



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: 22 June 2007
Original: English

IN TRIAL CHAMBER III

Before: Judge Patrick Robinson, Presiding
Judge Jean-Claude Antonetti, Pre-Trial Judge
Judge Iain Bonomy

Registrar: Mr. Hans Holthuis

Order of: 22 June 2007

PROSECUTOR
v.
VOJISLAV ŠEŠELJ

PUBLIC FILING

**ORDER REGARDING PROSECUTION MOTION FOR REVIEW AND
CLARIFICATION OF DECISION ON FORM OF DISCLOSURE**

Office of the Prosecutor

Ms. Christine Dahl

The Accused

Mr. Vojislav Šešelj

THIS 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 “Prosecution’s Motion for Review by the Trial Chamber and for Clarification of the Pre-Trial Judge’s Decision on Motion No. 289”, dated 14 June 2007 (“Motion”), in which the Prosecution, *inter alia*, challenges the pre-trial Judge’s authority to issue the “Decision on Motion No. 289”,¹ and requests the Trial Chamber to vacate the Decision on Motion 289 and to deny “Professor Vojislav Šešelj’s Motion for Review of the Decision on Form of Disclosure issued by Trial Chamber I on 4 July 2006” (“Motion No. 289”)² in its entirety;³

NOTING that in the “Decision on Form of Disclosure”, Trial Chamber I found that the Prosecution is entitled to provide Rule 66(A) and (B) and Rule 68(i) material in electronic format, subject to qualifications regarding assistance for the Accused;⁴

NOTING that the Appeals Chamber affirmed the findings made by Trial Chamber I in its Decision on Form of Disclosure but stated:

Although the present Decision does not find that the Trial Chamber incorrectly exercised its discretion in the [Decision on Form of Disclosure], this does not prevent Mr. Šešelj from applying for a modification of the Impugned Decision to the newly assigned Trial Chamber, which might consider, in its discretion, a different trial management approach than that followed in the Impugned Decision.⁵

NOTING that in Motion No. 289, Mr. Vojislav Šešelj (“Accused”) requested a review of Trial Chamber I’s Decision on Form of Disclosure and the disclosure to him of all Rule 66 and 68 material in Serbian and in hard copy;

NOTING that the Decision on Motion No. 289 partially granted Motion No. 289 and ordered the Prosecution to disclose Rule 66 (A) (i) and (ii) documents “as soon as possible, in hard-copy and in a language the Accused understands” and Rule 68 (i) documents “as soon as practicable, in hard-copy and in a language the Accused understands”;

¹ Original in French, entitled « Décision Relative à la Requête 289 Concernant le Mode de Communication de Pièces », 7 juin 2007 (“Decision on Motion No. 289”).

² Motion No. 289, dated 11 May 2007 and filed on 15 May 2007.

³ Motion, p. 6.

⁴ Decision on Form of Disclosure, 4 July 2006.

⁵ Decision on Vojislav Šešelj’s Interlocutory Appeal Against the Trial Chamber’s Decision on Form of Disclosure, 17 April 2007, para. 20.

NOTING that in the Motion, the Prosecution argues that (i) the proper body to reconsider earlier decisions issued by the previous Trial Chamber assigned to pre-trial proceedings in this case is Trial Chamber III as a whole and the Trial Chamber should have considered Motion No. 289 in the first instance, (ii) pre-trial judges lack the power to modify a decision taken by a Trial Chamber, (iii) the consideration of Motion No. 289 by the pre-trial Judge went beyond his remit, and (iv) the Trial Chamber should exercise its supervisory function of the pre-trial Judge and review the Decision on Motion No. 289 because it is inadequately reasoned;⁶

NOTING that pursuant to Rule 65*ter* of the Tribunal's Rules of Procedure and Evidence ("Rules"), the pre-trial Judge shall, *inter alia*, take any measure necessary to prepare the case for a fair and expeditious trial;

NOTING Rule 65*ter* (A) of the Rules, which provides that the Presiding Judge of the Trial Chamber shall designate from among its members a Judge responsible for the pre-trial proceedings;

RECALLING the "Order Entrusting Functions to Pre-Trial Judge", dated 27 February 2007, issued by the Presiding Judge pursuant to Rule 65*ter* (C) of the Rules after the assignment of the present case to Trial Chamber III,⁷ which entrusted Judge Antonetti, as the pre-trial Judge,⁸ with "all of the pre-trial functions set forth in Rules 66, 67, 73, 73 *bis*, and 73 *ter*" of the Rules ("27 February 2007 Order");

CONSIDERING that the reference to the "newly assigned Trial Chamber" in the Appeals Chamber's Decision must be construed consistently with the 27 February 2007 Order, which entrusted pre-trial functions to Judge Antonetti;

CONSIDERING therefore that the pre-trial Judge was empowered to consider Motion No. 289 and issue the Decision on Motion No. 289;

⁶ Motion, pp. 3-4.

⁷ The case *Prosecutor v. Vojislav Šešelj* was assigned to Trial Chamber III by "Order Reassigning Case to a Trial Chamber", 20 February 2007.

⁸ Order Designating a Pre-Trial Judge, 22 February 2007.

PURSUANT TO Rule 65*ter* of the Rules,

HEREBY DISMISSES the Motion.

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



Patrick Robinson
Presiding

Dated this twenty-second day of June 2007
At The Hague
The Netherlands

[Seal of the Tribunal]