

**UNITED
NATIONS**



Mechanism for International Criminal Tribunals

Case No: MICT-15-96-T

Date: 8 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

THE PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

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

**PROSECUTION MOTION FOR ADMISSION OF EVIDENCE OF
GORAN STOPARIĆ 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 admission of the written statements of witness Goran Stoparić¹ and transcript of his testimony in *Prosecutor v. Stanišić & Simatović*² (collectively, the “Rule 111 Statement”) and the associated exhibits set out in Annex B, pursuant to Rule 111(A) of the MICT Rules of Procedure and Evidence.³ The Rule 111 Statement and associated exhibits (collectively, “Proposed Evidence”) are relevant and probative, satisfying the admissibility requirements of Rules 105(C) and 111(A). With the exception of the 10 December 2003 Additional Statement, the Rule 111 Statement was admitted in the ICTY Trial pursuant to Rule 92 *ter* and all associated exhibits were also admitted in the ICTY Trial.

2. Attached to this Motion are three Annexes:

- a. Confidential Annex A contains the Rule 111 Statement of the witness;
- b. Annex B is a table identifying the associated exhibits;⁴ and
- c. Annex C is a DVD containing the 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. Stoparić 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 the Rule 111 Statements and Transcript accurately reflect what he would say, if examined. In addition to the matters addressed in the Proposed Evidence, the Prosecution will

¹ ICTY Witness Statement of Goran STOPARIĆ, dated 24 November 2003 (R70#80828); Unsigned Additions to Goran STOPARIĆ’s statement, dated 10 December 2003 (R70#80829) (“10 December 2003 Additional Statement”); Signed Statement of Goran STOPARIĆ, dated 20 January 2005 (R70#80834); Amendments to witness statement of Goran STOPARIĆ, dated 13 December 2010 (R70#04621).

² *Prosecutor v. Stanišić & Simatović*, Case No.IT-03-69-T (“ICTY Trial”), Transcript of testimony of Goran STOPARIĆ, 14, 15 and 16 December 2010 (R70#80849).

³ 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.

⁴ *See* Trial Guidelines, para.13.

require 1 hour in order to conduct a limited direct examination, to clarify and contextualise the witness's evidence.

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. Stoparić is a Serb male from Šid (Serbia), who served as a soldier in various military and paramilitary groups. He joined the TO in SAO SBWS in July 1991 and was summoned to the JNA shortly thereafter. As part of this unit he went to Tovarnik, where he witnessed Croat civilians being killed by members of his unit. He then went with this JNA unit to Ilača, where his unit amassed outside the town until the Croats had all left and the village was vacant. The unit then went to Đeletovci, where they found the village vacant, with no civilians.

6. In August 1991, Stoparić joined a small paramilitary group that was under the overall command of Šešelj, and was deployed to Vukovar in September 1991. He describes crimes committed by Serb forces against Croat civilians in Vukovar. In May 1992, the witness formed his own paramilitary unit under the command of the VRS, which was involved in operations in Brčko. While in Brčko the witness saw Žika Crnogorac, a commander of the Accused's Red Berets Unit, operating with a unit in the area. The witness joined the Scorpions, a special paramilitary unit of the Serbian DB, in 1993, at the request of Slobodan Medić aka Boca. He remained a member of the Scorpions until 1995.

7. Through his evidence, Stoparić provides insight into the formation of the Scorpions and other Red Beret satellite groups, including Arkan's Tigers, and explains the relationships that existed between the Serbian DB and these groups that were under their authority. The witness describes the organisation, activities and command structure of the Scorpions, and provides evidence of payments, weapons and equipment that the unit received from DB operatives. He confirms that the Scorpions reported to Milorad Ulemek aka Legija, Milan Milanović aka Mrgud,

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.

Simatović, and ultimately Stanišić, and provides evidence that the orders and assignments received by the Scorpions typically came directly from Belgrade.

8. Stoparić also describes the involvement of the Scorpions and other Red Beret satellite paramilitary units in specific operations in Bihać, Velika Kladuša and Sarajevo. The Scorpions were in Trnovo, near Sarajevo, in July 1995. While there, Stoparić heard that Simatović was in the area. Further, Stoparić provides evidence of the murder of civilian Muslim men from Srebrenica by members of the Scorpions in the Trnovo area in July 1995, days after the fall of Srebrenica.

9. The Proposed Evidence is *prima facie* reliable. With the exception of his unsigned 10 December 2003 Additional Statement, Stoparić signed his prior ICTY witness statements and initialled each page, after verifying that all information contained within was true and accurate to the best of his knowledge and recollection; he provided his testimony in the ICTY Trial under oath. Stoparić adopted the contents of the 10 December 2003 Additional Statement during his testimony in the *Hadžić* case,⁶ and the Prosecution intends to ask him to attest to its reliability, and sign it, before tendering it in this retrial.

C. Admission of the Proposed Evidence would be efficient and expeditious in accordance with the rights of the Accused

10. The Prosecution tenders the Proposed Evidence in accordance with its duty to present evidence in a specific and concentrated manner⁷ and to present its case “as efficiently as possible, taking advantage of all available avenues.”⁸

11. Admission of the Proposed Evidence would not infringe upon the fair trial rights of the Accused. Pursuant to 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.

⁶ *Prosecutor v. Hadžić*, Case No.IT-04-75, Transcript of testimony of Goran STOPARIĆ, 15 May 2013, T.4754-4756.

⁷ Trial Guidelines, para.28.

⁸ *Prosecutor v. Šainović et al.*, Case No.IT-05-87-A, Appeal Judgement, 23 January 2014, para.135.

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

12. The exhibits associated with the Rule 111 Statement form an inseparable and indispensable part of Stoparić's evidence.⁹ The associated exhibits provide clarity and context to the Rule 111 Statement,¹⁰ and the Rule 111 Statement would be incomprehensible, and lose probative value, if the associated exhibits were not admitted.¹¹


III. CONCLUSION

13. For the foregoing reasons, the Prosecution respectfully requests that the Chamber admit the Proposed Evidence, subject to fulfilment of the Rule 111 conditions by Stoparić during his appearance in court.

Word Count: 1,336

Dated this 8th day of September 2017

At The Hague, The Netherlands



Douglas Stringer
Senior Trial Attorney

⁹ 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. The Prosecution does not tender ICTY Rule 65ter 2D00301, which was shown to the witness during cross-examination. This document was denied admission without prejudice in the ICTY Trial after the Prosecution objected to its authenticity and reliability. In its Decision, the Chamber found that it could not "sufficiently determine the reliability of [the] document[] at this time". See ICTY Trial, Decision on the Admission of the Proposed Expert Report by Reynaud Theunens and the Admission of Theunens Related Documents, 1 April 2011, paras.53-54 (ICTY Rule 65ter 2D00301 was marked not admitted as D00187). See also ICTY Trial, Simatović Defence Request for Admission of Documents Used with Expert Witness Theunens, 24 November 2010 (Confidential), Annex, pp.16-17.

¹⁰ Decision on Prosecution Submission in Relation to the Chamber's Limitation on new Evidence, 31 May 2017, para.16.

¹¹ See e.g. Wilson Decision, para.9; Josipović Decision, p.2; ICTY Trial, Decision on Prosecution's Motion for Admission of Written Evidence Pursuant to Rule 92bis, 7 October 2010, para.36.

MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS

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PUBLIC

ANNEX B

**TO PROSECUTION MOTION FOR ADMISSION OF EVIDENCE OF
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Rule 111 Statement of Goran STOPARIĆ Tendered for Admission					
R70 Number	ERN	Description	Under Seal	ICTY Proceedings	
1.	R70#80828	ENG: 0344-9340-0344-9363 BCS: BCS 0344-9340-0344-9363	ICTY Witness Statement of Goran STOPARIĆ, dated 24 November 2003.	No	This document was admitted in the ICTY Trial as P01702.
2.	R70#80829	ENG: R110-8919-R110-8922 BCS: R110-8919-R110-8922-BCSDT	Notes of interview of Goran STOPARIĆ, dated 10 December 2003.	No	This document was not presented in the ICTY Trial. It was disclosed on 27 February 2007 and on 5 September 2016.
3.	R70#80834	ENG: 0364-1111-0364-1117 BCS: BCS 0364-1111-0364-1117	Signed statement of Goran STOPARIĆ, dated 20 January 2005.	No	This document was admitted in the ICTY Trial as P01703.
4.	R70#04621	ENG: 0679-4507-0679-4508 BCS: 0679-4507-0679-4508	Amendments to witness statement of Goran STOPARIĆ, dated 13 December 2010.	No	This document was admitted in the ICTY Trial as P01704.
5.	R70#80849	N/A	Transcript of testimony of Goran STOPARIĆ in <i>Stanisic & Simatovic</i> (IT-03-69), dated 14 December 2010 (T.10326-10342; T.10354-10378; T.10383-10396), 15 December 2010 (T.10397-10471) and 16 December 2010 (T.10472-10556).	Yes	N/A

Associated Exhibits Tendered for Admission from the Rule 111 Statement of Goran STOPARIĆ						
R70 Number	ERN	Description	Statement/ Transcript Reference	Stanisic & Simatovic Exhibit/65ter Number	Under Seal	ICTY Proceedings
1.	R70#03667 ¹ ENG: ET 0633- 2930-0633-2976 BCS: 0633-2930- 0633-2976	List of employees to be paid daily spending allowances for the period 16th until 30th September 1995, issued by the Serbian MUP-RDB-JATD doc. no. 121-431, dated 29 September 1995	10356:5- 10357:13	65ter#05004	Yes	This document was admitted in the ICTY Trial as P00347.
2.	R70#50028 ENG: ET V000- 5095-V000-5095 BCS: V000-5095- V000-5095	Video of the Scorpions Unit	R70#80834, para.3; 10360:25- 10367:18	65ter#01167.4; 65ter#01167.5; P01705	No	This video was admitted in the ICTY Trial as P02161.
3.	R70#01016 ENG: 0679-4509- 0679-4509 BCS: 0679-4509- 0679-4509	Four video stills from V000-5095 showing witness Goran STOPARIĆ, dated 25 June 1995	10367:19- 10368:15	65ter#01167.7	No	This document was admitted in the ICTY Trial as P01706.
4.	R70#80839.1 ENG: 0603-1411- 0603-1446-EDT BCS: 0603-1410- 0603-1446	Military service record booklet of Goran STOPARIĆ, dated 10 December 1985 to 23 June 1993.	10368:16- 10369:11	65ter#03717	No	This document was admitted in the ICTY Trial as P01707.
5.	R70#02477 ENG: 0603-1447-	Certificate confirming that	10369:12-	65ter#03812	No	This document

¹ Also tendered in Prosecution Motion for the Admission of Evidence of RFJ-151 Pursuant to Rule 111, 8 August 2017 (Confidential), Confidential Annex B, p.14.

		0603-1447-ET BCS: 0603-1447-0603-1447	Goran STOPARIĆ was employed by JSO of Serbian Ministry of Interior between June and December 1995	10375:1			was admitted in the ICTY Trial as P01708.
6.	R70#02481	ENG: 0603-1448-0603-1448-ET BCS: 0603-1448-0603-1448	Decision of Serbian Ministry of Interior to give an award to Goran STOPARIĆ, dated 13 May 1999	10376:9-10377:5	65ter#03816	No	This document was admitted in the ICTY Trial as P01709.
7.	R70#03430	ENG: 0608-4196-0608-4198-ET BCS: 0608-4196-0608-4198	Report from Serbia Ministry of the Interior State Security Department RDB Center – Novi Sad, dated 24 December 1994	10412:15-10416:14	D00205	Yes	This document was admitted in the ICTY Trial as D00205.
8.	R70#08864	ENG: 0529-4869-0529-4869 ET BCS: 0529-4869-0529-4869	Bratunac Brigade Command, document No 36/1-92 addressed to Drina Corps Command, dated 27 November 1992	10482:23-10485:1	65ter#2D00288	No	This document was admitted in the ICTY Trial as D00181.
9.	R70#11951	ENG: Y036-4037-Y036-4037 BCS: Y036-4036-Y036-4036	Republic of Serbia Ministry of Interior, Official Identity Card of authorized official	10535:12-10536:10	65ter#2D00152	No	This document was admitted in the ICTY Trial as D01353.

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PUBLIC

ANNEX C

**TO PROSECUTION MOTION FOR ADMISSION OF EVIDENCE OF
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**TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH THE
MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS/
FICHE DE TRANSMISSION POUR LE DÉPÔT DE DOCUMENTS DEVANT LE
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I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

To/ À :	MICT Registry/ <i>Greffe du MPTI</i>	<input type="checkbox"/> Arusha/ <i>Arusha</i>	<input checked="" type="checkbox"/> The Hague/ <i>La Haye</i>
From/ De :	<input type="checkbox"/> Chambers/ <i>Chambre</i>	<input type="checkbox"/> Defence/ <i>Défense</i>	<input checked="" type="checkbox"/> Prosecution/ <i>Bureau du Procureur</i>
Case Name/ Affaire :	The Prosecutor vs Jovica Stanisic and Franko Simatovic	Case Number/ Affaire n° :	MICT-15-96-T
Date Created/ Daté du :	08 September 2017	Date transmitted/ Transmis le :	08 September 2017
Original Language / Langue de l'original :	<input checked="" type="checkbox"/> English/ <i>Anglais</i>	<input type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Kinyarwanda <input type="checkbox"/> B/C/S <input type="checkbox"/> Other/ <i>Autre</i> (specify/préciser) :
Title of Document/ Titre du document :	PROSECUTION MOTION FOR ADMISSION OF EVIDENCE OF GORAN STOPARIC PURSUANT TO RULE 111, Public with confidential Annex A and public Annex B & C		
Classification Level/ Catégories de classification :	<input checked="" type="checkbox"/> Unclassified/ <i>Non classifié</i>	<input type="checkbox"/> Ex Parte Defence excluded/ <i>Défense exclue</i>	
	<input checked="" type="checkbox"/> Confidential/ <i>Confidentiel</i>	<input type="checkbox"/> Ex Parte Prosecution excluded/ <i>Bureau du Procureur exclu</i>	
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		<input type="checkbox"/> Ex Parte Amicus Curiae excluded/ <i>Amicus curiae exclu</i>	
		<input type="checkbox"/> Ex Parte other exclusion/ <i>autre(s) partie(s) exclue(s)</i> (specify/préciser) :	
Document type/ Type de document :	<input checked="" type="checkbox"/> Motion/ <i>Requête</i>	<input type="checkbox"/> Submission from parties/ <i>Écritures déposées par des parties</i>	<input type="checkbox"/> Indictment/ <i>Acte d'accusation</i>
	<input type="checkbox"/> Decision/ <i>Décision</i>	<input type="checkbox"/> Submission from non-parties/ <i>Écritures déposées par des tiers</i>	<input type="checkbox"/> Warrant/ <i>Mandat</i>
	<input type="checkbox"/> Order/ <i>Ordonnance</i>	<input type="checkbox"/> Book of Authorities/ <i>Recueil de sources</i>	<input type="checkbox"/> Notice of Appeal/ <i>Acte d'appel</i>
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II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT

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