

MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS

Case No. MICT-15-96-T

IN THE TRIAL CHAMBER

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

Registrar: **Mr. Olufemi Elias**

Date: 22 September 2017

THE PROSECUTOR

v.

JOVICA STANISIC
FRANKO SIMATOVIC

-Public -

**SIMATOVIC DEFENCE RESPONSE TO PROSECUTION'S MOTION FOR
ADMISSION OF EVIDENCE OF WITNESS GORAN STOPARIC PURSUANT TO
RULE 111**

The Office of the Prosecutor
Mr. Douglas Stringer

Counsel for Mr. Stanišić
Mr. Wayne Jordash QC
Mr. Iain Edwards

Counsel for Mr. Simatović
Mr. Mihajlo Bakrač
Mr. Vladimir Petrović

1. On 8 September 2017, the Prosecution filed a Motion for Admission of Evidence of Goran Stoparic Pursuant to Rule 111 (“Motion”), with confidential Annex A and public Annexes B and C. The Simatovic Defence has reviewed the submission and hereby responds within the deadline.
2. In the Motion the Prosecution seeks the admission of written statements of witness Goran Stoparic and transcripts of his testimony in *Prosecutor v. Stanisic and Simatovic*, and nine associated exhibits.¹ The witness statements include:
 - ICTY Witness statement dated 23 November 2003;²
 - Signed Witness statement dated 20 January 2005;³
 - Amendments of witness statement dated 13 December 2010;⁴
 - Notes of Interview dated 10 December 2003.⁵
3. Both statements from 2003 and 2005 and Amendments from 2010 were admitted in the ICTY trial. The Simatovic Defence does not object to the admission of the two statements, the Amendments and the testimony in *Prosecutor v. Stanisic and Simatovic*. Nevertheless, the Simatovic Defence asserts that the Notes of Interview from 2003 were never noticed or admitted during the ICTY Trial.
4. This Trial Chamber has stated that the re-trial “effectively gives the Prosecution a second chance to make its case [...] it is particularly important to safeguard the rights of the Accused by imposing limitations on new evidence that the Prosecution may adduce at the retrial.”⁶ The Prosecution did not seek prior to the re-trial to have the Notes of Interview admitted. If the Notes of Interview were vital, the Prosecution could have incorporated the same into the witness statement from 2005, but it did not. Further, the Prosecution could have incorporated the Notes of Interview in the Amendments of the witness statement from 2010, but failed to do so.⁷ Therefore, the

¹ Motion, para. 1.

² R70#80828.

³ R70#80834.

⁴ R70#04621.

⁵ R70#80829.

⁶ *Prosecutor v. Jovica Stanisic & Franko Simatovic*, Case No. IT-03-69-T (“Stanisic & Simatovic”), Decision on Prosecution Submission in Relation to the Chamber’s Limitations on New Evidence, 31 May 2017, para. 11.

⁷ R70#04621.

- Simatovic Defence objects the admission of the Notes of Interview from 2003 as it was never noticed or admitted during the ICTY trial.⁸
5. The Simatovic Defence does not oppose the admission of the nine associated exhibits as all were admitted in the ICTY trial. The Defence notes, that Pursuant to Rule 105(C), it is at the Trial Chamber's discretion to decide whether the tendered evidence has probative value and is thus admissible.
 6. The Simatovic Defence reiterates that Rule 111 was established as a means to ensure the efficiency of trial proceedings and that the object of concluding the trial in the shortest possible timeframe should not in any way supersede the right of the accused to a fair and just trial.⁹

Respectfully submitted,

Counsel for the Accused:



Mihajlo Bakrač, Lead Counsel



Vladimir Petrović, Co-Counsel

The Hague, 22 September 2017

Word Count: 586

⁸ R70#80829.

⁹ Article 18 (1) Mechanism's Statute; *Stanisic & Simatovic*, No. MICT-15-96-PT, Decision on Stanisic's Request for Stay of Proceedings, 2 February 2017, para. 23.



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