



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: 12 March 2012
Original: ENGLISH
French

IN TRIAL CHAMBER III

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

Registrar: Mr John Hocking

Order of: 12 March 2012

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC DOCUMENT

ORDER TO PROCEED WITH A NEW MEDICAL EXAMINATION

The Office of the Prosecutor

Mr Mathias Marcussen

The Accused

Mr Vojislav Šešelj

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”);

PROPRIO MOTU,

CONSIDERING that, following the hospitalisation of Vojislav Šešelj (“Accused”) on 6 January 2012 and his refusal to disclose to the Chamber information regarding his health, on 12 January 2012 the Chamber ordered the Registrar *proprio motu*: (i) to obtain a report from the Commanding Officer of the United Nations Detention Unit (“Detention Unit”) on the circumstances under which the Accused was hospitalised and the procedure followed by the personnel involved, (ii) to obtain a detailed medical report from the Detention Unit doctor on the health of the Accused, and (iii) to appoint as medical expert Dr Sergei Nickolaevitch Avdeev, who has already been involved in a medical examination of the Accused in 2010-2011 or, should he not be available, another Russian doctor, and to submit a detailed report on the health of the Accused within 30 days from the date of the return of the Accused to the Detention Unit,¹

CONSIDERING that on 3 February 2012, the Registry of the Tribunal (“Registry”) informed the Chamber that the Accused had refused to be examined by the Russian cardiologist appointed as medical expert by the Registry pursuant to the Order of 12 January 2012 and that he would refuse to be examined by any doctor appointed pursuant to the orders of the Chamber,² which meant that it was impossible to implement fully the Order of 12 January 2012,

CONSIDERING that, in the meantime, on 27 January 2012, the Registry informed the Chamber that the Accused’s request to be examined privately by Serbian doctors,

¹ “Order to Obtain Reports from United Nations Detention Unit and to Proceed with a New Medical Examination”, 12 January 2012 (public) (“Order of 12 January 2012”).

² “Registry Submissions Pursuant to Rule 33 (B) in Response to “*Ordonnance aux fins d’obtenir des rapports du quartier pénitentiaire des Nations Unies et de faire procéder à une nouvelle expertise médicale*”, 3 February 2012 (public), para. 3. At the Administrative Hearing of 7 February 2012 the Accused confirmed that he now refused to be examined by any medical expert assigned by the Tribunal and to disclose any information on his health (Administrative Hearing, T(E) of 7 February 2012, p. 17073-17075).

as the doctors of his choice pursuant to Rule 31 of the Rules of Detention,³ presented on 23 January 2012, was granted and all the provisions put in place in order to make possible this examination which took place on 26 and 27 January 2012,⁴

CONSIDERING that at the Administrative Hearing of 7 February 2012, the Accused stated the following:

This time I called the Serbian doctors. They're going to draft a written report, but they're not going to hand it over either to you or the ministry in Belgrade, but they will present it to the public at a press conference and post it on my Internet site. Their findings are very serious. Preliminary findings are already very serious. [...] But my only recourse is that I use the public and to -- and to unmask everything that is happening.⁵

CONSIDERING that on 9 March 2012 the Accused was hospitalised again for a little more than 24 hours and has been back in the Detention Unit since 10 March 2012,

CONSIDERING that the Chamber, concerned as always about the health of the Accused, deems it necessary – in light, on the one hand, of the alarming remarks of the Accused referring to the conclusions of the report by the Serbian doctors and, on the other, his most recent hospitalisation – to obtain a report by medical experts assigned by the Tribunal pursuant to Rule 74 *bis* of the Rules in order to establish whether the health of the Accused is compatible with the detention regimen at the Detention Unit.

FOR THE FOREGOING REASONS

PURSUANT TO Rules 54 and 74 *bis* of the Rules,

³ “Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Tribunal or Otherwise Detained on the Authority of the Tribunal”, 7 October 2005, IT/38REV.9.

⁴ “Registry Submission Pursuant to Rule 33 (B) Regarding Letter by Legal Associate”, 27 January 2012 (confidential with confidential and *ex parte* annex), para. 6. The Chamber specifies that these doctors were not assigned as expert doctors pursuant to Rule 74 *bis* of the Rules of Procedure and Evidence of the Tribunal (“Rules”).

⁵ Administrative Hearing, T(E) of 7 February 2012, p. 17074. The Chamber notes that such a report was published on the Accused’s site at the beginning of March 2012, concluding in particular that the health problems of the Accused could not be treated during detention (*see* <http://www.vseselj.com/index.php?a=1274>).

ORDERS the Registrar to appoint a panel of three medical experts and to provide, as soon as possible and, at the latest, within 30 days from the date of this Order, their report on the compatibility of the Accused's detention at the Detention Unit with his health,

ENCOURAGES the Accused to cooperate and allow of his own free will the three medical experts who will be appointed pursuant to the present Order to examine him and/or allow them access to his medical records.

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

 /signed/
Jean-Claude Antonetti
Presiding Judge

Done this twelfth day of March 2012
At The Hague
The Netherlands

[Seal of the Tribunal]