

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: IT-03-67-PT

Date: 10 November 2006

Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Patrick Robinson
Judge Frank Höpfel

Registrar: Mr Hans Holthuis

Decision of: 10 November 2006

PROSECUTOR

v.

VOJISLAV ŠEŠELJ

DECISION ON REQUEST FOR CERTIFICATION (SUBMISSION NUMBER 119)

Office of the Prosecutor

Ms Hildegard Uertz-Retzlaff
Mr Dan Saxon
Mr Ulrich Müssemer
Ms Melissa Pack

The Accused

Mr Vojislav Šešelj

Standby Counsel for the Accused

Mr David Hooper
Mr Andreas O'Shea

TRIAL CHAMBER I of the International Tribunal;

BEING SEISED OF “Submission no. 119” by the Accused dated and submitted to the Registry on 14 November 2005 and filed in its English translation on 17 November 2005;

NOTING that the Accused requests certification to appeal Trial Chamber’s “Decision on Submissions Number 110 and 111”, filed on 10 November 2005,¹ in which the Trial Chamber denied the Accused’s requests for (i) certification to appeal the Trial Chamber’s “Decision on Preliminary Motion Pursuant to Rule 72 (Submissions Nos. 101 and 102)”,² and (ii) an extension of time to file challenges to the Modified Amended Indictment³ until such time as he receives a translation into Serbo-Croatian of certain judgements from the International Criminal Tribunal for Rwanda;

NOTING that the Accused submitted challenges to the indictment in his “Preliminary Motion by Dr. Vojislav Šešelj pursuant to Rule 72 of the Rules of Procedure and Evidence Challenging the Modified Amended Indictment” filed on 8 September 2005, but that this filing exceeded the permitted length for motions and was therefore not accepted by the Trial Chamber;⁴

NOTING that Trial Chamber II on 26 September 2005 ordered the Accused to file any objections to the Modified Amended Indictment by 7 October 2005 in the format prescribed by the Tribunal’s Rules of Procedure and Evidence and the Practice Direction on Length of Briefs and Motions,⁵ but that he did not do so;

NOTING that, according to Rule 73(B),

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 (i) that the object and purpose of this Rule is one of procedural economy, meaning that appeals reaching the Appeals Chamber should be limited to those concerning

¹ Decision on Submissions Number 110 and 111, dated 9 November 2005, filed 10 November 2005.

² Decision on Preliminary Motion Pursuant to Rule 72 (Submission Nos. 101 and 102), dated 23 September 2005, filed 26 September 2005.

³ Modified Amended Indictment, 12 July 2005. See Decision on Corrigendum to the Amended Indictment Annexed to the Prosecution’s Motion for Leave to Amend the Indictment, 8 July 2005.

⁴ Decision on Preliminary Motion, p. 3.

⁵ Ibid.

significant issues; (ii) that certification to appeal a decision denying certification should not be used to re-litigate the original application for certification; and (iii) that while certification to appeal a decision denying certification may be appropriate where a Trial Chamber has made an error as to the applicable law on certification requests, this possibility has not been argued in this instance;

CONSIDERING therefore that the first request in the Accused's Submission cannot be considered on its merits;

NOTING that in its "Decision on Submission Number 110 and 111", the Trial Chamber stated that the Tribunal has no obligation to provide translations of jurisprudence to any accused, and that the judgements from the ICTR are publicly available;

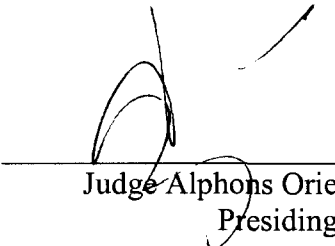
CONSIDERING that the Accused, in applying for certification to appeal this decision, has not identified an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial or for which an immediate resolution by the Appeals Chamber may materially advance the proceedings;

CONSIDERING that the Trial Chamber does not consider that the non-provision of translated ICTR judgements constitutes such an issue, and that, therefore, the second request in the Accused's Submission does not pass the applicable test;

FOR THE FOREGOING REASONS,

DENIES the requests in the Accused's Submission.

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



Judge Alphons Orié
Presiding

Dated this tenth day of November 2006
At The Hague
The Netherlands

[Seal of the Tribunal]