



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 Nos. IT-95-14-R77.3
IT-94-14-R77.4
IT-95-14 & 14/2-
R77
Date: 10 May 2006
Original: English

IN TRIAL CHAMBER III

Before: Judge Patrick Robinson, Presiding
Judge O-Gon Kwon
Judge Iain Bonomy

Registrar: Mr. Hans Holthuis

Decision: 10 May 2006

PROSECUTOR

v.

**STJEPAN ŠEŠELJ and
DOMAGOJ MARGETIĆ
(IT-95-14-R77.3)
MARIJAN KRIŽIĆ
(IT-95-14-R77.4)
JOSIP JOVIĆ
(IT-95-14 & 14/2-R77)**

**ORDER ON THE PROSECUTION'S
REQUESTS TO AMEND AND JOIN THE INDICTMENTS**

The Office of the Prosecutor:

Mr. David Akerson
Mr. Salvatore Cannata

Counsel for the Accused:

Mr. Željko Olujić for Mr. Stjepan Šešelj
Mr. Domagoj Margetić (unrepresented)
Mr. Krešimir Krsnik for Mr. Josip Jović
Mr. Emil Havkić for Mr. Marijan Križić

TRIAL CHAMBER III 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”);

NOTING the Orders issued by the President of the Tribunal on 24 April 2006, transferring the cases *Prosecutor v. Stjepan Šešelj and Domagoj Margetić*, Case No. IT-95-14-R77.3; *Prosecutor v. Marijan Križić*, Case No. IT-95-14-R77.4; and *Prosecutor v. Josip Jović*, Case No. IT-95-14 & 14/2-R77 to this Trial Chamber;¹

NOTING that (1) the operative indictment against Domagoj Margetić and Stjepan Šešelj is dated 10 February 2005, and was confirmed on 26 April 2005; (2) the operative indictment against Marijan Križić is dated 29 August 2005, and was confirmed on 9 September 2005; and (3) the operative indictment against Josip Jović is dated 29 August 2005, and was confirmed on 9 September 2005;

NOTING the two pending motions from the Office of the Prosecutor (“Prosecution”) requesting leave to amend the indictment against Domagoj Margetić and Stjepan Šešelj, filed on 7 July 2005 (“July Motion”) and 29 August 2005 (“August Motion”);² the “Motion for Leave to Amend the Indictment of Šešelj and Margetić and Motion for Joinder of all four Accused” filed on 20 September 2005, which requests leave to amend again the indictment against Stjepan Šešelj and Domagoj Margetić and to join the case against them with those against Josip Jović and Marijan Križić (“Joinder Motion”); and the “Prosecution’s Response to Decision to Deny the Accused Josip Jović’s Preliminary Motion to Dismiss the Indictment on the Grounds of Lack of Jurisdiction and Defects in the Form of the Indictment” (“Prosecution Response”), filed on 26 January 2006, in which the Prosecution requests, *inter alia*, to further amend the indictment against Marijan Križić and Josip Jović;

CONSIDERING that the Chamber has carefully reviewed and compared all of the proposed amended indictments attached to the aforementioned motions and to the Prosecution Response, and has found that, in its various proposed amended indictments, the Prosecution has made several

¹ *Prosecutor v. Josip Jović*, Case No. IT-95-14 & 14/2-R77, Order Reassigning a Case to a Trial Chamber, 24 April 2006; *Prosecutor v. Stjepan Šešelj and Domagoj Margetić*, Case No. IT-95-14-R77.3, Order Reassigning a Case to a Trial Chamber, 24 April 2006; and *Prosecutor v. Marijan Križić*, Case No. IT-95-14-R77.4, Order Reassigning a Case to a Trial Chamber, 24 April 2006.

² *Prosecutor v. Stjepan Šešelj and Domagoj Margetić*, Case No. IT-95-14-R77.3, Motion for Leave to Amend the Indictment, 7 July 2005, and Second Motion for Leave to Amend Indictment, 29 August 2005.

changes to the original indictments without making a specific request for these amendments in any of its motions for leave to amend;

CONSIDERING that some of the amendments sought by the Prosecution are substantial and may result in new charges against some of the accused as they might introduce a basis for conviction that is legally and factually distinct from any which is already alleged in the original and currently operative indictments;³

CONSIDERING that, if a proposed amended indictment introduces new charges, the Prosecution should provide the necessary supporting material;

CONSIDERING that the Prosecution should have expressly identified every single amendment that it wants to make to the original and currently operative indictments;

CONSIDERING that, in addition, the number and content of the Prosecution's filings in relation to the amendment of the indictments have made it difficult for the Chamber to determine the exact content and scope of the proposed amendments;

CONSIDERING that a clear and complete enumeration and a clarification of the all the amendments that the Prosecution seeks to make to the indictments is essential;

CONSIDERING also that a decision on the joinder of the cases can be rendered only if the Chamber fully understands the scope and the exact content of the charges against each accused;

PURSUANT TO Rules 48, 50, 54 and 77 of the Rules;

HEREBY ORDERS the Prosecution to:

- (1) withdraw all of its previous motions seeking leave to amend the indictment, and attaching proposed amended indictments;

³ *Prosecutor v. Sefer Halilović*, Case No. IT-01-48-PT, Decision on Prosecutor's Motion Seeking Leave to Amend the Indictment, 17 December 2004, para. 30.

- (2) file a single, new motion for leave to amend the indictments in each of the three cases, consolidating all of its prior requests, within ten days of the filing of the present Order;
- (3) list in its new motion for leave to amend the indictments *all* of the changes sought to the original and currently operative indictments against each of the accused, providing where necessary the relevant supporting material, and explaining the reasons why each amendment is sought;
- (4) attach to its motion for leave to amend the indictments (i) a proposed consolidated indictment (in the event that the cases are joined) and (ii) the proposed text of the three separate indictments, showing in “track changes” or in a similar manner the amendments to the original text that are currently requested (in the event that the cases are not joined);
- (5) re-file its motion for joinder of the three cases, setting out in detail its arguments for joinder, both in the event that some or all of its proposed amendments are granted, and in the event that they are not.

ORDERS each of the accused to file their responses, if any, to the new Prosecution motion for leave to amend and motion for joinder, within seven days of the filing of those documents by the Prosecution.

Dated this tenth day of May 2006
At The Hague,
The Netherlands



Judge Patrick Robinson
Presiding

[Seal of the Tribunal]