

**UNITED
NATIONS**



Mechanism for International Criminal Tribunals

Case No.: MICT-15-96-T

Date: 6 September 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: 6 September 2017

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

**DECISION ON JOINT MOTION OF ALL PARTIES FOR
ADMISSION OF THE EVIDENCE OF AGREED WITNESSES
AND ASSOCIATED EXHIBITS**

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);¹

RECALLING that the Trial Chamber encouraged the parties to reach agreements for the admission of evidence given by witnesses in the case of *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-T, before the International Criminal Tribunal for the former Yugoslavia (“original trial” and “ICTY”, respectively);²

RECALLING that, according to the Guidelines, when such agreements are reached, the tendering party shall tender the same materials and associated exhibits as were tendered through the witnesses in the original trial, accompanied where applicable by the transcript and video of their testimony in the original trial;³

RECALLING that witness evidence, subject to such agreement, that was provided in the original trial pursuant to Rules 92*bis*, 92*ter*, or 92*quater* of the ICTY Rules of Procedure and Evidence shall be treated in this trial as if it were provided pursuant to Rules 110, 111, or 112 of the Mechanism’s Rules of Procedure and Evidence (“Rules”), respectively;⁴

BEING SEISED OF a joint motion of the Prosecution, Jovica Stanišić, and Franko Simatović, filed on 29 August 2017, in which: (i) the parties inform the Trial Chamber that they have agreed to the admission of the evidence of 14 witnesses, including their testimonies, statements, and associated exhibits;⁵ (ii) the parties request that the evidence be admitted and treated as if it were provided pursuant to the same mode in this trial as during the original trial;⁶ and (iii) the Prosecution seeks leave to add two exhibits to its Rule 70(E) exhibit list;⁷

NOTING that, in the Joint Motion, the parties request the admission of the evidence of witnesses: (i) Ana Bičanić, Stjepan Dasović, Ramzija Ibrahimović, Ivan Jelić, Josip Josipović, RFJ-065, Neven Šegarić, and Tomislav Šegarić as if it were provided pursuant to Rule 110 of the Rules;⁸ (ii)

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

² See Order on the Procedure for the Conduct of Trial, 6 December 2016, Annex A (“Guidelines”), para. 12. See also Status Conference, T. 14 December 2016 p. 158; Status Conference, T. 7 April 2017 pp. 244, 245, 247; Pre-Trial Conference, T. 17 May 2017 p. 257.

³ Guidelines, para. 12.

⁴ Guidelines, para. 12.

⁵ Joint Motion of All Parties for Admission of the Evidence of Agreed Witnesses and Associated Exhibits, 29 August 2017 (public with confidential Annex) (“Joint Motion”), para. 1.

⁶ Joint Motion, paras. 2, 3.

⁷ Joint Motion, para. 4, referring to exhibits with Rule 70 numbers 81285 and 85334.

⁸ See Joint Motion, Annex, pp. 1-9 referring to exhibits with Rule 70 numbers 80096, 80097, 80184, 80352, 01070.1, 80354, 80354.1, 80354.2, 80354.3, 80354.4, 80354.5, 80354.6, 80354.7, 80354.8, 80354.9, 50133, 80367, 80364.1, 80364.2, 80364.3, 03723, 80013, 80812, 80813, 02156, 01639.2, 02154, 02155, 80816.

Jasna Denona, RFJ-025, and RFJ-034 as if it were provided pursuant to Rule 111 of the Rules;⁹ and (iii) Stana Albert, Boško Brkić, and Tomislav Kozarčanin as if it were provided pursuant to Rule 112 of the Rules;¹⁰

CONSIDERING that, by submitting the Joint Motion, the Prosecution effectively withdraws its previous requests for the admission of the evidence of Witnesses Ramzija Ibrahimović, Ivan Jelić, RFJ-065, Neven Šegarić, and Tomislav Šegarić pursuant to Rule 110 of the Rules,¹¹ and of Witness Ana Bićanić pursuant to Rule 111 of the Rules;¹²

CONSIDERING that the parties' agreement in relation to the evidence of Witnesses Josip Josipović and Jasna Denona impacts previous decisions by the Trial Chamber related to these witnesses;¹³

NOTING that the exhibits with Rule 70 numbers 80364.1, 02156, 02154, and 02155 were already admitted into evidence in this trial as exhibits P00284, P00302, P00293, and P00295, respectively;¹⁴

CONSIDERING that the proposed evidence is relevant and has probative value;

FINDING that admitting the proposed evidence as if it were provided pursuant to the same mode as in the original trial is in the interests of justice, promotes efficiency, and is in compliance with Article 18(1) of the Statute of the Mechanism;

FINDING that the present decision supersedes the Decision of 13 June 2017 and the Decision of 29 August 2017;

NOTING FURTHER that Stanišić and Simatović do not object to the Prosecution's request to amend its Rule 70(E) exhibit list by adding exhibits with Rule 70 numbers 81285 and 85334, which are the pseudonym sheets of Witnesses RFJ-025 and RFJ-034, respectively;¹⁵

⁹ See Joint Motion, Annex, pp. 10-17 referring to exhibits with Rule 70 numbers 80218, 80211, 80216, 80217, 80213, 21004.3, 20653, 09798, 80214, 00998, 00999, 80733, 80730, 81285, 80300, 00004, 00005, 00006, 09702.2, 00026, 00101, 50002.1, 00558, 00559, 80299, 01703, 50131.1, 00555, 00556, 00557, 85334.

¹⁰ See Joint Motion, Annex, pp. 17-19 referring to, exhibits with Rule 70 numbers 80014, 09283, 80163, 11472, 20025, 80398, 10428.

¹¹ See Prosecution Motion for the Admission of Evidence Pursuant to Rule 110, 5 December 2016 (public with confidential Annexes A and B), Annex A, pp. 1, 25, 27, 62, 65.

¹² See Prosecution Motion for Admission of Evidence of Ana Bićanić Pursuant to Rule 111, 24 May 2017 (with Annexes A and B); Prosecution Motion for Video-Conference Link (Ana Bićanić), 30 May 2017.

¹³ See Decision on Prosecution Motion for Admission of Evidence of Josip Josipović Pursuant to Rule 111, 13 June 2017 ("Decision of 13 June 2017"); Decision on Prosecution Motion for Admission of Evidence of Jasna Denona Pursuant to Rule 111, 29 August 2017 ("Decision of 29 August 2017").

¹⁴ See Vlado Vuković, T. 6 July 2017 p. 77; Marko Miljanić, T. 29 August 2017 pp. 9, 47; T. 6 September 2017, p. 48.

FINDING that it is in the interests of justice to grant the Prosecution leave to amend its exhibit list to add the exhibits with Rule 70 numbers 81285 and 85334;¹⁶

FOR THE FOREGOING REASONS,

HEREBY GRANTS the Joint Motion;

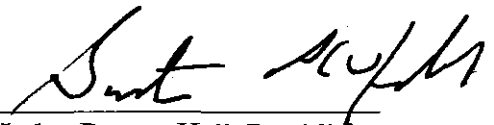
ALLOWS the Prosecution to add exhibits with Rule 70 numbers 81285 and 85334 to its exhibit list;

ADMITS the proposed evidence as if it were provided pursuant to the same mode as in the original trial; and

REQUESTS the Registry to assign exhibit numbers to the evidence admitted by this decision that was not previously admitted, with the same security classification level as in the original trial.

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

Done this 6th day of September 2017,
At The Hague,
The Netherlands.


Judge Burton Hall, Presiding

[Seal of the Mechanism]

¹⁵ See Joint Motion, para. 4.

¹⁶ 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.



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