



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-A

Date: 9 April 2010

Original: English

BEFORE THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Mehmet Güney
Judge Fausto Pocar
Judge Andrésia Vaz
Judge Christoph Flüge

Registrar: John Hocking

Decision of: 9 April 2010

PROSECUTOR
v.
VOJISLAV ŠEŠELJ

PUBLIC

**DECISION ON VOJISLAV ŠEŠELJ'S
REQUEST TO SUBMIT AN OVERSIZED REPLY BRIEF**

Amicus Curiae Prosecutor:
Mr. Bruce A. MacFarlane, Q.C.

The Accused pro se:
Mr. Vojislav Šešelj

THE APPEALS 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 (“Appeals Chamber” and “Tribunal”, respectively);

RECALLING that on 24 July 2009, Vojislav Šešelj (“Šešelj”) was found guilty of contempt of the Tribunal and sentenced to fifteen months imprisonment for the disclosure of the identities of protected witnesses;¹

RECALLING FURTHER the “Decision on Prosecution’s Motions for Order Striking Appellant’s Notice of Appeal and Appeal Brief and Closing the Case” rendered by the Appeals Chamber on 16 December 2009, in which it ordered that Šešelj refile his notice of appeal and Appellant’s brief,² and specified, *inter alia*, that Šešelj’s brief in reply be limited to 3,000 words;³

NOTING that Šešelj’s revised Appellant’s brief and Notice of Appeal were filed on 12 January 2010,⁴ and that Bruce MacFarlane, Q.C., who acts as *Amicus Curiae* Prosecutor in the case, filed a revised Respondent’s brief on 28 January 2010;⁵

BEING SEIZED of Šešelj’s “Reply to the Respondent’s Brief Refiled Pursuant to 16 December 2009 Order” filed confidentially on 19 March 2010 (“Reply Brief”),⁶ in which he requests, *inter alia*, permission to file an oversized brief in reply that numbers 7,200 B/C/S words;⁷

NOTING Šešelj’s assertions, *inter alia*, that the Response Brief is particularly lengthy, contains “unsubstantiated assertions”, and thus merits a “detailed” reply; that there was a delay in providing him with a B/C/S translation of the Response Brief; and that the principle of equality of parties requires that he be granted an extension to the applicable word limit;⁸

CONSIDERING that both the Decision of 16 December 2009 and the Practice Direction on the Length of Briefs and Motions (“Practice Direction on Length”) require that Šešelj’s brief in reply be

¹ *Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-R77.2, Judgement on Allegations of Contempt, 24 July 2009 (confidential). A public redacted version was filed on the same day.

² See Decision on Prosecution’s Motions for Order Striking Appellant’s Notice of Appeal and Appeal Brief and Closing the Case, 16 December 2009 (“Decision of 16 December 2009”), pp. 3-5.

³ See *id.*, p. 5.

⁴ Notice of Appeal and Appellant’s Brief Against the Judgment [*sic*] on Allegations of Contempt Pursuant to the Decision on the Prosecution’s Motion for Order Striking Appellant’s Notice of Appeal and Appeal Brief and Closing the Case Issued by the Appeals Chamber on 16 December 2009, filed in B/C/S on 12 January 2010 (confidential); English translation filed on 18 January 2010.

⁵ Respondent’s Brief Refiled Pursuant to 16 December 2009 Order, 28 January 2010 (confidential) (“Response Brief”); B/C/S translation served on Šešelj on 15 March 2010. See Procès-Verbal of Reception of B/C/S translation of “Respondent’s [*sic*] brief refiled pursuant to 16 Decembre [*sic*] 2009 Order”, signed on 15 March 2010 (“Procès-Verbal of Reception of Response Brief”).

⁶ The English translation was filed on 26 March 2010.

⁷ See Reply Brief, para. 1, p. 21.

⁸ See *id.*, para. 1.

limited to 3,000 words,⁹ and that the Practice Direction on Length provides that parties seeking a variation on word limits “must seek authorization *in advance* from the [relevant] Chamber” and “must provide an explanation of the exceptional circumstances that necessitate the oversized filing”;¹⁰

CONSIDERING that Šešelj failed to seek advance permission to submit an oversized brief in reply;¹¹

CONSIDERING FURTHER that the Response Brief was within the specified word limit;¹² that Šešelj took the maximum amount of time permitted before filing his brief in reply;¹³ and thus that Šešelj has not shown any unfairness or other circumstance justifying his request;

FINDING therefore that Šešelj’s request to file an oversized brief in reply is both procedurally flawed and without merit;

FINDING FURTHER that Šešelj’s repeated filings of oversized submissions without prior permission¹⁴ constitute unacceptable interference in the timely and efficient functioning of the Tribunal;¹⁵

CONSIDERING that although the Reply Brief was filed confidentially, it is appropriate to render the present decision publicly as it does not contain any information that needs to be withheld from the public;

FOR THE FOREGOING REASONS,

ORDERS Šešelj to refile a brief in reply not exceeding 3,000 words within four days of the filing of the B/C/S translation of this decision; and

⁹ See Decision of 16 December 2009, p. 5; Practice Direction on Length of Briefs and Motions, IT/184 Rev. 2, 16 September 2005, para. (C)(2)(3). See also Practice Direction on Procedure for the Filing of Written Submissions in Appeal Proceedings Before the International Tribunal (“Practice Direction on Procedure”), IT/155 Rev. 3, 16 September 2005, para. 8. This provides that Paragraph (C)(2) of the Practice Direction on Length applies to filings under Rule 77 of the Rules of Practice and Procedure.

¹⁰ Practice Direction on Length, para. C(7) (emphasis added).

¹¹ See Reply Brief, para. 1.

¹² Compare Response Brief, p. 23, with Practice Direction on Length, para. C(2)(2).

¹³ Compare Reply Brief, cover (indicating that it was filed on 19 March 2010), with Procès-Verbal of Reception of Response Brief; Practice Direction on Procedure, para. 7.


¹⁴ See, e.g., Decision of 16 December 2009, pp. 3-5; *Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-AR72.1, Decision on Motion for Reconsideration of the “Decision on the Interlocutory Appeal Concerning Jurisdiction” Dated 31 August 2004” [sic], 15 June 2006, paras 9-10.

¹⁵ The Appeals Chamber underscores that it will treat such interference seriously. See, e.g., Practice Direction on Procedure, para. 20. See also *Prosecutor v. Vidoje Blagojević and Dragan Jokić*, Case No. IT-02-60-A, Decision on Motion of Dragan Jokić to Strike or Require Re-drafting of Parts of Prosecution Amended Consolidated Response Brief, 27 September 2006, p. 4 fn. 23.

WARNS Šešelj that should he persist in submitting oversized filings without prior permission, the Appeals Chamber reserves the right to disregard arguments set out in the excess portion of any oversized submission without allowing him the opportunity to refile or otherwise comment on the submission.

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

Dated this 9th day of April 2010,
At The Hague
The Netherlands


Judge Theodor Meron
Presiding

[Seal of the Tribunal]