



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”), which closed in 2015 and 2017, respectively.

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.
Operative indictment filed on 10 July 2008.

ICTY Trial Chamber Judgement

Delivered on 30 May 2013.
Both Accused acquitted of all charges.

ICTY Appeals Chamber Judgement

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

Mechanism Trial Judgement

Pronounced on 30 June 2021.
The Trial Chamber found Jovica Stanišić and Franko Simatović responsible for aiding and abetting the crime of murder, as a violation of the laws or customs of war and a crime against humanity, and the crimes of deportation, forcible transfer, and persecution, as crimes against humanity, committed by Serb forces following the takeover of Bosanski Šamac in April 1992. They were sentenced to 12 years of imprisonment each.

Mechanism Appeals Chamber

Judge Graciela Gatti Santana, Presiding
Judge Lee G. Muthoga
Judge Aminatta Lois Runeni N’gum
Judge Yusuf Aksar
Judge Claudia Hoefler

Mechanism Appeals Chamber Judgement

Delivered on 31 May 2023.
The Appeals Chamber dismissed Stanišić’s and Simatović’s appeals, reversed their acquittals for joint criminal enterprise liability, and increased their sentences to 15 years of imprisonment each.

Status of the Case

Completed.



PROCEEDINGS BEFORE THE MECHANISM

APPEAL PROCEEDINGS (COMPLETED)

The Mechanism Trial Chamber pronounced the Trial Judgement on 30 June 2021, and issued the written reasons for the Judgement on 6 August 2021. On 6 September 2021, notices of appeal were filed by Jovica Stanišić, Franko Simatović, and the Prosecution. On 10 September 2021, the then-President of the Mechanism, Judge Carmel Agius, assigned a bench of five Judges to the case before the Appeals Chamber. On 15 September 2021, Judge Agius designated himself as the Pre-Appeal Judge in the case. On 22 November 2021, all parties confidentially filed their respective appellants' briefs. Following an extension of time granted on 29 October 2021, the parties confidentially filed their respective respondents' briefs on 31 January 2022. On 15 February 2022, the parties confidentially filed their respective reply briefs. Following Judge Graciela Gatti Santana's appointment as President of the Mechanism, effective 1 July 2022, Judge Gatti Santana replaced Judge Agius as the Presiding Judge on the bench on 5 July 2022 and designated herself as the Pre-Appeal Judge on 12 July 2022.

On 20 and 21 December 2022, the Appeals Chamber dismissed motions filed by the Prosecution and Stanišić seeking the admission of additional evidence on appeal pursuant to Rule 142 of the Mechanism's Rules of Procedure and Evidence. The hearing of the appeals was held in person on 24 and 25 January 2023, with the exception of Stanišić's counsel who, due to unforeseen circumstances, was prevented from traveling to The Hague days before the hearing. The Appeals Chamber exceptionally authorized the request of Stanišić's counsel to represent his client remotely. The Mechanism provided a video-conference link for Stanišić's counsel and the hearing of the appeals commenced and concluded without delay. The Appeal Judgement was pronounced on 31 May 2023.

The Appeals Chamber dismissed Stanišić's and Simatović's appeals.

The Appeals Chamber granted part of the Prosecution's appeal, finding that the Trial Chamber erred in not convicting Stanišić and Simatović under the mode of joint criminal enterprise liability. It held Stanišić and Simatović liable as members of a joint criminal enterprise for crimes committed by various Serb forces in Bosnia and Herzegovina in 1992 in Bijeljina, Zvornik, Bosanski Šamac, Doboј, and Sanski Most and for crimes committed in 1995 in Trnovo and Sanski Most. It also found them responsible for a murder committed in Daljska Planina, Croatia, in June 1992. The Appeals Chamber increased Stanišić's and Simatović's respective sentences to 15 years of imprisonment. It dismissed the remainder of the Prosecution's appeal.

TRIAL PROCEEDINGS (COMPLETED)

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

The Prosecution case was closed on 21 February 2019. A total of 51 witnesses were heard in court for the Prosecution.

On 9 April 2019, the Trial Chamber issued an oral decision pursuant to Rule 121 of the Mechanism's Rules of Procedure and Evidence and dismissed the motion for acquittal filed by the Defence team for Franko Simatović.

The Defence case for Jovica Stanišić commenced on 18 June 2019 with the presentation of an opening statement by his Defence team, while the Defence case for Franko Simatović commenced on 12 November 2019. The testimony of the last Defence witness concluded on 8 October 2020, and both Defence cases were closed on 23 February 2021. A total of 29 witnesses were heard in court for the Defence. The parties' final trial briefs were filed confidentially on 12 and 13 March 2021 and the closing arguments took place on 12, 13, and 14 April 2021. The Trial Judgement was pronounced on 30 June 2021.

The Trial Chamber found Stanišić and Simatović responsible for aiding and abetting the crime of murder, as a violation of the laws or customs of war and a crime against humanity, and the crimes of deportation, forcible transfer, and persecution, as crimes against humanity, committed by Serb forces following the takeover of Bosanski Šamac in April 1992. Specifically, the Trial Chamber found that the Accused provided practical assistance, which had a substantial effect on the commission of the crimes, by training and deploying members of a special unit of the Serbian State Security Service and local Serbs from Bosanski Šamac to participate in the takeover of the municipality.

Accordingly, the Trial Chamber found Stanišić and Simatović guilty under all counts of the Indictment and sentenced them to 12 years of imprisonment each.



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 indictment filed on 10 July 2008 before the ICTY remained the operative indictment for the retrial before the Mechanism.

The indictment alleged 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.

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

ICTY TRIAL CHAMBER JUDGEMENT

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 also held that it had not been proven beyond reasonable doubt that the Accused had planned or ordered these crimes. Further, the Trial Chamber held, by majority, that it had not been proven beyond reasonable doubt that the Accused had aided and abetted the crimes. Consequently, the Trial Chamber, by majority, acquitted Stanišić and Simatović on all counts of the indictment.

ICTY APPEALS CHAMBER JUDGEMENT

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.



STATISTICS

Start of IRMCT Trial	13 June 2017						
Prosecution case	Started	13 June 2017	Closed	21 February 2019			
Defence case	Started	18 June 2019	Closed	23 February 2021			
Trial days	228						
Total exhibits admitted at trial	6311	Prosecution	3860	Defence (Stanisic)	1449	Defence (Simatovic)	1002
Total witnesses called at trial	80	Prosecution	51	Defence	29		

For more information please visit the Mechanism website www.irmct.org.
For press inquiries, email mict-press@un.org.