

5-03-69-T
D 46917 - D 46916
04 December 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: 4 December 2012
Original: English

IN TRIAL CHAMBER I

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

Registrar: Mr John Hocking

Decision of: 4 December 2012

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

DECISION ON STATUS OF EXHIBITS

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

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 that on 10 July 2012, the Simatović Defence (“Defence”) filed its third bar table motion (“Motion”), to which the Prosecution responded on 31 July 2012;¹

NOTING that on 17 September 2012, the Chamber issued its Second Decision on the Simatović Defence Third Bar Table Motion (“Second Decision”), whereby it instructed the Registry to convert the public status of all documents admitted through the First Decision on the Simatović Defence Third Table Motion of 7 September 2012 (“First Decision”) to provisionally under seal;²

NOTING that the Chamber instructed the Defence to indicate to the Chamber and the parties which exhibits admitted through the First Decision and the Second Decision should remain under seal;³

NOTING that on 24 September 2012, the Defence filed a Notification (“Defence Notification”), specifying which exhibits admitted through the First and Second Decision should be under seal, namely those bearing Rule 65 *ter* nos 2D01217, 2D01220, 2D00366, 2D00367, 2D00717.2, 2D00761.2, 2D00762.2, 2D00764.2, 2D00714.2, 2D00655, 2D00690, 2D00785.2, and 2D00878;⁴

NOTING, in relation to document bearing Rule 65 *ter* no. 2D00185.2, that this document is already in evidence as exhibit P1120 (public), and that the Chamber in its Second Decision declared the Defence request for admission into evidence of this document moot;⁵

CONSIDERING, in light of the Defence submission on document bearing Rule 65 *ter* no. 2D00185.2, that the status of exhibit P1120 should be changed to under seal;

¹ Simatović Defence Third Bar Table Motion with Confidential Annex, 10 July 2012; Prosecution Response to Simatović Defence Third Bar Table Motion with Confidential Annex, 31 July 2012. The Chamber observes that, in its decisions on the Motion, it had omitted to include the following information. On 11 July 2012, the Prosecution (through an informal communication) requested an extension of the deadline to respond to the Motion due to, *inter alia*, the quantity and nature of the documents that the Defence requested for admission into evidence. On 16 July 2012, the Chamber granted this request, and informed the parties accordingly (also through an informal communication). That decision is hereby put on the record.

² Second Decision on Simatović Third Bar Table Motion, 17 September 2012, para. 23 (vii).

³ *Ibid.*, para. 23 (viii).

⁴ Defence Notification, 24 September 2012 (Confidential), p. 8.

⁵ Second Decision, paras 16, 23 (iv).

NOTING, in relation to document bearing Rule 65 *ter* no. 2D00878 (admitted through the First Decision as exhibit D1617), that the Defence indicated that this document was already in evidence as exhibit D381 (under seal);⁶

NOTING that the Defence indicated that the confidential status of the remaining documents admitted through the First and Second Decision could be lifted;⁷

DECIDES that the following documents admitted through the First and Second Decision shall remain under seal: 2D01217, 2D01220, 2D00366, 2D00367, 2D00717.2, 2D00761.2, 2D00762.2, 2D00764.2, 2D00714.2, 2D00655, 2D00690, and 2D00785.2;

DECIDES that the status of the following documents, which have been admitted through the First and Second Decision, be changed to public: 2D00046, 2D00050, 2D00085, 2D00102, 2D00103, 2D00104, 2D00111, 2D00112, 2D00138, 2D00163.2, 2D00182.2, 2D00186.2, 2D00188.2, 2D00189.2, 2D00190.2, 2D00193.2, 2D00195.2, 2D00196.2, 2D00199.2, 2D00200.2, 2D00201.2, 2D00204.2, 2D00206.2, 2D00207.2, 2D00208.2, 2D00213.2, 2D00215.2, 2D00218.2, 2D00252.2, 2D00262.2, 2D00271.2, 2D00375, 2D00548.2, 2D00551.2, 2D00557.2, 2D00560.2, 2D00563.2, 2D00590.2, 2D00591.2, 2D00599.2, 2D00631.2, 2D00699.2, 2D00791, 2D00792, 2D00796, 2D00797, 2D00805, 2D00826, 2D00828, 2D00874, 2D01669, 2D01672, 2D01673; 2D01695, 2D01719, 2D01721, 2D01728, 2D01729, 2D01730, 2D01731, 2D01736, 2D01737, 2D01741, 2D01745, 2D01222, 2D01223, 2D01225, 2D01226, 2D01227, 2D01228, 2D01229, 2D01275, 2D01276, 2D01277, 2D01278, 2D01294, 2D01297, 2D01300, 2D01301, 2D01306, 2D01340, 2D01341, 2D01342, 2D01349, 2D01381, 2D01382, 2D01383, 2D01385, 2D01362, 2D01657, 2D01661, 2D01296, 2D01386, 2D01391, 2D01392, 2D01394, 2D01397, 2D00140.2, 2D00181.2, 2D00696.2, 2D00701.2, 2D00703.2, and 2D00221.2; and

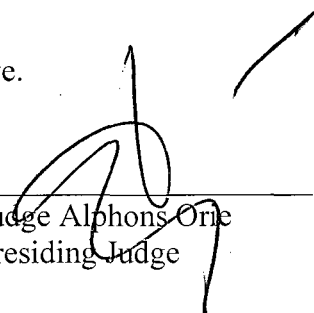
⁶ Defence Notification, p. 8.

⁷ Ibid, p. 5. The Chamber notes that at page 4 of the Defence Notification, the Defence lists 2D00692.2 as one of the documents that can be admitted publicly. The Chamber observes that this document was not part of the Motion, and that the Chamber consequently has not decided on its admission into evidence.

Uegiu

INSTRUCTS the Registry to (i) change the status of document bearing Rule 65 *ter* no. 2D00878 (exhibit D1617) to “not admitted”, and (ii) change the status of exhibit P1120 to “under seal”.

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



Judge Alphons Orie
Presiding Judge

Dated this fourth day of December 2012
At The Hague
The Netherlands

[Seal of the Tribunal]