



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: 16 December 2009  
Original: English

**IN TRIAL CHAMBER I**

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

**Registrar:** Mr John Hocking

**Decision of:** 16 December 2009

**PROSECUTOR**

v.

**JOVICA STANIŠIĆ  
FRANKO SIMATOVIĆ**

***PUBLIC***

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**DECISION ON TAKING JUDICIAL NOTICE OF  
ADJUDICATED FACTS**

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**Office of the Prosecutor**

Mr Dermot Groome

**Counsel for Jovica Stanišić**

Mr Geert-Jan Alexander Knoops  
Mr Wayne Jordash

**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 (“Chamber”);

**NOTING** its “Decision on Prosecution’s Motion for Judicial Notice of Adjudicated Facts” filed on 25 November 2009 (“Adjudicated Facts Decision”), whereby the Chamber proposed to take, *proprio motu*, judicial notice of one additional fact adjudicated in the *Brđanin* Trial Judgement (“Proposed Fact”) and invited the Parties to submit their positions on the issue within two weeks;<sup>1</sup>

**NOTING** the “Prosecution Submission on the Decision for Judicial Notice of the Adjudicated Facts” filed on 2 December 2009, whereby the Prosecution did not object to taking judicial notice of the Proposed Fact;<sup>2</sup>

**NOTING** the “Defence Submission on the Decision for Judicial Notice of Adjudicated Facts” filed on 9 December 2009, whereby the Stanišić Defence did not raise any objection in this matter;<sup>3</sup>

**NOTING** that the Simatović Defence did not file any submission;

**FURTHER NOTING** that in its Adjudicated Facts Decision the Chamber deferred its ruling as to the proffered facts nos 127-128, 130-133 until resolving the issue of taking judicial notice of the Proposed Fact;<sup>4</sup>

**CONSIDERING** that the law applicable to taking judicial notice of adjudicated facts was outlined in the Adjudicated Facts Decision;<sup>5</sup>

**FINDING** that the Proposed Fact fulfils all the requirements of the Rule 94(B) of the Rules of Procedure and Evidence (“Rules”);

**FINDING** that by taking judicial notice of the Proposed Fact, proffered facts nos 127-128 and 130-133 are now placed within the proper context and fulfil the requirements of Rule 94(B) of the Rules;

**FOR THE FOREGOING REASONS, and PURSUANT TO** Rule 94(B) of the Rules,

**HEREBY:**

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<sup>1</sup> Adjudicated Facts Decision, para. 42.

<sup>2</sup> Prosecution Submission on the Decision for Judicial Notice of the Adjudicated Facts, 2 December 2009, para. 5.

<sup>3</sup> Defence Submission on the Decision for Judicial Notice of Adjudicated Facts, 9 December 2009, para. 3.

<sup>4</sup> Adjudicated Facts Decision, paras 42, 92.


<sup>5</sup> See Adjudicated Facts Decision, paras 26-29, 32, 50, 61-63, 67.

- a) Takes judicial notice of the following fact that should be logically placed between proffered facts nos 126 and 127:

These instructions provided for the conduct of specified activities in all municipalities in which Serbs lived, and essentially mapped out the take-over of power by Bosnian Serbs in municipalities where they constituted a majority of the population ("Variant A") and where they were in a minority ("Variant B");

- b) Takes judicial notice of proffered facts nos 127-128, 130, 132-133.
- c) Takes judicial notice of proffered fact no. 131 with the redaction indicated in paragraph 42 of the Adjudicated Facts Decision.

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



Judge Alphons Orie  
Presiding Judge

Dated this sixteenth day of December 2009  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**