

IT-03-67-PT  
D 13494 - D 13495  
29 AUGUST 2006

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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 the  
Former Yugoslavia since 1991

Case No. IT-03-67-PT

Date: 29 August 2006

Original: English

**IN TRIAL CHAMBER I**

**Before:** Judge Alphons Orie, Presiding  
Judge Patrick Robinson  
Judge Bakone Justice Moloto

**Registrar:** Mr Hans Holthuis

**Decision of:** 29 August 2006

**PROSECUTOR**

v.

**VOJISLAV ŠEŠELJ**

**DECISION ON REQUEST TO CERTIFY AN APPEAL AGAINST  
DECISION ON ASSIGNMENT OF COUNSEL**

**Office of the Prosecutor**

Ms Hildegard Uertz-Retzlaff  
Mr Ulrich Müssemer  
Mr Daniel Saxon

**Standby Counsel**

Mr Tjarda Eduard van der Spoel

**TRIAL CHAMBER I** (“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** the “Request for Certification Pursuant to Rule 73(B) to Appeal Against the Trial Chamber Decision to Assign Counsel to the Accused Dated 21 August 2006” (“Request”), filed by Standby Counsel for Vojislav Šešelj (“Accused”);

**NOTING** the “Prosecution’s Response to Defence Request for Certification Pursuant to Rule 73(B) to Appeal Against the Trial Chamber Decision to Assign Counsel to the Accused Dated 21 August 2006” (“Response”), filed by the Office of the Prosecutor (“Prosecution”) on 29 August 2006;

**NOTING** the “Decision on Assignment of Counsel” of 21 August 2006 (“Decision”), in which the Trial Chamber ordered that the Accused’s participation in the proceedings will be through counsel unless determined otherwise, at the same time instructing Standby Counsel to represent the Accused pending the Registry’s assignment of counsel;

**NOTING** the submission by Standby Counsel that the Accused vigorously opposes assignment of counsel, that the Decision affects the fairness of the trial and that resolution of the matter at this stage would materially advance the proceedings;

**NOTING** that the Prosecution does not oppose the Request, although it emphasises that the Decision is not erroneous;

**NOTING** that Rule 73(B) of the Tribunal’s Rules of Procedure and Evidence (“Rules”) provides: “Decisions on all motions are without interlocutory appeal save with certification by the Trial Chamber, which may grant such certification if the decision involves an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, and for which, in the opinion of the Trial Chamber, an immediate resolution by the Appeals Chamber may materially advance the proceedings”;

**CONSIDERING** that the consequences for the trial of the Accused would be extremely serious should the Appeals Chamber overturn the Decision, particularly since counsel was assigned to the Accused because the Trial Chamber is of the clear view that the Accused’s behaviour may substantially and persistently obstruct the proper and expeditious conduct of a fair trial and therefore, the assignment of counsel involves an issue affecting the fair and expeditious conduct of the proceedings;

**CONSIDERING** that immediate resolution of this question by the Appeals Chamber at this stage would reduce the risk of a potential retrial, and thus materially advance the proceedings;

**FOR THE FOREGOING REASONS**

**PURSUANT TO RULE 73(B) OF THE RULES**


**GRANTS** the Request.

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

Dated this twenty-ninth day of August 2006

The Hague

The Netherlands



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**Judge Alphons Orie**  
**Presiding Judge**

[Seal of the Tribunal]