**UNITED
NATIONS**

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-R77.4
	Date: 24 April 2012
	Original: English

IN TRIAL CHAMBER II

Before: Judge Stefan Trechsel, Presiding
Judge O-Gon Kwon
Judge Melville Baird

Registrar: Mr. John Hocking

Order: 24 April 2012

IN THE MATTER OF VOJISLAV ŠEŠELJ

PUBLIC

ORDER ON MATTERS RAISED BY THE ACCUSED DURING THE FURTHER INITIAL APPEARANCE

The Accused:
Mr. Vojislav Šešelj

THIS TRIAL 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 the issues raised by the Accused at the further initial appearance held on 17 April 2012, including the fact that he (i) wishes to challenge the jurisdiction of the Tribunal to prosecute him in this case ("First Statement");[1] (ii) intends to request the disqualification of Judge Kwon ("Second Statement");[2] and (iii) requests to be permitted to hold "a press conference for Serbian journalists" by video-conference link in advance of the upcoming parliamentary elections in Serbia on 6 May 2012 ("Third Statement");[3]

NOTING, in relation to the First Statement, that Rule 72(A) of the Rules of Procedure and Evidence of the Tribunal ("Rules") provides that challenges to jurisdiction "*shall* be in writing"[4] and shall be brought no later than 30 days after disclosure of Rule 66(A)(i) material;

NOTING that Rule 77(E) of the Rules provides that in contempt proceedings, the time limit for filing preliminary motions under Rule 72(A) "*shall* [. . .] not exceed ten days";[5]

NOTING that the Accused had received the entirety of the supporting material to the operative Order in Lieu of Indictment by 5 April 2012;[6]

CONSIDERING, therefore, that any preliminary challenge to the jurisdiction of the Tribunal in this case pursuant to Rule 72 should have been filed no later than 15 April 2012;[7]

NOTING, in relation to the Second Statement, that Rule 15(B)(i) of the Rules provides that "[a]ny party may apply to the Presiding Judge of a Chamber for the disqualification and withdrawal of a Judge of that Chamber" and that "[t]he Presiding Judge shall confer with the Judge in question and report to the President";

CONSIDERING that for any such request to be examined, its grounds need to be substantiated;

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[1]   T. 56 (17 April 2012).
[2]   T. 58 (17 April 2012).
[3]   T. 59, 61 (17 April 2012).
[4]   Emphasis added.
[5]   Emphasis added.
[6]   *Procès-verbal* dated 5 April 2012 and filed on 10 April 2012. The operative Order in Lieu of Indictment results from two sets of amendments to the original Order in Lieu of Indictment issued on 9 May 2011. The two sets amendments were set out in the Second Decision on Failure to Remove Confidential Information from Public Website and Amended Order in Lieu of Indictment, confidential, 21 October 2011, and in the Third Decision on Failure to Remove Confidential Information from Public Website and Amended Order in Lieu of Indictment, confidential, 29 March 2011, respectively.

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NOTING, in relation to the Third Statement, that Rule 61 of the Rules Governing the Detention of Persons Awaiting Trial or Appeal Before the Tribunal or Otherwise Detained on the Authority of the Tribunal ("Rules of Detention") provides that "*[t]he Registrar* shall refuse to allow a person to visit a detainee if he has reason to believe that the purpose of the visit is to obtain information which may be subsequently reported in the media [. . .]";[8]

NOTING Rule 64 *bis*(A) of the Rules of Detention, which further provides that "the use of communication facilities available at the Detention Unit, by a detainee, with the sole purpose of contacting the media directly or indirectly, shall be subject to the approval of *the Registrar* [. . .]";

NOTING further that there are specific procedures in place within the Registry pursuant to which a detainee may seize the Registrar of a request for contact with the media;

NOTING that the Accused has been in custody since his transfer to the seat of the Tribunal on 24 February 2003 on the basis of an order for detention on remand in Case No. IT-03-67;[9]

CONSIDERING, therefore, that the Accused is not detained by virtue of an order of this Chamber, and, moreover, that the Third Statement falls squarely within the purview of the Registry and is not a matter for the Chamber at this stage;[10]

NOTING that pursuant to Rule 65 *ter*(G) of the Rules, prior to the commencement of the defence case, the Accused must file a list of witnesses he intends to call, as well as a list of exhibits he intends to offer;

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[7] Should the Accused raise the issue at trial, however, in the interests of justice, the Chamber may hear argument on the matter which will be dealt with in the final judgement.

[8] Emphasis added.

[9] *Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-PT, Order for Detention on Remand, 2 February 2003.

[10] Pursuant to Rule 64 *bis*(C) of the Rules of Detention, a detainee may at any time request the President to reverse a denial of contact made by the Registrar under this Rule. The President may decide to review the Registrar's decision, or if the President determines that the denial of contact constitutes an infringement on the right of the accused to be tried fairly, refer the request to the Trial Chamber to determine.

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FOR THE FOREGOING REASONS

HEREBY ORDERS the Accused to file any written substantiation of the Second Statement as well as the lists and information required by Rule 65 *ter*(G) of the Rules no later than seven days after having received the translation of this Order in a language he understands.

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

Judge Stefan Trechsel
Presiding

Dated this 24th day of April 2012
At The Hague
The Netherlands

[Seal of the Tribunal]

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