensitive personal information about Mr Stanišić or third parties that is not directly related to Mr Stanišić's ailments should be filed confidentially in a separate annex to the report.
4. Mr Stanišić will be physically present in court during the court hearings. As all accused before the Tribunal, Mr Stanišić may waive his right to be present in court. If he waives this right due to illness, Mr Stanišić is to follow the procedure set out by the Registry, including filling out the form for waiving the right as will be provided to him by the staff of the UNDU.

5. In order to further accommodate Mr Stanišić, the Chamber will allow him, if he opts to, not to be present in court but instead follow the proceedings via a video-conference link from the UNDU. For this purpose, an observation room with toilet facility has been arranged at the UNDU in close vicinity to Mr Stanišić's cell. Mr Stanišić should inform the staff of the UNDU of this decision at the earliest possible time. The staff of the UNDU should convey this message to the Chamber, via the Court Officer, before the start of the hearing on any particular day. A video-conference link will allow Mr Stanišić to follow the proceedings, to see the witnesses at all times, and to address the court. The Chamber and the parties in the courtroom will also be able to see Mr Stanišić at the video-conference link. A telephone line will allow Mr Stanišić to communicate with his counsel in the courtroom and a member of the Defence team may be present with Mr Stanišić at the UNDU. Mr Stanišić will also have access to eCourt and Livenote transcript in the observation room.

6. On each court day, the Commanding Officer, Deputy Commanding Officer or any other authorized officer of the UNDU shall remind Mr Stanišić of the court schedule for the day and that the normal arrangements are in place for his transport to court. If Mr Stanišić indicates that he is too unwell to attend court in person, the Commanding Officer is to remind him of his right to be present in court, ask him if he waives his right to attend and offer him the opportunity to communicate with counsel. The Commanding Officer shall also inform Mr Stanišić that he may make use of the video-conference link from the UNDU, should he opt not to physically attend court.

7. If Mr Stanišić does not waive his right to be physically present and does not opt to participate in the proceedings via video-conference link from the UNDU but claims that he is too ill to go to court, he shall be medically examined before the court session. The Reporting Medical Officer at the UNDU or an independent medical expert shall familiarize him or herself with the medical condition of Mr Stanišić and submit, through the Court Officer, a written report to the Chamber. This report will be filed publicly unless the Chamber indicates otherwise. Any sensitive personal information about Mr Stanišić or third parties that is not directly related to Mr Stanišić's ailments should be filed confidentially in a separate annex to the report. The Reporting Medical Officer at the UNDU or the independent medical expert shall also be ready to report orally to the Chamber at the beginning of the court session. The Commanding Officer, Deputy Commanding Officer or any other authorized officer of the UNDU shall inform the Chamber, through the Court Officer, about the above as soon as possible, including that Mr Stanišić is being or has been medically examined. At the beginning of the court session, Defence Counsel shall confirm to the Chamber that Mr Stanišić has not waived his right to be present. The Chamber shall then, if it deems necessary,

hear the Reporting Medical Officer or the independent medical expert in court or through the video-conference link on the medical condition of Mr Stanišić. The Chamber may also seek further information about the condition of Mr Stanišić from other sources, as it deems fit.

8. Upon hearing the Reporting Medical Officer or the independent medical expert, if the Chamber has deemed it necessary to do so, the Chamber will determine that either:

(a) Mr Stanišić is well enough to participate in the proceedings, either in person or, if he elects, via video-conference link, in which case Mr Stanišić shall be deemed to have waived his right to be present and the trial will continue in his absence; or

(b) Mr Stanišić is too unwell to participate in the proceedings in either way, in which case the Chamber shall adjourn the proceedings until the next scheduled court session.