

**UNITED
NATIONS**



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 February 2012
Original: English

IN TRIAL CHAMBER I

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

Registrar: Mr John Hocking

Order of: 16 February 2012

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

**DECISION ON STANIŠIĆ DEFENCE REQUEST FOR
ADDITIONAL GASTROENTEROLOGIST REPORT**

Office of the Prosecutor
Mr Dermot Groome

Counsel for Jovica Stanišić
Mr Wayne Jordash
Mr Scott Martin

Counsel for Franko Simatović
Mr Mihajlo Bakrač
Mr Vladimir Petrović

1. On 31 January 2012, the Stanišić Defence submitted that Mr. Stanišić's treating gastroenterologist had indicated that a continuation of his current medication to treat Mr. Stanišić's pouchitis could result in very negative allergic reactions.¹ Mr. Stanišić's treating gastroenterologist further indicated that surgery should be considered.² The Stanišić Defence indicated that the type of surgery required was not available in The Netherlands but in a specialised clinic in Cleveland, U.S.A.³ It further submitted that Mr. Stanišić's treating gastroenterologist would hold a telephone conference with a colleague from the Cleveland clinic on 2 February 2012.⁴ It accordingly requested an urgent report from the Chamber's reporting gastroenterologists on the suggested surgery ("Request").⁵ The Chamber invited both the Stanišić Defence and the Prosecution to submit specific proposed questions to be put to the Chamber's reporting gastroenterologists.⁶ The Prosecution submitted such questions through informal communications on 1 February 2012. The Stanišić Defence did not submit any proposed questions. On 7 February 2012, the Stanišić Defence indicated that a treatment may have been found which does not yet involve surgery.⁷ On 14 February 2012, the Stanišić Defence renewed the Request, expanding it to not only cover the suggested surgery but also the broader gastroenterological treatment, including the recently suggested type of "biological treatment".⁸

2. The Chamber's reporting gastroenterologists have on prior occasions suggested surgery or other treatments for Mr. Stanišić's pouchitis.⁹ Pursuant to the modalities for this trial, the Chamber should be kept informed about any changes in treatment which might have an effect on Mr. Stanišić's possibility to be present at his own trial. At the same time, the Chamber is of the view that the issue is not of such urgency that an additional specialist report needs to be prepared at this

¹ T. 16663.

² Ibid.

³ T. 16663-16664.

⁴ T. 16664; see also Reporting Medical Officer Weekly Report, 30 January 2012, para. 4.

⁵ T. 16664.

⁶ T. 16666-16668.

⁷ T. 16931. On 8 February 2012, the Chamber inquired through an informal communication whether the Stanišić Defence was inclined to withdraw the Request in light of this new information. The Stanišić Defence responded on 9 February 2012 through an informal communication stating that while it accepts that the urgency has diminished, it would appreciate consideration of the Request nonetheless.

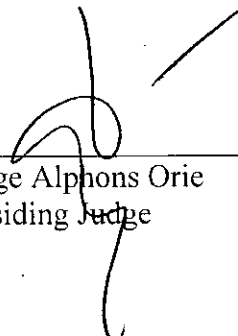
⁸ T. 17266-17267.

⁹ See e.g. Registry Submission of Medical Report, 12 December 2011, p. 4; Registry Submission of Expert Report, 10 September 2010, p. 4; Registry Submission of Expert Report, 8 June 2010, p. 4; Registry Submission Pursuant to Rule 33 (B) Concerning Expert Report, 26 June 2009, p. 3.

time.¹⁰ The Stanišić Defence has advised that any plans for surgical treatment have been put on hold and the Chamber expects the reporting gastroenterologists to report to the Chamber on any new treatment, even without having been specifically requested to do so.

3. Under these circumstances, the Chamber **DENIES** the Request without prejudice. The Registry is hereby instructed to provide copies of this decision to the RMOs and the Chamber's reporting gastroenterologists Dr. Siersema and Dr. Oldenburg.

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



Judge Alphons Orie
Presiding Judge

Dated this Sixteenth of February 2012
At The Hague
The Netherlands

[Seal of the Tribunal]

¹⁰ In coming to this conclusion, the Chamber has also considered that the next report of the Chamber's reporting gastroenterologists is due on 5 March 2012.