

IT-03-67-R77.2  
D269 - D267  
27 APRIL 2009

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UNITED  
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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-R77.2

Date: 27 April 2009

Original: English

**IN TRIAL CHAMBER II**

**Before:** Judge O-Gon Kwon, Presiding  
Judge Iain Bonomy  
Judge Kevin Parker

**Acting Registrar:** Mr. John Hocking

**Decision:** 27 April 2009

**PROSECUTOR**

v.

**VOJISLAV ŠEŠELJ**

**PUBLIC**

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**DECISION ON *AMICUS CURIAE* PROSECUTOR'S MOTION  
FOR ORDER OF NON-DISCLOSURE**

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**The *Amicus Curiae* Prosecutor:**  
Mr. Bruce MacFarlane, Q.C.

**The Accused:**  
Mr. Vojislav Šešelj

**TRIAL CHAMBER II** (“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 “Prosecutor’s Motion for Order of Non-Disclosure” filed confidentially on 30 March 2009 (“Motion”), in which the *amicus curiae* prosecutor (“Amicus Prosecutor”) requests that the Chamber order the Accused not to disclose to the public material disclosed to him pursuant to Rule 66 and 68 of the Rules of Procedure and Evidence of the Tribunal (“Rules”);<sup>1</sup>

**NOTING** in particular the Amicus Prosecutor’s submission that, although most of the material he seeks to disclose to the Accused is covered by previous non-disclosure orders issued in the case of *Prosecutor v. Vojislav Šešelj* (“Šešelj case”), it is essential given the nature of the allegations in the present case that the Chamber reaffirms the applicability of these previous non-disclosure orders in these proceedings;<sup>2</sup>

**NOTING** that the Accused did not respond to the Motion;

**NOTING** the “Decision on Prosecution’s Motion for Order of Non-Disclosure” and the “Decision on ‘Prosecution’s Motion for non-Disclosure of Materials Provided Pursuant to Rules 66(A)(ii) and 68 and for Protective Measures for Witnesses During the Pre-Trial Phase’”, issued in the Šešelj case on 13 March 2003 and 11 February 2004, respectively;

**CONSIDERING** that these two decisions, in addition to any further non-disclosure order issued in the Šešelj case, shall also apply in the present proceedings but that the definition of the “public” shall be amended to reflect the specific circumstances of the present case, namely that it is prosecuted by the Amicus prosecutor;

**PURSUANT TO** Rule 53(A) and 54 of the Rules

**HEREBY DECLARES** that

- i) any non-disclosure order issued in the Šešelj case shall continue to apply in these proceedings;
- ii) for the purposes of the present case, the “public” shall be defined as:


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<sup>1</sup> Motion, para. 6.

<sup>2</sup> Motion, para. 9.

all persons, governments, organisations, entities, clients, associations, and groups other than the Judges of the Tribunal, the staff of the Registry (assigned to either Chambers or the Registry), and the *Amicus* Prosecutor and his staff. The “public” specifically includes, without limitation, family, friends and associates of the Accused; accused persons in other cases or proceedings before the Tribunal; defence counsel in other cases or proceedings before the Tribunal; as well as the media and journalists.

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



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Judge O-Gon Kwon  
Presiding Judge

Dated this twenty-seventh day of April 2009  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**