

IT-03-67-PT
D 3613 - D 3610
22 DECEMBER 2003

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**UNITED
NATIONS**



International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of
Former Yugoslavia since 1991

Case No. IT-03-67-PT
Date: 19 December
2003
Original: English

IN TRIAL CHAMBER II

Before: Judge Carmel Agius, Presiding
Judge Jean-Claude Antonetti
Judge Kevin Parker

Registrar: Mr. Hans Holthuis

Order of: 19 December 2003

PROSECUTOR

v.

VOJISLAV ŠEŠELJ

DECISION ON MOTION NUMBER 28

The Office of the Prosecutor:

Ms. Hildegaard Uertz-Retzlaff
Mr. Daniel Saxon

The Accused:

Vojislav Šešelj

Standby counsel:

Aleksandar Lazarević

TRIAL CHAMBER II (“Trial Chamber”) of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (“Tribunal”);

BEING SEISED OF “Motion Number 28” filed by the accused Vojislav Šešelj (“Accused”) on 27 November 2003 (“Motion”);

NOTING that the Accused in his Motion requests this Trial Chamber to order that

1. the Commanding Officer of the United Nations Detention Unit (“UNDU”) make copies of all the materials and court documents hand-written by the Accused (First Request); and
2. the deadline to appeal the “Decision on Motion Number 19”, rendered on 30 September 2003¹ (“Impugned Decision”) and for which certification to appeal was granted by this Trial Chamber on 18 November 2003², start running from the day the First Request is granted (“Second Request”);

NOTING that the Accused motivates his First Request by arguing that, since he conducts his own defence, he should be in possession of “a personal copy [...] for further action in the trial” and he has “no other possibilities at [his] disposal” to receive such a copy (“Motivation”);

CONSIDERING the UN Detention Unit Order³ issued by the Commanding Officer of the UNDU, Mr. Tim Mc Fadden, to all detainees stating that the responsibility of the UNDU does not include providing clerical and administrative support to accused in the preparation of their defence and that the Accused *in casu* has been informed by the Commanding Officer that the UNDU staff cannot undertake photocopying for detainees⁴;

CONSIDERING that the Accused in this case has always been served and will be served in the future with a copy of all the material and documents officially filed in this case, including a copy of the hand-written documents of the Accused himself, and that this practice is demonstrated by the official record of this case which includes a procès-verbal for each filing personally signed by the Accused, indicating that the Accused receives a copy of the relevant document filed in a language he understands, *i.e.* BCS;

¹ *Prosecutor v. Vojislav Šešelj*, Case IT-03-67-PT, Decision on Motion Number 19, 30 September 2003.

² *Prosecutor v. Vojislav Šešelj*, Case IT-03-67-PT, Decision on Certification to Appeal and to Extend the Deadline for filing Certain Preliminary Motions, 18 November 2003.

³ UN Detention Unit Order dated 29 January 1999 from Tim McFadden, Commanding officer UNDU, addressed to all Detainees of the UNDU with respect to facsimile and photocopy facilities.

⁴ Internal memorandum dated 15 December 2003 from Tim McFadden, Chief of Detention ICTY, addressed to David Tolbert, Deputy Registrar ICTY.

CONSIDERING therefore that the Motivation provided by the Accused does not justify the First Request and that, given the fact that the Accused has always been and is currently served with a copy of each and every official filing in his case, his First Request is not only without merit, but also manifestly ill-founded and frivolous;

FINDING that the First Request should be denied and that therefore the Second Request, namely that the deadline to appeal the Impugned Decision commence from the day the First Request is granted, should consequently be considered moot;

NOTING however with regard to the Second Request that pursuant to Rule 73(C) of the Rules of Procedure and Evidence ("Rules") the Accused normally has seven days from the filing of the decision granting certification to appeal to the Appeals Chamber;

NOTING that under Rule 127(A)(ii) of the Rules, the Trial Chamber, upon good cause being shown, can recognise as validly done any act done after the expiration of a time limit prescribed by the Rules;

CONSIDERING that the Accused does not provide any explanation in his Motion upon which the Trial Chamber could come to the conclusion that good cause is shown for an extension of the time limit prescribed in Rule 73(C) under Rule 127(A)(ii) of the Rules;

CONSIDERING however that it is being conceded that the Accused may have wrongly understood that the time limit for filing an interlocutory appeal was suspended as a result of his Second Request and that, even though this is a wrong assumption, the Trial Chamber will grant the Accused, for this time only, an extension of the time limit foreseen in Rule 73(C) up to the end of the business day following service upon him of this decision;

FOR THE FOREGOING REASONS

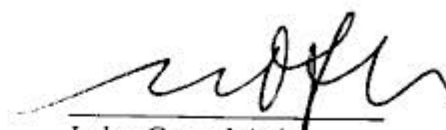
PURSUANT TO Rules 54 and 127(A)(ii) of the Rules;

HEREBY

1. **DENIES** the First and the Second Request;
2. **ORDERS** that the Accused may file an appeal against the Impugned Decision before 4 p.m. of the business day following service upon him of this decision; and
3. **CAUTIONS** the Accused that other requests with respect to the issue of photocopies will not be entertained and will considered to be frivolous.

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

Dated this 19th day of December 2003,
At The Hague
The Netherlands



Judge Carmel Agius
Presiding

[Seal of the Tribunal]