

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-15-96-T

Date: 23 June 2020

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: 23 June 2020

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

**DECISION ON STANIŠIĆ'S FOURTH BAR TABLE MOTION
(SERBIAN STATE SECURITY SERVICE AND STANIŠIĆ'S
FOCUS)**

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

BEING SEISED OF a motion filed confidentially on 6 March 2020,² in which Jovica Stanišić seeks the admission from the bar table of 200 documents,³ arguing that the proposed exhibits are sufficiently authentic, reliable, relevant, and probative to rebut the allegations that he participated in a joint criminal enterprise by financing, training, arming, and supporting Serb forces, and that he shared the common criminal purpose to forcibly expel non-Serbs from the territory of Croatia and Bosnia and Herzegovina;⁴

NOTING that, in response, the Prosecution: (i) does not oppose the admission of those proposed exhibits that were also admitted in the original trial;⁵ (ii) objects to the admission of a number of documents in the absence of information on their provenance;⁶ and/or (iii) objects to Stanišić’s arguments regarding the relevance of a majority of the remaining documents;⁷

NOTING that, in response, Franko Simatović does not object to the admission of the proposed exhibits;⁸

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

² Stanišić Defence Motion for Admission of Documents from the Bar Table: The Serbian State Security Service as an Institution and Jovica Stanišić’s Focus, 6 March 2020 (confidential with confidential Annexes A and B) (“Motion”).

³ Motion, paras. 1, 38, Annex A. *See also* Stanišić Defence Reply to “Prosecution Response to 4th Stanišić Bar Table Motion (SDB as an Institution and Stanišić’s Focus)”, 28 April 2020 (confidential with confidential Annex A) (“Reply”), paras. 5, 43 (where Stanišić accepts that document with Rule 70 number 08252 has already been admitted into evidence as exhibit P01620). The Trial Chamber further notes that: (i) documents with Rule 70 numbers J01013 and 12080 are included twice in the Annex to the Motion (*see* Motion, Annex A, Registry Pagination (“RP.”) 34493, 34465, 34455, 34454); and (ii) documents with Rule 70 numbers J03504 and J00992 are identical to documents with Rule 70 numbers J01116 and J00634, respectively, and therefore the Trial Chamber considers the request for admission of documents with Rule 70 numbers J01116 and J00634 to be moot. Stanišić further requests leave to add document with Rule 70 number J03732 to his exhibit list (*see* Motion, paras. 27, 38(i)). Given the issues raised in the Motion and the Reply, the Trial Chamber also grants Stanišić’s request to exceed the word limit in both of these filings. *See* Motion, para. 7; Reply, para. 4. *See also* Practice Direction on Lengths of Briefs and Motions (MICT/11/Rev.1), 20 February 2019, paras. 15, 17.

⁴ Motion, paras. 2-4, 8-38.

⁵ Prosecution Response to 4th Stanišić Bar Table Motion (SDB as an Institution and Stanišić’s Focus), 20 April 2020 (confidential with confidential Annex A) (“Response”), para. 1.

⁶ Response, para. 3, *referring to* documents with Rule 70 numbers J01426, J01440, J00989, J01780, J01114, J01667, J00975, J01000, J01004, J01006, J010007, J01011, J00979, J01014, J00981, J01016, J01018, J00963, J00984, J01049, J01057, J00760, J02488, J01061, J01064, J01065, J01067, J01068, J01069, J01070, J00754, J00755, J01029, J01085, J00990, J01040, J01055, J00994, J01222, J01776, J00815, J00761, J00750, J00881, J00856, J00074, J00859, J01107, J00860, and J01673. *See also* Response, Annex A.

⁷ Response, paras. 2, 4-18. *See also* Response, Annex A.

⁸ Simatović Defence Response to 4th Stanišić Bar Table Motion (The Serbian State Security Service as an Institution and Jovica Stanišić’s Focus), 20 April 2020 (confidential with confidential Annex A) (“Simatović Response”), paras. 1, 3, 5-14, Annex A. The Trial Chamber notes that, while Simatović does not object to any of the proposed exhibits, he submits that: (i) the probative value of certain documents is questionable (*see* Simatović Response, Annex A, RP. 35262, 35261, 35245-35243, 35215, 35213, 35210-35208, *referring to* documents with Rule 70 numbers J00760, 11908, J00754, 11961, J00755, J01776, 11910, 11955, J00750, 11956); (ii) certain documents are incomplete (*see* Simatović Response, Annex A, RP. 35280, 35263, 35214, *referring to* documents with Rule 70 numbers J00981, 11909, J01786); (iii) the B/C/S version of document with Rule 70 number J00724 is missing, which limits its reliability

NOTING that, in reply, Stanišić provides information on the provenance of the majority of the documents opposed by the Prosecution on this basis,⁹ and argues that all of the proposed evidence is highly relevant to the allegations against him;¹⁰

RECALLING the applicable law in relation to the admission of exhibits from the bar table, as set out in a previous decision;¹¹

CONSIDERING that newspaper articles and media reports are often not sufficiently reliable to serve as evidence unless tendered through a witness¹² and that, therefore, documents with Rule 70 numbers J03512, J00576, J03507, J00570, and J00728 are not appropriate for admission from the bar table;

CONSIDERING that documents with Rule 70 numbers J03732, 11842, J03464, J01887, J01926, J03310, J02634, and J00714 contain information principally relevant to events and operations in the Sandžak and Kosovo regions and, as such, are neither relevant nor probative to the charges in the Indictment;¹³

CONSIDERING that it is appropriate to mark for identification: (i) documents with Rule 70 numbers J01440, J01780, and J01776, pending the provision of information on their provenance;¹⁴ (ii) document with Rule 70 number J00724, pending the B/C/S version being uploaded on ecourt; and (iii) document with Rule 70 number 03677, pending a legible B/C/S version being uploaded on ecourt;

CONSIDERING that the remaining proposed exhibits bear sufficient indicia of *prima facie* authenticity and are relevant to and probative of the allegations in the Indictment concerning Stanišić's participation in a joint criminal enterprise and, in particular, the mandate of the Serbian State Security Service and Stanišić's functions during the Indictment period;¹⁵

(see Simatović Response, Annex A, RP. 35319); and (iv) the B/C/S version of document with Rule 70 number 03677 is illegible (see Simatović Response, Annex A, RP. 35188).

⁹ Reply, para. 3. See also Reply, Annex A. Stanišić also states that the provenance of documents with Rule 70 numbers J01440, J01780, and J01776 remains to be determined and requests, if the Trial Chamber is not prepared to admit these documents at this stage, that they be marked for identification. See Reply, para. 3, Annex A, RP. 35462, 35458, 35433.

¹⁰ Reply, paras. 2, 17-43.

¹¹ Decision on Prosecution Motion for Admission of Documents from the Bar Table (Personnel Files), 11 February 2019 (confidential), para. 6.

¹² Decision on Prosecution Motion for Admission of Documents from the Bar Table (Bosnia), 11 February 2019, p. 2.

¹³ See *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-PT, Third Amended Indictment, 10 July 2008 ("Indictment"). Accordingly, it is also not necessary to determine whether document with Rule 70 number J03732 should be added to Stanišić's exhibit list. See Motion, paras. 27, 38.

¹⁴ See *supra* n. 9.

¹⁵ Indictment, paras. 3-9, 10-17.

CONSIDERING that the redactions in documents with Rule 70 numbers J01114 and J00760 are limited in nature and that their impact will be assessed when ascribing weight, if any, to these documents in the judgement;

CONSIDERING that, to the extent that documents with Rule 70 numbers J01529, J00754, 11961, and J00755 may contain sections that are illegible or incomplete,¹⁶ such deficiencies will be similarly taken into account when ascribing weight, if any, to these documents in the judgement;

NOTING that documents with Rule 70 numbers J00989, J00975, J01000, J00978, J01004, J01006, J01007, F00339, J01011, J00979, J01014, J00981, J01016, J01018, J00963, J00984, J01049, J01057, J02488, J01061, J01231, J01064, J01065, J01067, J01246, J01068, J01069, J01070, J01029, J01085, and J01040, which are currently available on ecourt in redacted form, appear to have been either tendered or admitted in unredacted form in the original trial and that it is appropriate to instruct Stanišić to tender their unredacted versions, if available, also in the present proceedings;¹⁷

PURSUANT to Rules 55 and 105 of the Rules of Procedure and Evidence;

HEREBY GRANTS the Motion in part;

ADMITS into evidence documents with Rule 70 numbers J00517, 11945, J01582, J00541, J00521, J00532, J00544, J00547, J00548, J01216, J01426, 11959, 06597, 20133, 01224, J02583, 20100, J00104, J02054, J01244, J00902, J00894, J00989, 20138, J00887, 11957, J01114, J03504, J01667, 13102, J01093, 11958, J00975, J01670, 11840, J00999, J01000, J00978, 12073, J00977, J01003, J01004, J01005, J01006, J01007, F00339, J01010, 12071, J01011, J00979, J01012, J01013, J01014, 11905, J00981, 12072, J01099, 12078, J01016, J01017, J01018, J00885, J00963, J00982, J01019, J00823, 11844, J00984, J01048, J01049, J01056, J01540, 12079, 12080, J01050, J01051, 03442, J01053, J01265, J01052, J01057, J00886, 11909, J00760, 11908, J02488, J01524, 11845, J00819, J00964, J00824, J01061, J00825, J00826, J00829, J00830, 12916, J01231, J01064, J01994, J01065, J01067, J01246, J01247, J01529, J01068, J01069, J01070, J00754, 11961, J00755, J01072, J01029, J00987, J00988, J01526, J00101, J00094, J00904, 20470, 12919, J00098, J01085, J00970, J00990, J01040, J00992, J00893, J00816, 12678, 12679, J00844, J01055, J00907, J00892, J00895, J00898, J00900, J00905, J00994, J00995, J01222, J01786, 11910, J01255, J00815, 11900, J00761, 11955, J00750, 11956, J00070, J00071, J00072, J01112, J00901, J00881, J00884, 08276, J01984, J00863,

¹⁶ See Simatović Response, Annex A, RP. 35248, 35245-35243.

¹⁷ The Trial Chamber further notes that, while Stanišić requests the admission of an extract of document with Rule 70 number J02583, the B/C/S version of this document available on ecourt does not correspond to the excerpt.

J00864, J00865, J00866, J00867, J00856, J00855, J00074, J00857, J00859, 12660, J01956, J01107, J00860, 01419, J01673, J00910, and J00533, with the same security classification as indicated by Stanišić;

DECIDES that documents with Rule 70 numbers J01440, J01780, J01776, J00724, and 03677 should be marked for identification, pending the fulfilment of the conditions specified in this decision;

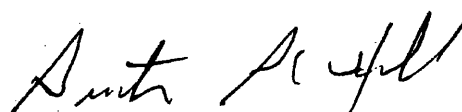
DENIES the admission into evidence of documents with Rule 70 numbers J03512, J00576, J03507, J00570, J00728, J03732, 11842, J03464, J01887, J01926, J03310, J02634, and J00714;

INSTRUCTS Stanišić to upload on e-court the corresponding B/C/S excerpt of document with Rule 70 number J02583; and

INSTRUCTS Stanišić to upload on e-court, if available, the unredacted versions of documents with Rule 70 numbers J00989, J00975, J01000, J00978, J01004, J01006, J01007, F00339, J01011, J00979, J01014, J00981, J01016, J01018, J00963, J00984, J01049, J01057, J02488, J01061, J01231, J01064, J01065, J01067, J01246, J01068, J01069, J01070, J01029, J01085, and J01040, as soon as practicable.

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

Done this 23rd day of June 2020,
At The Hague,
The Netherlands



Judge Burton Hall, Presiding

[Seal of the Mechanism]



I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

To/ À :	IRMCT Registry/ <i>Greffe du MIFRTP</i>	<input type="checkbox"/> Arusha/ <i>Arusha</i>	<input checked="" type="checkbox"/> The Hague/ <i>La Haye</i>
From/ De :	<input type="checkbox"/> President / <i>Président</i>	<input checked="" type="checkbox"/> Chambers / <i>Chambre</i>	<input type="checkbox"/> Prosecution/ <i>Bureau du Procureur</i>
	<input type="checkbox"/> Registrar / <i>Greffier</i>	<input type="checkbox"/> Other/ <i>Autre</i>	<input type="checkbox"/> Defence / <i>Défense</i>
Case Name/ Affaire :	PROSECUTOR v. JOVICA STANIŠIĆ & FRANKO SIMATOVIĆ	Case Number/ Affaire n° :	MICT-15-96-T
Date Created/ Daté du :	23 June 2020	Date transmitted/ Transmis le :	23 June 2020
			No. of Pages/ Nombre de pages : 5
Original Language / Langue de l'original :	<input checked="" type="checkbox"/> English/ <i>Anglais</i>	<input type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Other/Autre (specify/préciser) :
		<input type="checkbox"/> Kinyarwanda / <i>B/C/S</i>	
Title of Document/ Titre du document :	DECISION ON STANIŠIĆ'S FOURTH BAR TABLE MOTION (SERBIAN STATE SECURITY SERVICE AND STANIŠIĆ'S FOCUS)		
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 type="checkbox"/> Ex Parte Prosecution excluded/ <i>Bureau du Procureur exclu</i>
	<input type="checkbox"/> Confidential/ <i>Confidentiel</i>	<input type="checkbox"/> Ex Parte R86(H) applicant excluded/ <i>Art. 86 H) requérant exclu</i>	<input type="checkbox"/> Ex Parte Amicus Curiae excluded/ <i>Amicus curiae exclu</i>
	<input type="checkbox"/> Strictly Confidential/ <i>Strictement confidentiel</i>	<input type="checkbox"/> Ex Parte other exclusion/ <i>autre(s) partie(s) exclue(s)</i> (specify/préciser) :	
Document type/ Type de document :			
<input type="checkbox"/> Motion/ <i>Requête</i>	<input type="checkbox"/> Judgement/ <i>Jugement/Arrêt</i>	<input type="checkbox"/> Book of Authorities/ <i>Recueil de sources</i>	<input type="checkbox"/> Warrant/ <i>Mandat</i>
<input checked="" type="checkbox"/> Decision/ <i>Décision</i>	<input type="checkbox"/> Submission from parties/ <i>Écritures déposées par des parties</i>	<input type="checkbox"/> Affidavit/ <i>Déclaration sous serment</i>	<input type="checkbox"/> Notice of Appeal/ <i>Acte d'appel</i>
<input type="checkbox"/> Order/ <i>Ordonnance</i>	<input type="checkbox"/> Submission from non-parties/ <i>Écritures déposées par des tiers</i>	<input type="checkbox"/> Indictment/ <i>Acte d'accusation</i>	

II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT

<input type="checkbox"/> Translation not required/ <i>La traduction n'est pas requise</i>
<input checked="" type="checkbox"/> Filing Party hereby submits only the original, and requests the Registry to translate/ <i>La partie déposante ne soumet que l'original et sollicite que le Greffe prenne en charge la traduction :</i> (Word version of the document is attached/ <i>La version Word est jointe</i>)
<input type="checkbox"/> English/ <i>Anglais</i> <input checked="" type="checkbox"/> French/ <i>Français</i> <input type="checkbox"/> Kinyarwanda <input checked="" type="checkbox"/> B/C/S <input type="checkbox"/> Other/Autre (specify/préciser) :
<input type="checkbox"/> Filing Party hereby submits both the original and the translated version for filing, as follows/ <i>La partie déposante soumet l'original et la version traduite aux fins de dépôt, comme suit :</i>
Original/ Original en <input type="checkbox"/> English/ <i>Anglais</i> <input type="checkbox"/> French/ <i>Français</i> <input type="checkbox"/> Kinyarwanda / <i>B/C/S</i> <input type="checkbox"/> Other/Autre (specify/préciser) :
Translation/ Traduction en <input type="checkbox"/> English/ <i>Anglais</i> <input type="checkbox"/> French/ <i>Français</i> <input type="checkbox"/> Kinyarwanda / <i>B/C/S</i> <input type="checkbox"/> Other/Autre (specify/préciser) :
<input type="checkbox"/> Filing Party will be submitting the translated version(s) in due course in the following language(s)/ <i>La partie déposante soumettra la (les) version(s) traduite(s) sous peu, dans la (les) langue(s) suivante(s) :</i>
<input 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/Autre (specify/préciser) :

Send completed transmission sheet to/ *Veillez soumettre cette fiche dûment remplie à :*

JudicialFilingsArusha@un.org OR/ *OU* JudicialFilingsHague@un.org

Rev: August 2019/ *Rév. : Août 2019*