



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: 3 December 2004
Original: English

IN TRIAL CHAMBER II

Before: Judge Carmel Agius, Pre-Trial Judge

Registrar: Mr. Hans Holthuis

Decision of: 3 December 2004

PROSECUTOR

v.

VOJISLAV ŠEŠELJ

**DECISION ON REQUEST FOR LEAVE TO REPLY AND
FOR EXTENSION OF TIME TO REPLY**

The Office of the Prosecutor:

Ms. Hildegard Uertz-Retzlaff
Mr. Ulrich Mussemeyer
Mr. Daniel Saxon

The Accused:

Mr. Vojislav Šešelj

Standby counsel:

Mr. Tjarda Eduard van der Spoel

I, Carmel Agius, Judge 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”) and Pre-Trial Judge in these proceedings:

BEING SEISED OF the “Submission Number 59” (“Request for Leave and for Extension of Time to Reply”), filed on 2 December 2004 on behalf of the Accused Vojislav Šešelj (“Accused”), wherein he requests leave to reply and an extension of time to file a reply to the “Prosecution’s Response to Motion by the Accused for Normalisation of Conditions for Preparing a Defence” (“Prosecution’s Response”), filed on behalf of the Office of the Prosecutor (“Prosecution”) on 25 November 2004;

NOTING that the Prosecution’s Response arises out of the Accused’s “Motion by the Accused for Normalisation of Conditions for Preparing a Defence filed by the Accused Vojislav Šešelj”, filed on 9 November 2004;¹

NOTING that the Accused submits that he has “a very pressing and extremely reasonable need to reply”, but that he cannot do so until he receives the translation into the Bosnian, Croat or Serb language (“B/C/S”) of the Appeals Chamber’s decision referenced in the Prosecution’s Response;²

CONSIDERING that Rule 126 *bis* of the Rules of Procedure and Evidence (“Rules”),³ provides, *inter alia*, that a reply to the response shall be filed within seven (7) days of the filing of the response, with the leave of the relevant Chamber;

CONSIDERING that Rule 127 provides, *inter alia*, that a Trial Chamber may, on good cause being shown by motion, enlarge any time prescribed by the Rules;

CONSIDERING that, pursuant to Rule 65 *ter*, the Pre-Trial Judge shall ensure that proceedings are not unduly delayed and shall take any measure necessary to prepare the case for a fair and expeditious trial, and shall be entrusted with all or part of the functions in Rule 73, which deals with the ability of either party to file motions, and which thus implies the power of the Pre-Trial Judge to consider requests for extension of time to file such motions or for leave to reply to responses to them;

¹ The Prosecution’s Response was submitted and received by the Registry for translation into B/C/S on 23 November 2004, *i.e.*: within the time-limit prescribed by Rule 126 *bis* and in accordance with the Trial Chamber’s Order on Translation of Documents of 6 March 2003.

² *Prosecutor v Mejakić*, Case IT-02-65-AR73.1, Decision on Appeal by the Prosecution to Resolve Conflict of Interest Regarding Attorney Jovan Simić, 6 October 2004 (“Appeals Chamber’s decision”). The Prosecution’s Response references paragraph 7 of this decision.

³ Rules of Procedure and Evidence, IT/32/Rev.32, 12 August 2004.

CONSIDERING that the aforementioned Appeals Chamber's decision is of potential relevance to the Accused in order to reply to the Prosecution's Response;

CONSIDERING furthermore that the Appeals Chamber's decision has been translated into B/C/S in accordance with the standard practice of the Tribunal;⁴

CONSIDERING that, pursuant to the aforesaid power of the Pre-Trial Judge under Rule 65 *ter* to ensure that proceedings are not unduly delayed, I have already orally instructed the Registry of the Tribunal ("Registry") to provide the Accused with the B/C/S translation of the aforesaid Appeals Chamber's decision;

NOTING that, in his Request for Leave and for Extension of Time to Reply, the Accused further requests that the Trial Chamber issue an order to the Prosecution to append to its submissions the full translation into B/C/S of any document it may be quoting therein;

CONSIDERING that it will not always be the case that the Accused is entitled, under the Statute of the Tribunal ("Statute")⁵ or under the Rules, to have all of the aforesaid documents translated into B/C/S in their entirety;⁶

CONSIDERING furthermore that the Registry is the official custodian of the records of the Tribunal, and that it is for the Accused to ask the Registry **directly** for the B/C/S translation of any of the decisions or orders issued by the Tribunal that he may require;⁷

CONSIDERING therefore that the Accused should not address the Trial Chamber or the Pre-Trial Judge at every juncture when he requires something from the Registry;

EMPHASISING that, this notwithstanding, it is always open to the Accused to request an extension of time from the Trial Chamber by way of motion;

⁴ "[A]ll Orders and Decisions issued by the International Tribunal shall be filed in both working languages and translated by the Registry into the language of the accused": *Prosecutor v Delalić et al*, Case IT-96-21-T, Decision on Defence Application for Forwarding the Documents in the Language of the Accused, 25 September 1996.

⁵ Statute of the International Criminal Tribunal for the Former Yugoslavia, adopted on 25 May 1993 by S/RES 827 (1993) and last amended by S/RES 1411 (2002).

⁶ See Decision on Extension of Time to File a Response, 2 December 2004.

⁷ See *Prosecutor v Blaškić*, Case IT-95-14-A, Decision on Prosecution's Motion for Clarification of the Appeals Chamber's Decision dated 4 December 2002 on Paško Ljubičić's Motion for Access to Confidential Material, Transcripts and Exhibits in the *Blaškić* case, 8 March 2004, para. 35; see also footnote 4 above.

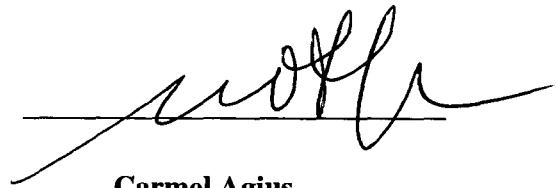
FOR THE FOREGOING REASONS**PURSUANT TO** Rule 65 *ter*, 73, 126 *bis* and 127 of the Rules, **HEREBY****GRANT** the Request for Leave and for Extension of Time to Reply and **INSTRUCT** the Accused that he has seven (7) days from the date of the filing of this decision to reply to the Prosecution's Response.

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

Dated this third day of December 2004,

At The Hague,

The Netherlands

**Carmel Agius****Pre-Trial Judge****[Seal of the Tribunal]**