



UNITED  
NATIONS

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Mechanism for International Criminal Tribunals

Case No.: MICT-15-96-T

Date: 25 September 2017

Original: English

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**IN THE TRIAL CHAMBER**

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

Registrar: Mr. Olufemi Elias

Date: 25 September 2017

**PROSECUTOR**

v.

**JOVICA STANIŠIĆ  
FRANKO SIMATOVIĆ**

***PUBLIC WITH PUBLIC ANNEX A***

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**STANIŠIĆ DEFENCE RESPONSE TO PROSECUTION MOTION FOR THE  
ADMISSION OF EVIDENCE PURSUANT TO RULE 111 OF GORAN STOPARIĆ**

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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 their “Motion for Admission of Evidence of Goran Stoparić pursuant to Rule 111” (‘Motion’).<sup>1</sup> The Motion was distributed to the parties on 11 September 2017.
2. Mr Stoparić testified in the first trial and, as such, his evidence is in principle admissible. However, the Defence for Mr Stanišić does object to extracts of Mr Stoparić’s evidence that falls outside the scope of the Indictment and is therefore irrelevant to the charges. That evidence is itemised at Annex A. This evidence should be excluded.
3. R70#80829, the interview notes dated 10 December 2003, is new evidence given that it was not admitted into evidence in the first trial. However, it is acknowledged that the interview notes contain clarifications to R70#80828, the 2003 statement, which is evidence that was admitted in the first trial. In those circumstances, the Defence does not oppose its admission.
4. In all other respect the Motion is unopposed.

Respectfully submitted,



Wayne Jordash QC

25 September 2017

Word Count: 193

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<sup>1</sup> *Prosecutor v. Stanišić & Simatović*, Case No. MICT-15-96-T, Motion for Admission of Evidence of Goran Stoparić Pursuant to Rule 111, 8 September 2017 (‘Motion’).

**MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS**

**Case No. MICT-15-96-T**

**THE PROSECUTOR  
v.  
JOVICA STANIŠIĆ &  
FRANKO SIMATOVIĆ**

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**PUBLIC ANNEX A**

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**Evidence of Material Facts Outside the Scope of the Indictment: Goran Stoparic**

No.	Impugned Evidence <sup>2</sup>	Absence of Notice
<b>Crimes</b>		
1.	<p>In paragraphs 9-13, the witness discusses the killing of Croat civilians. In particular he states that he saw commander [of the 1<sup>st</sup> Guard Brigade of the JNA), Željko KRNJACIĆ perpetrating killings in Tovarnik.</p> <p>In paragraph 13, the witness states that Krnjajić ordered some volunteers to put a NATO uniform on a the dead body of a victim in the street. They then shot the body to make holes in the uniform.</p>	<p>It is submitted that the persecution and killings of Croat civilians in Tovarnik are material facts in the context of this case, that ought to be pleaded within the Indictment.</p> <p>The Indictment does not mention crimes committed in Tovarnik, nor does it mention the individual KRNJACIĆ. The notice provided in the Prosecution Pre-Trial Brief is that from late 1991 to mid October 1991 Serb forces drove non-Serbs from predominantly Croat towns, including Tovarnik: “Serbs forcibly displaced non-Serbs physically expelling them, murdering, beating, sexually assaulting, arresting, detaining and torturing non-Serbs to this end” (see paragraph 150 of the Prosecution Pre-Trial Brief<sup>3</sup>). Neither the Indictment nor the Prosecution Pre-Trial Brief allege that Mr Stanišić is responsible for killings in Tovarnik at any time.</p>
2.	<p>In paragraph 28, the witness notes that in Vukovar Croat houses were taken over every day. He specifically states that the Leva Supoderica were involved in doing this.</p>	<p>It is submitted that the alleged incidents of persecution of Croats are material facts in the context of this case, which ought to be pleaded within the Indictment.</p> <p>Crimes committed by the Leva Supoderica in Vukovar</p>

	<p>In paragraphs 29-30, he discusses the treatment of Croat civilians and POW, stating that many were detained, and that the Leva Supoderica often killed them.</p> <p>Specific crimes committed by Topola, a member of the Leva Supoderica, are discussed in paragraphs 31-35.</p>	are not discussed within the Indictment or the Prosecution Pre-Trial Brief.
3.	<p>In paragraph 50, the witness discusses the looting of villages in the Nevesinje municipality stating that “you could not have looted without the knowledge and assistance of the JNA”.</p>	It is submitted that these crimes are material facts that ought to have been pleaded in the indictment. Neither the Indictment, nor the Prosecution Pre-Trial Brief, allege looting in the Nevesinje municipality.
<b>Red Berets and DB Assets</b>		
4.	<p>In paragraph 61, the witness states that Zika CRNOGORAC came to Brčko and selected men to join his unit. Once chosen, those men went for training with the Red Berets. In paragraph 62, the witness further states that Zika later brought another unit wearing NATO type berets.</p> <p>On page 10407 of his testimony during the ICTY trial<sup>4</sup>, the witness suggests that CRNOGORAC’s unit was a special and elite unit. On pages 10486-10487, the witness states the he knew CRNOGORAC’s unit as the specialists of the MUP, and he believed it was a unit of the MUP Serbia [see page 1087].</p>	To the extent that CRNOGORAC may be alleged to be a tool of the JCE, it is submitted that this is a material fact in the context of this case. CRNOGORAC is not mentioned in the Indictment or the Prosecution Pre-Trial Brief.
5.	<p>In paragraph 63, the witness discusses looting throughout Brčko, as well as mining and destruction of mosques. He claims that he saw</p>	To the extent that JELIŠIĆ may be alleged to be a tool of the JCE, this is a material fact in the context of this

	Goran JELIŠIĆ kill a Muslim woman.	case.  JELIŠIĆ is not discussed anywhere in the Indictment or the Prosecution Pre-Trial Brief.
6.	In paragraph 70, the witness lists the 'Vipers' as one of the DB 'satellite' units, which were commanded by GUMAR. He states that 'GUMAR's guys' joined the JSO after the Erdut agreement.	It is submitted that allegations regarding paramilitary groups operating under the auspices of the Serbian DB and/or linked to the Red Berets are material facts in the context of this case.  The Vipers are not mentioned in the Indictment of the Prosecution Pre-Trial Brief.
7.	In paragraph 73 the witness alleges that in Deletovi, the Scorpions were frequently visited by Serbian DB operatives; they brought whatever equipment was needed, as well as salaries.	It is submitted that DB assets and their contributions to crimes are material facts in the context of this case. Therefore, particularization on the identities of DB members is required.  These alleged DB operatives are not identified, nor their contributions to crimes particularised, in the Indictment or the Prosecution Pre-Trial Brief.
8.	At paragraph 105 of R70#04621, the witness claims that the DB even trained Muslims in Velika Kladuša	It is submitted that DB Assets and their contributions to crimes are material facts in the context of this case. Therefore, particularization on the identities of DB members is required.  DB training of Muslim in Velika Kladuša is not alleged in the indictment.
9.	On pages 10356-10357 of the witness' testimony during the ICTY trial <sup>5</sup> , he is asked to comment on an exhibit (P00347) listing persons employed and paid by the SDB, including: <ul style="list-style-type: none"> <li>• Goran Simović aka Tralja;</li> <li>• Goran Jovic ;</li> </ul>	It is submitted that Serbian DB personnel and their contributions to crimes are material facts in the context of this case. The listed individuals are not mentioned in the Indictment or the Prosecution Pre-Trial Brief.

	<ul style="list-style-type: none"> <li>• Laza Kresović; and</li> <li>• Zlatoje Bozić</li> </ul> <p>On page 10549, the witness stated that Jovic and Kresović were JSO reserves, like him.</p>	
10.	On pages 10454- 10455 of the witness's testimony during the ICTY trial <sup>6</sup> , the witness states that he heard of a group called the Vipers, as well as the Horned Vipers, and that they were connected to the Serbian DB.	It is submitted that alleged Serbian DB personnel and their contributions to crimes are material facts in the context of this case. This group is not mentioned in the Indictment or the Prosecution Pre-Trial Brief.
11.	On page 10543 of the witness's testimony during the ICTY trial <sup>7</sup> , the witness states that in August 1995 he received payment [as a JSO reserve] from an active member of the JSO called RASKO.	It is submitted that members of the Red Berets/JATD/JSO are material facts in the context of this case. RASKO is not mentioned in the Indictment of the Prosecution Pre-Trial Brief.



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