



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

Order of: 18 September 2008

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC DOCUMENT

**ORDER REQUESTING AN INVESTIGATION INTO THE
PUBLICATION OF ARTICLES IN THE PRESS**

The Office of the Prosecutor:

Mr Daryl Mundis
Ms Christine Dahl

The Accused:

Mr Vojislav Šešelj

The Republic of Serbia

War Crimes Chamber of the Belgrade District Court (Serbia)

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");

NOTING Submission 391 presented by Vojislav Šešelj ("Accused") on 4 July 2008, informing the Chamber about two news articles that appeared in the Belgrade daily *Kurir* on 27 and 28 June 2008, entitled respectively "Remove Šešelj!" and "Try Them All!" ("Articles");¹

NOTING the Decision on the Motion by the Accused to Dismiss all the Charges Against Him and its *Addendum* rendered by the Chamber on 18 September 2008, in which the Chamber indicated that the questions raised by these articles would be dealt with in a subsequent order;²

NOTING Article 29 (2) of the Statute of the Tribunal ("Statute") in which States are to comply without undue delay to any request for assistance or any order issued by a Trial Chamber;

CONSIDERING that the Articles contain transcriptions of conversations that allegedly took place in Lugano on 14 August 2000 between Zoran Đinđić ("Mr Đinđić"), Carla Del Ponte ("Ms Del Ponte") and Judge Richard May ("Judge May") during which Ms Del Ponte declared, in particular that "[if] the Radicals upset the political situation, let Šešelj take the blow and your lawyers can direct the indictment in the desired direction", to which Mr Đinđić replied "[...] Šešelj must be in the Tribunal's custody",³ which gave rise to the following remark from Ms Del Ponte as related in the daily newspaper: "It will be difficult to formulate charges against Šešelj because he was not in power during the wars and cannot be charged with command responsibility";⁴

¹ Supplementary Motion of Professor Vojislav Šešelj to His Motion for Trial Chamber III to Issue a Decision Dismissing All the Charges Brought by the Prosecution, presented on 4 July 2008 and filed in translation on 14 July 2008 ("Submission 391").

² Decision on Motion by the Accused to Dismiss all Charges Against Him (Submission 387) and its Addendum (Submission 391)", 18 September 2008, para. 27.

³ Submission 391, p. 3.

⁴ *Id.*, p. 4.

CONSIDERING furthermore that according to the Articles, Judge May was present during one of these conversations and said “I have studied Šešelj’s activities. This is a man with numerous stints in prison who is reputed to know his law”;⁵

CONSIDERING that the Articles present a transcription of remarks that were allegedly made by two people who are now dead, were closely connected to the Tribunal in general and the present case in particular;

CONSIDERING consequently that in the interests of justice and in order to ensure the integrity of the proceedings and of the Tribunal, the circumstance surrounding the publication of the Articles in question should be established as far as possible;

FOR THE FOREGOING REASONS

PURSUANT TO Article 29 (2) of the Statute and Rule 54 of the Rules of Procedure and Evidence

ORDERS that

- (i) following the reception of the present decision in BCS, the authorities of the Republic of Serbia and the War Crimes Chamber at the Belgrade District Court (Serbia) shall take all necessary measures to carry out an investigation in order to establish, in particular:
 - a. whether the Articles submitted to the Chamber properly reflect the original news articles published in the daily *Kurir* on 27 and 28 June 2008;
 - b. the identity of the author or authors of the Articles and, in the eventuality that the author(s) was/were not present during the meetings referred to in the Articles, how they had access to this information;
 - c. information, recordings or any other element making it possible to establish the source of the Articles, the authenticity of the transcriptions and the veracity of the transcribed remarks;

⁵ *Id.*, p. 6.

- (ii) the investigation results shall be submitted to the Chamber within sixty days of receipt of this order in BCS, with all the proof obtained within the context of this investigations attached in annex;
- (iii) the Tribunal Registrar shall take all necessary measures to facilitate the implementation of this decision.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done eighteenth day of September 2008
At The Hague
The Netherlands

[Seal of the Tribunal]