

**UNITED
NATIONS**



Mechanism for International Criminal Tribunals

Case No: MICT-15-96-T

Date: 28 July 2017

Original: English

IN THE TRIAL CHAMBER

Before:

**Judge Burton Hall, Presiding
Judge Joseph E. Chiondo Masanche
Judge Seon Ki Park**

Registrar:

Mr. Olufemi Elias

THE PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

***WITH CONFIDENTIAL ANNEXES A AND B
AND PUBLIC ANNEX C***

**PROSECUTION MOTION FOR ADMISSION OF EVIDENCE OF
BORIVOJE SAVIĆ (RFJ-140) PURSUANT TO RULE 111**

The Office of the Prosecutor:

Mr. Douglas Stringer

Counsel for Jovica Stanišić:

Mr. Wayne Jordash QC
Mr. Iain Edwards

Counsel for Franko Simatović:

Mr. Mihajlo Bakrač
Mr. Vladimir Petrović

I. INTRODUCTION

1. The Prosecution requests that the Chamber admit the amalgamated written statement of Borivoje Savić,¹ together with its associated exhibits, pursuant to Rules 105 and 111(A) of the MICT Rules of Procedure and Evidence.² The Rule 111 Statement and its associated exhibits (collectively, “Proposed Evidence”), is relevant and probative, satisfying the admissibility requirements of Rules 105(C) and 111(A).

2. Attached to this Motion are two confidential³ annexes and one public annex:

- a. Confidential Annex A is the Rule 111 Statement;
- b. Confidential Annex B is a table identifying the associated exhibits tendered for admission;
- c. Public Annex C is the DVD containing three videos tendered as associated exhibits.

II. THE CHAMBER SHOULD ADMIT THE PROPOSED EVIDENCE PURSUANT TO RULE 111

A. The Proposed Evidence satisfies the requirements of Rule 111(A)

3. Savić provided a signed, amalgamated statement in August 2012.⁴ Savić will be (i) present in court; (ii) available for cross-examination by the Defence and questioning by the Judges; and (iii) able to attest that his statement accurately reflects what he would say, if examined. In addition to the matters addressed in the Proposed Evidence, the Prosecution estimates that it will require approximately 1 hour in order to conduct a limited and focused direct examination to clarify and contextualise aspects of Savić’s evidence.

¹ ICTY Amalgamated Witness Statement of SAVIĆ, Borivoje dated 24 July 2012 and 21-23 August 2012, (R70#81220) (“Rule 111 Statement”).

² MICT/1/Rev.2 (26 September 2016) (“MICT Rules”); *see also* Order on the Procedure for the Conduct of Trial, 6 December 2016, Annex A, (“Trial Guidelines”), *esp.* paras.13-15, 25.

³ The annexes are filed confidentially because the Rule 111 Statement and the chart of associated exhibits refer to documents which are tendered under seal.

⁴ Savić’s amalgamated statement was created for the *Hadžić* case (IT-04-75-T). It was completed and signed on 23 August 2012, approximately six months after the close of evidence in the ICTY trial.

B. The Proposed Evidence is relevant and probative and satisfies the requirements of Rule 105

4. The Proposed Evidence – which relates to Counts 1-5 of the Indictment – is relevant and has probative value, thereby satisfying the requirements of Rule 105(C).⁵

5. Savić was a leading political figure in the area of Slavonia, Baranja and Western Srem (SBWS) and was a close associate of SAO SBWS President, Goran Hadžić. He joined the Serbian Democratic Party (SDS) in 1990 and worked as a representative of the SDS Slavonia Board in the Main Board of the party in Knin. Right after the Croatian elections in 1990, the party aimed to expand its political presence and planned the formation of the first SDS party boards in Slavonia and Baranja. On 10 June 1990, Savić created the municipal SDS board in Vukovar and appointed Goran Hadžić as President, while Savić himself was the Secretary.

6. While in office, the witness held frequent meetings with other leading figures of the SDS, including JCE members, Milan Babić and Goran Hadžić. He observed that Slobodan Milošević’s influence over Babić gradually extended to other members of the party, including Hadžić. Savić will discuss how, despite the appearance of different political formations, Milošević held tight control of the multiparty system through the intervention of the Serbian DB. In this regard, Savić describes how the SDS party split in August 1990 was orchestrated by the Serbian DB and resulted in some SDS members joining the Serbian Renewal Movement (SPO) party – a sham political organization under the control of the Serbian DB. He will further discuss his contacts with JCE member Mihalj Kertes, as well as Ilija Končarević and Ilija Petrović, who indicated they were representatives of the Serbian State Security Service and of Serbian President Milošević. In January 1991, they formed the Serbian National Council, an illegal parallel structure of authority financially supported by Milošević, which was intended as the vehicle to form a new Serb state in the SBWS area.

7. The witness was present in the area when the Serbian DB started distributing weapons under the cloak of the SDS, around mid-1990. The man in charge of the distribution in Vukovar, Ilija Kojić, told the witness that he received the weapons

⁵ MICT Rule 105(C); *see also* Trial Guidelines, para.25; Decision on Prosecution Motion for admission of evidence of John Wilson pursuant to Rule 111, 1 June 2017 (“Wilson Decision”), para.13.

from Stanišić, who was the *de facto* head of the Serbian DB at that time. Savić also spoke with persons from his area who had been recruited by Stanišić and brought to Serbia for training.

8. Shortly after Savić and Hadžić were arrested during a confrontation with Croatian police in Plitvice on 31 March 1991, JCE member Vojislav Šešelj's men arrived in Borovo Selo. The witness confirmed with Vukašin Soškočanin, the President of the SDS board in the municipality, that Milošević was behind Šešelj's assistance. Savić learned more about the links between Milošević, the Serbian DB and the paramilitary forces in the SBWS through Radmilo Bogdanović, the Serbian Minister of Interior, and Brana Crnčević, President of the Association of Serb Emigrés – a proxy organization used by the Serbian DB for the distribution of weapons. While Savić worked at the Association, from approximately mid-to-late 1991, Crnčević held daily meetings with Milošević; on one occasion Crnčević asked the witness to tell Arkan, leader of the Serbian DB unit known as the "Serbian Volunteers Guard" or "SDG", to get in touch with Šešelj about the delivery of military weapons. Savić met personally with Arkan and Slobodan Medić, the leader of the Serbian DB unit known as the "Skorpioni". Both men indicated to the witness that Jovica Stanišić was their boss.

9. Savić's evidence further concerns the initial passivity and subsequent assistance of the JNA in the achievement of Belgrade Serb objectives, such as the takeover of Pakrač (Croatia) on 1 March 1991. Savić travelled to Belgrade to speak with SDS leaders from Western Slavonia who had gone there to attend a meeting in preparation for the attack on Pakrač, and was told of the decision to join Western Slavonia with the association of municipalities in Knin and to create a separate Serb police force. The witness learned of the JNA's involvement in crimes against non-Serbs in Velepromet and Lovas (both in SBWS), as well as the removal of civilians from the SBWS, from other SDS leaders who were present in these areas.

10. The Proposed Evidence is *prima facie* reliable. Prior to signing his amalgamated statement, Savić was given an opportunity to review his prior evidence, including his prior sworn testimony and witness statements. Savić signed each page of the Rule 111 Statement after verifying that it was true and accurate to the best of his knowledge and recollection.

C. Admission of the Proposed Evidence would be efficient and expeditious and respects the rights of the Accused

11. The Prosecution tenders the Rule 111 Statement and the associated exhibits in accordance with its duty to present evidence in a specific and concentrated manner⁶ and to present its case “as efficiently as possible, taking advantage of all available avenues.”⁷

12. Admission of the Proposed Evidence would not infringe the fair trial rights of the Accused. Under Rule 111, the Accused retains an opportunity to cross-examine the witness on the entirety of the Proposed Evidence. Its admission ensures efficiency and enhances the expeditiousness of proceedings which, in itself, benefits the Accused.

D. The Associated Exhibits are an inseparable and indispensable part of the Rule 111 Statement and should be admitted

13. The exhibits associated to the Rule 111 Statement should be admitted.⁸ In the Rule 111 Statement, Savić comments upon each of the associated exhibits identified in Confidential Annex B, discussing his knowledge regarding the information contained in the exhibits and/or how the exhibits relate to the evidence provided in the statement. Similarly, the associated exhibits provide context to Savić’s evidence, and often corroborate that evidence. The Rule 111 Statement would thus be incomprehensible, and would lose probative value, if the associated exhibits were not admitted.⁹

III. CONCLUSION

14. For the foregoing reasons, the Prosecution respectfully requests that the Chamber admit the Proposed Evidence, namely, the amalgamated statement attached in Confidential Annex A and the associated exhibits identified in Confidential Annex

⁶ Trial Guidelines, para.28.


⁷ *Prosecutor v. Šainović et al.*, Case No.IT-05-87-A, Judgement, 23 January 2014, para.135.

⁸ See e.g. Decision on Prosecution Motion for Admission of Evidence of Josip Josipović pursuant to Rule 111, 13 June 2017 (“Josipović Decision”), p.2.

⁹ See e.g. Wilson Decision, para.9; Josipović Decision, p.2; *Prosecutor v. Stanišić & Simatović*, Case No.IT-03-69, Decision on Prosecution’s Motion for Admission of Written Evidence Pursuant to Rule 92bis, 7 October 2010, para.36.

B, which have not already been accepted into evidence, subject to fulfilment of the Rule 111 conditions by Savić during his appearance in court.¹⁰

Word Count: 1,500


Douglas Stringer
Senior Trial Attorney

Dated this 28th day of July, 2017
At The Hague, The Netherlands

¹⁰ Where technical ICTY Rule 92ter / MICT Rule 111 conditions contingent upon future events have not been met, Chambers have provisionally admitted evidence or otherwise acknowledged that it is appropriate for admission, subject to fulfillment of all requirements. *See e.g.* Josipović Decision, p.2.

MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS

Case No. MICT-15-96-T

**THE PROSECUTOR
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PUBLIC

ANNEX C

**TO PROSECUTION MOTION FOR ADMISSION OF EVIDENCE
OF BORIVOJE SAVIĆ (RFJ-140) PURSUANT TO RULE 111**

DVD containing 3 video files
tendered as associated exhibits



**TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH THE
MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS/
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