



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: 18 September 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: 18 September 2008

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC DOCUMENT

DECISION REGARDING PUBLIC ACCESS TO TRIAL EXHIBITS

The Office of the Prosecutor

Ms Christine Dahl
Mr Daryl Mundis

The Accused

Mr Vojislav Šešelj

The Embassy of the United States in the Kingdom of the Netherlands

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”);

SEIZED of observations submitted to the Chamber by the Registry of the Tribunal (“Registry”) on 5 September 2008, pursuant to Rule 33 (B) of the Rules of Procedure and Evidence (“Registry Observations”), in which the Registry requests instructions from the Chamber concerning: (i) communicating to the Embassy of the United States the transcriptions of certain intercepted conversations between Radovan Karadžić and other individuals that were broadcast during the hearing of 15 July 2008;¹ and (ii) generally making exhibits, except those under seal, available to the public in the present case;

NOTING Article 21 (2) of the Statute of the Tribunal (“Statute”) concerning the right of every accused before the Tribunal to a public trial, subject to provisions regarding the protection of victims and witnesses;

CONSIDERING that the right to a public trial is not intended to apply solely to the accused before the Tribunal but also covers the international community’s right to be informed;²

CONSIDERING nevertheless that the Chamber has repeated numerous times that tendering exhibits into evidence is only a preliminary phase, a stage in which the indicia of relevance and probative value of the exhibits are deemed sufficient, while their ultimate weight will not be evaluated by the Chamber until the final deliberations, in light of the case file as a whole, with the Chamber reserving the possibility, at that stage, of reconsidering their admission;³

¹ In this regard, the Registry notes that the following intercepted conversations were tendered into evidence: P502, P503, P504, P506, P507, P508, P509, P510 and P511.

² *The Prosecutor v. Duško Tadić*, Case No. IT-94-1-T, Decision on Prosecutor’s Motion Requesting Protective Measures for Victims and Witnesses, 10 August 1995, paras. 32, 88.

³ See for example Decision on Admission of Evidence Presented During the Testimony of Goran Stoparić, 7 March 2008, para. 7; Decision on Admission of Evidence Presented During the Testimony of Yves Tomić, 3 April 2008, para. 4; Decision on Admitting Certain Exhibits into Evidence, 2 September 2008, confidential, paras. 3-4.

CONSIDERING consequently that the Chamber cannot make exhibits available to the public before the evidence has been finalised by the above-mentioned exercise;

CONSIDERING nevertheless that an exception must be devised for the accused before the Tribunal or national courts who might need these exhibits to prepare their defence before the end of the trial in the present case;

FOR THE FOREGOING REASONS

PURSUANT TO Article 21 (2) of the Statute and Article 54 of the Rules

STAYS its ruling on the request from the Embassy of the United States to obtain the transcriptions of intercepted conversations tendered into evidence on 15 July 2008; and

DECIDES that it shall stay its ruling on any public request to obtain access to exhibits tendered into evidence until the end of the trial, with the exception of requests from the accused before the Tribunal or national courts who might need them for the preparation of their defence. In this specific case, the requests will be submitted to the Chamber that will rule on them as quickly as possible.

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

/signed/
Jean-Claude Antonetti
Presiding Judge

Done this eighteenth day of September 2008
At The Hague
The Netherlands

[Seal of the Tribunal]