



The International Residual Mechanism for Criminal Tribunals ("Mechanism") was established on 22 December 2010 by the United Nations Security Council to continue the jurisdiction, rights, obligations and essential functions of the International Criminal Tribunal for Rwanda ("ICTR") and the International Criminal Tribunal for the former Yugoslavia ("ICTY") after the completion of their respective mandates.

CASE INFORMATION SHEET

On 15 December 2015, the ICTY Appeals Chamber ordered that Jovica Stanišić and Franko Simatović be retried on all counts of the indictment. Pursuant to Article 1(4) of the Transitional Arrangements, the Mechanism has competence over retrials originating from the ICTY on or after 1 July 2013.

MICT-15-96

JOVICA STANIŠIĆ & FRANKO SIMATOVIĆ



JOVICA STANIŠIĆ

Head of the State Security Service ("Državna bezbednost" or "DB") of the Ministry of Internal Affairs of the Republic of Serbia ("Ministarstvo unutrašnjih poslova" or "MUP")



FRANKO SIMATOVIĆ

Employed in the Second Administration of the DB of the MUP

Indictment

Initial indictment filed on 1 May 2003. Operational indictment filed on 10 July 2008.

ICTY Trial Chamber Judgement

Delivered on 30 May 2013.

Both Accused acquitted of all charges.

ICTY Appeal Chamber Judgement

Filed in writing on 9 December 2015. Delivered on 15 December 2015.

The Appeals Chamber ordered a retrial.

Initial Appearance before the Mechanism

Appeared before the Mechanism on 18 December 2015. Both Accused pleaded not guilty.

Mechanism Trial Chamber

Judge Burton Hall (Presiding)
Judge Joseph E. Chiondo Masanche
Judge Seon Ki Park

Commencement of trial

13 June 2017.

Status of the Case

Trial.

TRIAL PROCEEDINGS (ONGOING)

The trial commenced before the Mechanism on 13 June 2017 with the Prosecution's opening statement.



PRE-TRIAL PROCEEDINGS

Both Accused made their initial appearances before the Mechanism on 18 December 2015 and pleaded not guilty. On 12 October 2016, the Prosecution filed a public redacted version of its pre-trial brief (filed confidentially on 5 September 2016). On 7 November 2016, Jovica Stanišić and Franko Simatović filed confidentially their Defence pre-trial briefs. In accordance with the Trial Chamber's decision of 2 February 2017, the Prosecution filed a revised pre-trial brief on 9 March 2017, and the Accused filed their respective revised pre-trial briefs on 30 March 2017. The pre-trial conference took place on 17 May 2017.

INDICTMENT

The operational indictment was filed on 10 July 2008 before the ICTY and will remain the relevant indictment for retrial at the Mechanism.

The indictment alleges that Jovica Stanišić and Franko Simatović were co-perpetrators in a joint criminal enterprise ("JCE") that came into existence no later than April 1991 and continued until at least 31 December 1995. The alleged objective of the JCE was the forcible and permanent removal of the majority of non-Serbs from large areas in Croatia and Bosnia and Herzegovina.

The charges include:

Four counts of crimes against humanity

- Persecutions (Count 1)
- Murder (Count 2)
- Deportation (Count 4)
- Inhumane acts (forcible transfer) (Count 5)

One count of violations of the laws or customs of war

- Murder (Count 3)

CASE BACKGROUND INFORMATION

The trial before the ICTY against Jovica Stanišić and Franko Simatović lasted from 9 June 2009 until 31 January 2013.

On 30 May 2013, Trial Chamber I of the ICTY found, by majority, Stanišić and Simatović not responsible for committing the crimes alleged in the indictment through participation in a JCE, as the Trial Chamber found that it was not established beyond reasonable doubt that they possessed the requisite intent to further the common criminal purpose. The Trial Chamber held that it had not been proven beyond reasonable doubt that they had planned or ordered these crimes or, by majority, that they had aided and abetted these crimes. Consequently, the Trial Chamber, by majority, acquitted Stanišić and Simatović on all counts of the indictment.

Following the Prosecution's appeal, the ICTY Appeals Chamber on 15 December 2015 granted, in part, the appeal and quashed the acquittals. The Appeals Chamber, by majority, found that the Trial Chamber erroneously failed to make findings on the existence and scope of a common criminal purpose shared by a plurality of persons prior to finding that the intent of Stanišić and Simatović was not established. In so doing, the Appeals Chamber, by majority, found that the Trial Chamber erred in law by failing to adjudicate and provide a reasoned opinion on essential elements of JCE liability.

The ICTY Appeals Chamber ordered that Stanišić and Simatović be retried on all counts of the indictment pursuant to Rule 117(C) of the ICTY Rules of Procedure and Evidence.

For more information please visit the Mechanism website www.irmct.org.

For press inquiries, email mict-press@un.org.