



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
IT-95-5/18
Date: 20 June 2011
Original: ENGLISH
French

IN TRIAL CHAMBER III

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

Registrar: Mr John Hocking

Decision of: 20 June 2011

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC DOCUMENT

**DECISION ON MOTION BY RADOVAN KARADŽIĆ FOR RELEASE OF
CONFIDENTIAL MATERIALS IN THE ŠEŠELJ CASE (IT-03-67)**

The Prosecutor v. Vojislav Šešelj
Case No. IT-03-67-T

The Prosecutor v. Radovan Karadžić
Case No. IT-95-5/18

The Office of the Prosecutor

Mr Mathias Marcussen

The Office of the Prosecutor

Mr Alan Tieger
Ms Hildegard Uertz-Retzlaff

The Accused

Mr Vojislav Šešelj

The Accused

Mr Radovan Karadžić

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 a motion filed publicly on 31 May 2011 by Radovan Karadžić, accused in Case No. IT-95-5/18, *The Prosecutor v. Radovan Karadžić* (“Karadžić Case”), wherein Radovan Karadžić seeks the release of all confidential *inter partes* submissions filed in defence of Vojislav Šešelj (“Accused”) and of all confidential *inter partes* defence evidence for the Accused (“Motion”),¹

NOTING the decision filed confidentially by the Chamber on 18 September 2009 (“Decision of 18 September 2009”),² by virtue of which the Chamber (1) observed that there were sufficient links between the Karadžić Case and this case, (2) authorized the release to Radovan Karadžić of certain confidential documents³ and (3) ordered the Prosecution and the Accused to identify to the Tribunal Registry, on a continuous basis, the documents from the pre-trial and trial stages of this case which were accessible *inter partes*, in order that they might be released to Radovan Karadžić,⁴

CONSIDERING that the Accused did not reply to the Request within the time-limit of 14 days, which ran from his receipt of the BCS version, and was afforded to him under Rule 126*bis* of the Rules of Procedure and Evidence (“Rules”),⁵

CONSIDERING that, in support of his Motion, Radovan Karadžić states that the Accused in this case has not, since the filing of the Decision of 18 September 2009, identified confidential *inter partes* documents, as he was ordered to do under the Decision of 18 September 2009 and that, lacking any such identification by the

¹ “Motion by Radovan Karadžić for Release of Confidential Materials in the Šešelj Case”, public, 31 May 2011 (“Motion”).

² “Decision on Radovan Karadžić’s Motion for Variation of Protective Measures Ordered Pursuant to Rule 75 of the Rules”, confidential, 18 September 2009 (“Decision of 18 September 2009”).

³ Decision of 18 September 2009, p. 11. These are all of the confidential *inter partes* documents not addressed by Rule 70 of the Rules. Concerning the documents addressed by Rule 70 of the Rules, the Chamber has authorized their release solely on condition that the necessary consents be obtained in advance.

⁴ See on this point the Decision of 18 September 2009, pp. 11 and 12, wherein the Chamber lists the said documents accessible *inter partes*.

⁵ The Accused received the BCS version of the Motion on 3 June 2011 (see procès-verbal of reception, filed on 9 June 2011) and had thus until 17 June 2011 to respond.

Accused, the Registry will not forward to him the confidential *inter partes* submissions filed in defence of the Accused and the confidential defence evidence,⁶

CONSIDERING that the Chamber observes that the Accused has therefore failed to meet the obligations placed on him by the Decision of 18 September 2009,

CONSIDERING that the Chamber finds that this lapse may have repercussions prejudicial to the defence of Radovan Karadžić,

CONSIDERING therefore that, in order to safeguard the rights of the Accused Radovan Karadžić, the Chamber finds, out of concern for efficiency, expeditiousness and in the interest of justice, that it is appropriate to order the Registry to forward on its own initiative the confidential *inter partes* submissions filed in defence of the Accused as well as the confidential *inter partes* defence evidence, as these documents are likely to assist Radovan Karadžić in preparing his defence.

FOR THE FOREGOING REASONS

PURSUANT TO Article 21 of the Statute and Rules 54 and 73 of the Rules,

GRANTS the Motion,

ORDERS the Registry to grant Radovan Karadžić immediate access to all of the confidential *inter partes* submissions filed on the Accused's behalf and to all of the confidential evidence admitted into the case file at the Accused's request.

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

/signed/
Jean-Claude Antonetti
Presiding Judge

Done this twentieth day of June 2011
At The Hague
The Netherlands

[Seal of the Tribunal]

⁶ Motion, paras 3-4.