



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-T  
Date: 15 July 2008  
Original: ENGLISH  
French

**IN TRIAL CHAMBER III**

**Before:** Judge Jean-Claude Antonetti, Presiding  
Judge Frederik Harhoff  
Judge Flavia Lattanzi

**Registrar:** Mr Hans Holthuis

**Decision of:** 15 July 2008

**THE PROSECUTOR**

v.

**VOJISLAV ŠEŠELJ**

***PUBLIC DOCUMENT***

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**DECISION ON THE ACCUSED'S MOTIONS CONCERNING THE QUALITY  
OF INTERPRETATION (SUBMISSIONS 352, 354 AND 366)**

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**The Office of the Prosecutor**

Ms Christine Dahl  
Mr Daryl Mundis

**The Accused**

Mr Vojislav Šešelj

## I. INTRODUCTION

1. TRIAL CHAMBER III (“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”) is seized of three motions by Vojislav Šešelj (“Accused”) dealing with the quality of the interpretation and the resulting responsibility of the Tribunal’s Registrar (“Registrar”).

2. Since these three motions are closely connected, the Chamber will examine them jointly in the present decision.

## II. PROCEDURAL BACKGROUND

3. On 8 November 2007, the Chamber heard the Accused’s opening statement pursuant to Rule 84 of the Rules of Procedure and Evidence of the Tribunal (“Rules”).<sup>1</sup> On 5 December 2007, the Accused submitted his first motion to instruct the Registrar (“Registrar”) to correct interpretation errors allegedly made from the Serbian language into the English language in the transcript of the hearing of 8 November 2007 (“Submission 352”).<sup>2</sup> The Accused furthermore requested the Registrar to take “necessary measures to ensure that competent interpreters work in the interpretation service covering this case in order to rule out any recurrence of such errors and misinterpretation.”<sup>3</sup>

4. On 7 December 2007, the Accused filed an identical motion for interpretation errors allegedly made from the Serbian language into the French language (“Submission 354”).<sup>4</sup>

<sup>1</sup> *The Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-PT, Scheduling Order, 18 September 2007.

<sup>2</sup> Motion of Professor Vojislav Šešelj for Trial Chamber III to Instruct the Registrar to Correct Misinterpretation from the Serbian Language into the English Language in the Transcript of the Trial Hearing of 8 November 2007, presented on 5 December 2007 and filed on 14 December 2007 (“Submission 352”).

<sup>3</sup> Submission 352, p. 17.

<sup>4</sup> Motion of Professor Vojislav Šešelj to Trial Chamber III to Instruct the Registrar to Correct Misinterpretation from the Serbian Language into the French Language in the Transcript of the Trial Hearing of 8 November 2007, presented on 7 December 2007 and filed on 17 January 2008

5. On 4 January 2008, the Accused filed another motion on the subject of deficiencies in the interpretation during the hearing of 8 November 2007 (“Submission 366”).<sup>5</sup> The Accused produced an audio CD on which the interpreters’ allegedly inappropriate conduct was heard during his opening statement the same day. The Accused submits that the interpretation into English seriously distorted the contents of his opening statement, thus hindering his right to a fair trial. The Accused thus requests that proceedings be initiated against the Registrar and the persons responsible for interpretation during the opening statement of 8 November 2007, and that the Registrar be instructed to assign only good-quality interpreters to this case.<sup>6</sup>

6. On 22 January 2008, the Tribunal Registry (“Registry”) submitted its observations pursuant to Rule 33 of the Rules (“Observations”).<sup>7</sup> In them, the Registry requests (i) that the Accused’s Submissions 352, 354 and 366 be dismissed; (ii) that for all future queries, the Chamber direct the Accused to use the interpretation verification procedure currently in place; and (iii) to “caution the Accused against making unsubstantiated allegations and using abusive and insulting language against United Nations staff members of the Registry”, otherwise the Chamber could instruct the Registry to refuse any filings with such language.<sup>8</sup>

### III. APPLICABLE LAW

7. According to Article 20 (1) of the Statute of the Tribunal (“Statute”), it is incumbent upon the Chamber to ensure that the trial is fair and expeditious and that proceedings are conducted in accordance with the rules of procedure and evidence.

8. Pursuant to Article 17 (1) of the Statute, the Registrar is responsible for the administration and servicing of the Tribunal. In particular, Article 76 of the Rules provides:

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(“Submission 354”).

<sup>5</sup> Professor Vojislav Šešelj’s Request for Trial Chamber III to Initiate Proceedings to Establish the Responsibility of Registrar Hans Holthuis and the Interpretation Service at the Hearing of 8 November 2007, presented on 4 January 2008 and filed on 9 January 2008 (“Submission 366”).

<sup>6</sup> Submission 366, p. 4.

<sup>7</sup> Submission of the Registrar Pursuant to Rule 33 (B) on Vojislav Šešelj’s Submission on Interpretation, 22 January 2008 (“Observations”).

<sup>8</sup> *Id.*, para. 14.

“Before performing any duties, an interpreter or a translator shall solemnly declare to do so faithfully, independently, impartially and with full respect for the duty of confidentiality”.

9. A code of professional ethics for interpreters and translators, adopted by the Registry on 5 March 1999 (“Code of Interpreters”) deals with the obligations weighing on the interpreters employed by the Tribunal.<sup>9</sup> This Code of Interpreters sets the principle that “[t]he functions performed by interpreters and translators require them to act faithfully, independently, impartially and with full respect for the duty of confidentiality”.<sup>10</sup> In the context of Submissions 352, 354 and 366 presented by the Accused, it is important to note the following paragraphs from the Code of Interpreters:

#### **Article 10 Accuracy**

##### *1. Truth and completeness*

(a) Interpreters and translators shall convey with the greatest fidelity and accuracy, and with complete neutrality, the wording used by the persons they interpret or translate.

[...]

(c) Interpreters and translators shall not embellish, omit or edit anything from their assigned work.

### **IV. DISCUSSION**

#### **A. Verification of Alleged Interpretation Errors**

##### **1. General Observations**

10. The Chamber first notes the observation of the Registry that interpretation in the courtroom is not the translation of written documents and that “interpreters, unlike translators, have to deal with fleeting messages in real time, synthesizing and editing are not only legitimate interpretation techniques, they make it possible”.<sup>11</sup> The Chamber is perfectly aware of the impact that the intelligibility of the speaker, the

<sup>9</sup> Code of Professional Ethics of Interpreters and Translators Employed by the United Nations International Criminal Tribunal for the Former Yugoslavia, 5 March 1999 (IT/144) (“Code of Interpreters”).

<sup>10</sup> Code of Interpreters, preamble, para. 2.

speed of the delivery, and the practice of pauses between questions and answers have on the quality and precision of interpretation. In the present case in particular, the Chamber has on many occasions cautioned the Accused and the witnesses speaking the language of the Accused that the speed of their exchanges and the overlapping of the voices made the interpreters' work quite impossible.<sup>12</sup> The Chamber notes that the quality and reliability of the transcript are likewise greatly reduced. It is therefore essential for the Accused to slow down the speed of the debates, to respect the pauses between his questions and the answers by witnesses speaking in his language, and to caution them to do the same.

11. With regard to Submission 354 in particular, it is also important to note that the interpretation into French suffers sometimes from the double level of interpretation from BCS into English and then from English into French. This double interpretation multiplies the difficulties and increases the risk of error, and the Chamber, whose main working language is French, is fully aware of this. There have been instances during the hearing when the Chamber requested verification of the interpretation so that the transcript in English properly reflected either statements made directly in French or those interpreted into French.<sup>13</sup>

12. This observation having been made, an official transcript verification procedure is at the disposal of the Accused as well as the Chamber or the Prosecution in order to correct important errors. This procedure consists of filling out a form that is translated into BCS for the needs of this case and sending it to the Tribunal's translation and interpretation service ("CLSS"). The Chamber is thus not involved in this verification procedure, except when it is informed of any corrections made or precisions added to the transcript following the verifications undertaken.

13. With regard to the use of insulting statements and unfounded allegations by the Accused, as raised in the Observations, the Chamber notes that it has undertaken a certain number of measures since the filing of Submissions 352, 354 and 366,

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<sup>11</sup> Observations, para. 5.

<sup>12</sup> See, for example, the hearing of 10 July 2008, Court Transcript in French 9265-9266, 9276, 9292-9293, 9297-9298 (closed session).

<sup>13</sup> Internal Memorandum-Verification of Accuracy of Transcript in Case No. IT-03-67-T, Hearing of 22 May 2008, 25 June 2008; Internal Memorandum-Verification of Accuracy of Transcript in Case No. IT-03-67-T, Hearing of 17 June 2008, 4 July 2008.

particularly its “Order Protecting the Integrity of the Proceedings”, rendered on 18 June 2008, in which it decided “that in future any statements that the Chamber deems to adversely affect the integrity of the proceedings shall be expunged from the public transcript and video-recording of the hearings”.<sup>14</sup>

## 2. On the Specific Errors Raised by the Accused

14. In Submissions 352 and 354, the Accused notes a series of errors in the interpretation regarding either missing sentences or terms, the addition of terms or simple errors. The Chamber has examined the Accused’s allegations attentively in this regard and notes that certain errors have indeed been listed which, if confirmed, could be important, in particular:

(i) In Submission 352, examples 1-5, 9, 10, 14, 16, 25, 30 and 31; and

(ii) In Submission 354, examples 9, 10, 12, 25, 34, 35, 36 and 41.

15. In its Observations, the Registry stated that it will verify the accuracy of the examples of interpretation in the said motions and will issue a memorandum containing, if necessary, a more precise or corrected version of interpretation. To date, such verifications have not been made.

## 3. Conclusion

16. The Chamber would first invite the Accused to henceforth refer the verification of the accuracy of the interpretation to CLSS, pursuant to the official procedure. The Registry will remain available to assist the Accused and his associates in implementing this procedure, if necessary.

17. In light of the apparent extent of the errors and imprecision mentioned above, the Chamber nevertheless requests that the Tribunal’s translation and interpretation service verify, as soon as possible, the examples cited by the Accused in Submissions 352 and 354.

## **B. Conduct of the Interpreters and the Registrar’s Responsibility**

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<sup>14</sup> Order Protecting the Integrity of the Proceedings, 18 June 2008, p. 2; *see* also the oral decision on the filing of the Accused’s motion of 23 April 2008, confidential, 21 May 2008.

18. In Submissions 352 and 354, the Accused maintains that the alleged interpretation errors were not accidental but intentional in order to make the situation more difficult.<sup>15</sup> The Accused furthermore notes the lack of professionalism and the ignorance of the interpreters.<sup>16</sup> In Submission 366, the Accused submitted an audio CD in which he notes the alleged interruptions, such as a coughing fit, a whistle and someone saying “Jesus”.<sup>17</sup>

19. In its Observations, the Registry objects to the insulting statements and unsubstantiated allegations of the Accused with regard to the interpreters in his Submissions 352, 354 and 366. In particular, in order to explain the noise heard on the CD of the taped hearing of 8 November 2007, the Registry submits that interpreters often use the “cough button” in order to clear their throat or verify a term with a colleague. Furthermore, reference is made to the rotation of the interpreters every 20 minutes.<sup>18</sup> The Registry concludes that “there is no basis for the Accused to maintain that the interpreter acted in an unacceptable manner or that ‘the sense of what Professor Vojislav Šešelj said on 8 November was significantly changed and because this was done on purpose and not by accident’.”<sup>19</sup>

20. Having listened attentively to the audio CD provided by the Accused, the Chamber reaches the conclusion that nothing more than background noise can be heard. In any case, the Chamber was unable to find any unprofessional and, *a fortiori*, intentionally harmful conduct to the Accused in the CD audio recording of the hearing of 8 November 2007. The Chamber thus rejects all of the Accused’s arguments in this regard.

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<sup>15</sup> Submission 352, pp. 6, 13, 16-17; Submission 354, pp. 3-4.

<sup>16</sup> Submission 354, pp. 5, 10, 12.

<sup>17</sup> Submission 366, pp. 2-4.

<sup>18</sup> Observations, para. 12.

<sup>19</sup> *Id.*, para. 13, referring to Submission 366, p. 4.

**V. DISPOSITION**

21. For the foregoing reasons, pursuant to Rule 54 of the Rules, **PARTIALLY GRANTS** the Motion and **ORDERS**:

- (i) CLSS to verify the English and French versions of the court transcripts of 8 November 2007, limiting itself to the examples provided by the Accused in Submissions 352 and 354, and to send a report to the Chamber, the Accused and the Prosecution as soon as possible; and
- (ii) henceforth, the Accused to refer the verification of the accuracy of the hearing transcripts to CLSS pursuant to the official procedure.

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

/signed/  
Jean-Claude Antonetti  
Presiding Judge

Done this fifteenth day of July 2008  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**