

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-15-96-A

Date: 29 October 2021

Original: English

IN THE APPEALS CHAMBER

Before: Judge Carmel Agius, Pre-Appeal Judge
Registrar: Mr. Abubacarr Tambadou
Decision of: 29 October 2021

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

**DECISION ON PROSECUTION MOTION
FOR EXTENSION OF TIME FOR THE FILING OF
RESPONDENT'S BRIEFS**

The Office of the Prosecutor:

Mr. Serge Brammertz
Ms. Laurel Baig
Ms. Barbara Goy

Counsel for Mr. Jovica Stanišić:

Mr. Wayne Jordash
Mr. Joe Holmes

Counsel for Mr. Franko Simatović:

Mr. Mihajlo Bakrač
Mr. Vladimir Petrović

I, CARMEL AGIUS, Judge of the International Residual Mechanism for Criminal Tribunals (“Mechanism”) and Pre-Appeal Judge in this case;¹

NOTING the judgement pronounced by the Trial Chamber of the Mechanism in the case of *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. MICT-15-96-T on 30 June 2021 and filed in writing on 6 August 2021;²

NOTING the notices of appeal filed on 6 September 2021 by Mr. Jovica Stanišić (“Stanišić”), Mr. Franko Simatović (“Simatović”), and the Office of the Prosecutor of the Mechanism (“Prosecution”) against the Trial Judgement;³

BEING SEIZED OF a motion, filed on 26 October 2021, wherein the Prosecution requests a synchronized briefing schedule that provides a four-week extension of time for all parties to file their respective respondent’s briefs by 31 January 2022;⁴

NOTING the Prosecution’s submissions that good cause exists for the requested extension of time as it does not significantly prolong proceedings, is in the interests of justice, and is justified by: (i) the scale and complexity of the case, in light of the “voluminous trial record” and the need for the Prosecution to respond to appeals from both Stanišić and Simatović;⁵ (ii) the fact that the respondent’s briefs are due during judicial recess, leaving parties only “19 non-recess working days” to prepare their briefs;⁶ and (iii) the “extraordinary impact that the COVID-19 pandemic and related restrictions have had on staff and their families”, making it “imperative that parties are not required to work during the entire judicial recess”;⁷

CONSIDERING that, although Stanišić and Simatović have not yet filed responses, adjudicating the Motion now will not prejudice them as the Prosecution seeks extensions for all parties;

RECALLING that, pursuant to Rules 138 and 139 of the Rules of Procedure and Evidence of the Mechanism (“Rules”), an appellant’s brief must be filed within 75 days of the filing of the notice of appeal and a respondent’s brief must be filed within 40 days of the filing of the appellant’s brief;

¹ Order Assigning Judges to a Case Before the Appeals Chamber, 10 September 2021, p. 1; Order Assigning a Pre-Appeal Judge, 15 September 2021, p. 1.

² *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. MICT-15-96-T, Judgement, 6 August 2021 (“Trial Judgement”).

³ Stanišić Defence Notice of Appeal, 6 September 2021; Simatović Defence Notice of Appeal, 6 September 2021; Prosecution Notice of Appeal, 6 September 2021.

⁴ Prosecution Motion for Extension of Time, 26 October 2021 (“Motion”), paras. 1, 2, 6, 9, 14, 15.

⁵ Motion, paras. 2-6.

⁶ Motion, paras. 7, 8.

⁷ Motion, para. 10. *See also* Motion, paras. 11-13.

OBSERVING that the appellant's briefs in this case are due by 22 November 2021 and that the corresponding latest date for the filing of the respondent's briefs is 3 January 2022;

RECALLING that, pursuant to Rule 154(A) of the Rules, the time limits prescribed in the Rules may be enlarged on good cause being shown;

CONSIDERING that the Mechanism's deadlines for the filing of briefs are essential to ensure that appeal proceedings are conducted in a fair and expeditious manner,⁸ and that the parties are expected to plan and allocate resources as may be appropriate to comply with the prescribed timelines;⁹

CONSIDERING that limited staff availability during recess may be a factor in granting extensions of time,¹⁰ but does not in itself constitute "good cause" for enlarging the time limits;¹¹

CONSIDERING, however, the need to weigh carefully the parties' right to adequate time to prepare their cases and the interest in ensuring expeditious proceedings before the Mechanism;¹²

CONSIDERING that, in the circumstances of this case, the size of the trial record subject to appeal and the fact that the Prosecution will respond to two appeals are factors weighing in favour of enlarging the applicable time limit;

FINDING that, in light of the foregoing, good cause exists for granting the limited extension of time and that it is in the interests of justice and effective case management to grant the same extension to Stanišić and Simatović;

⁸ See Rule 139(A) of the Rules; *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A, Decision on Appellants' Requests for Extension of Time and Word Limits, 9 October 2014 ("Prlić et al. Decision of 9 October 2014"), p. 3, n. 7; *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-A, Decision on Stanišić and Simatović Defence Motions for Extension of Time to File Responses to the Prosecution Appeal Brief, 9 October 2013, p. 3, n. 18. See also, *mutatis mutandis*, Rule 112(A) of the Rules of Procedure and Evidence of the International Criminal Tribunal for the former Yugoslavia.

⁹ See *Prosecutor v. Radovan Karadžić*, Case No. MICT-13-55-A, Decision on a Joint Motion for Extension of Time to File Appeal and Response Briefs, 9 August 2016 ("Karadžić Decision of 9 August 2016"), p. 2, n. 7; *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Case No. IT-02-60-A, Decision on Blagojević's and Jokić's Motions for Extensions of Time to File their Appeal Briefs, 21 July 2005 ("Blagojević and Jokić Decision of 21 July 2005"), para. 19; *Prosecutor v. Radoslav Brđanin*, Case No. IT-99-36-A, Decision on Motion for Extension of Time for the Filing of Prosecution Response Brief, 20 July 2005 ("Brđanin Decision of 20 July 2005"), p. 3. See also *Prosecutor v. Milan Lukić and Sredoje Lukić*, Case No. IT-98-32-1/A, Decision on Milan Lukić's Motion Seeking Extension of Time to File Appeal Brief and Motion for Stay of Proceedings, 30 October 2009 ("Lukić and Lukić Decision of 30 October 2009"), para. 12.

¹⁰ See Prlić et al. Decision of 9 October 2014, p. 3; *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-A, Decision on Motions for Reconsideration, 5 September 2014, p. 4; Lukić and Lukić Decision of 30 October 2009, para. 12.

¹¹ See Karadžić Decision of 9 August 2016, p. 2, n. 7; Blagojević and Jokić Decision of 21 July 2005, para. 19; Brđanin Decision of 20 July 2005, p. 3.

¹² *Prosecutor v. Ratko Mladić*, Case No. MICT-13-56-A, Decision on Ratko Mladić's Motion for Extensions of Time and Word Limits, 22 May 2018, p. 3; *Prosecutor v. Ratko Mladić*, Case No. MICT-13-56-A, Decision on Motion for Extension of Time to File Notice of Appeal, 21 December 2017, p. 2; Karadžić Decision of 9 August 2016, p. 2.

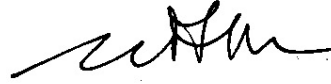
FOR THE FOREGOING REASONS,

HEREBY GRANT the Motion; and

ORDER that each of the respondent's briefs in this case be filed no later than 31 January 2022.

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

Done this 29th day of October 2021,
At The Hague,
The Netherlands



Judge Carmel Agius
Pre-Appeal Judge

[Seal of the Mechanism]



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