

**UNITED  
NATIONS**



Mechanism for International Criminal Tribunals

Case No.: MICT-15-96-T

Date: 29 August 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

**Decision of:** 29 August 2017

**PROSECUTOR**

v.

**JOVICA STANIŠIĆ  
FRANKO SIMATOVIĆ**

***PUBLIC***

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**DECISION ON PROSECUTION MOTION FOR ADMISSION OF  
EVIDENCE OF JASNA DENONA PURSUANT TO RULE 111**

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**The Office of the Prosecutor:**

Mr. Serge Brammertz  
Mr. Douglas Stringer

**Counsel for the Defence:**

Mr. Wayne Jordash and Mr. Iain Edwards for Mr. Jovica Stanišić  
Mr. Mihajlo Bakrač and Mr. Vladimir Petrović for Mr. Franko Simatović

**THE TRIAL CHAMBER OF** the International Residual Mechanism for Criminal Tribunals (“Trial Chamber” and “Mechanism”, respectively);<sup>1</sup>

**BEING SEISED OF** a motion filed on 27 June 2017,<sup>2</sup> in which the Prosecution requests, pursuant to Rule 111(A) of the Mechanism’s Rules of Procedure and Evidence (“Rules”), the admission of: (i) Jasna Denona’s written statement given to the Prosecution of the International Criminal Tribunal for the former Yugoslavia (“ICTY”) in November 2000; (ii) the transcripts of her testimony given before the ICTY in the cases of *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-T, *Prosecutor v. Milan Martić*, Case No. IT-95-11-T, and the original trial;<sup>3</sup> and (iii) seven associated exhibits;<sup>4</sup>

**NOTING** the Prosecution’s submissions that: (i) the proposed evidence was admitted in the original trial and satisfies the requirements of Rules 105(C) and 111(A) of the Rules; (ii) admission of the proposed evidence will enable the Prosecution to present its case in an efficient and expeditious manner, without infringing on the fairness of the proceedings; and (iii) the associated exhibits form an inseparable and indispensable part of the written statement and transcripts;<sup>5</sup>

**NOTING** that the Prosecution also seeks leave to amend its Rule 70(E) exhibit list to add one of the proposed associated exhibits that had inadvertently been excluded from the list, arguing that in the original trial the exhibit was disclosed to the Accused and was admitted, without objection;<sup>6</sup>

**NOTING** that Jovica Stanišić does not oppose the request for leave to amend the exhibit list or the admission of the proposed evidence with the exception of references to attacks on three villages that he contends fall outside the scope of the Prosecution’s case, namely: (i) Nadin, as it was dropped from the Indictment at the beginning of the original trial, and (ii) Medvida and Ervenik, as they are not specified in the Indictment or in the Prosecution’s Pre-Trial Brief;<sup>7</sup>

**NOTING** that Franko Simatović did not file a response;

<sup>1</sup> Order Replacing a Judge in a Case Before a Trial Chamber, 21 February 2017, p. 1.

<sup>2</sup> Prosecution Motion for Admission of Evidence of Jasna Denona (RFJ-056) Pursuant to Rule 111, 27 June 2017 (with Annexes A and B) (“Motion”).

<sup>3</sup> Motion, paras. 1, 3, 11, Annex B, *referring to* exhibits with Rule 70 numbers 80211, 80216, 80217, 80218.

<sup>4</sup> Motion, paras. 1, 9, 11, Annex B, *referring to* exhibits with Rule 70 numbers 80213, 02006, 20653, 09798, 80214, 00998, 00999.

<sup>5</sup> Motion, paras. 1, 3, 4, 7-11. *See* Prosecution Reply to Stanišić Defence Consolidated Response to Prosecution Motion for the Admission of Evidence Pursuant to Rule 111 of Luka Brkić and Jasna Denona, 18 July 2017, para. 3.

<sup>6</sup> Motion, para. 10, *referring to* proposed associated exhibit with Rule 70 number 20653. *See also* *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-T, Prosecution Exhibit P41; *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-T, T. 16 July 2009 pp. 2024.

<sup>7</sup> Stanišić Defence Consolidated Response to Prosecution Motions for the Admission of Evidence Pursuant to Rule 111 of Luka Brkić and Jasna Denona, 11 July 2017 (“Stanišić Response”), paras. 2-6, *referring to* exhibit with Rule 70 number 80217, p. 1280.

**NOTING** the applicable law governing the admission of written statements and transcripts pursuant to Rule 111(A) of the Rules, as well as associated exhibits, as set out in a previous decision;<sup>8</sup>

**NOTING** that, in the exercise of its inherent discretion in managing the proceedings, the Trial Chamber may authorize additions to the exhibit list, filed pursuant Rule 70(E)(iii) of the Rules, if it is satisfied that it is in the interests of justice to do so;<sup>9</sup>

**RECALLING** that, on 2 February 2017, the Trial Chamber issued a decision limiting the Prosecution's evidence primarily to that presented during the original trial and allowing the Prosecution to present new evidence only in certain limited circumstances;<sup>10</sup>

**CONSIDERING** that the proposed evidence was admitted in the original trial;<sup>11</sup>

**NOTING** that the Indictment alleges that, on 21 December 1991, Serb forces killed ten civilians in the Marinovići hamlet in the village of Bruška,<sup>12</sup> and that the proposed evidence contains information about these events;<sup>13</sup>

**CONSIDERING** that the limited references to Nadin, Medviđa, and Ervenik may constitute evidence in support of material facts pleaded in the Indictment or be relevant as background, context, or in the assessment of the credibility of other evidence admitted on the record;<sup>14</sup>

**CONSIDERING FURTHER** that the seven associated exhibits form an inseparable and indispensable part of Denona's testimony in the original trial;<sup>15</sup>

**FINDING** that the proposed evidence is relevant, has probative value, and is appropriate for admission pursuant to Rules 105(C) and 111(A) of the Rules;

<sup>8</sup> Decision on Prosecution Motion for Admission of Evidence of John Wilson Pursuant to Rule 111, 1 June 2017, paras. 7, 8.

<sup>9</sup> See *Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-AR73.1, Decision on Appeals Against Decision Admitting Material Related to Borovčanin's Questioning, 14 December 2007, para. 37.

<sup>10</sup> Decision on Stanišić's Request for Stay of Proceedings, 2 February 2017, para. 23. See Decision on Prosecution Submission in Relation to the Chamber's Limitation on New Evidence, 31 May 2017, paras. 11-19. See also Decision on Requests for Certification to Appeal Decision on Stanišić's Request for Stay of Proceedings, 1 March 2017, para. 10.

<sup>11</sup> See *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-T, Prosecution Exhibits 37-46. See also *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-T, T. 16 July 2009 pp. 2023-2025, 2028-2034.

<sup>12</sup> See *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-PT, Third Amended Indictment, 10 July 2008 ("Indictment"), para. 35.

<sup>13</sup> Exhibits with Rule 70 numbers 80211, pp. 2-4; 80216, pp. 28199-28205, 28212-28215; 80217, pp. 1270-1277, 1281-1293, 1297, 1299, 1301-1309; 80218, pp. 2025-2031, 2034.

<sup>14</sup> See exhibit with Rule 70 number 80217, p. 1280.

<sup>15</sup> See exhibit with Rule 70 number 80218, pp. 2019-2037.

**CONSIDERING** that the exhibit to be added to the Prosecution's exhibit list is a one page map that was previously disclosed and thus the Trial Chamber is satisfied that its addition will not cause the Accused prejudice;

**FINDING** that it is the interests of justice to grant the Prosecution leave to amend its exhibit list to add the exhibit with Rule 70 number 20653;

**FOR THE FOREGOING REASONS,**


**HEREBY GRANTS** the Motion;

**ALLOWS** the Prosecution to add the exhibit with Rule 70 number 20653 to its exhibit list; and

**DECIDES** that the proposed evidence is appropriate for admission.

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

Done this 29th day of August 2017,  
At The Hague,  
The Netherlands.



Judge Burton Hall, Presiding

[Seal of the Mechanism]



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