

IT-03-67-PT
D13210 - D13208
12 July 2006

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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: IT-03-67-PT

Date: 12 July 2006

Original: English

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Patrick Robinson
Judge Bakone Justice Moloto

Registrar: Mr Hans Holthuis

Decision of: 12 July 2006

PROSECUTOR

v.

VOJISLAV ŠEŠELJ

DECISION ON DOCUMENTS RELATING TO SERBIAN GUARD

Office of the Prosecutor

Ms Hildegard Uertz-Retzlaff
Mr Dan Saxon
Mr Ulrich Müssemer

The Accused

Mr Vojislav Šešelj

Standby counsel

Mr Tjarda Eduard van der Spoel

TRIAL CHAMBER I (“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”);

BEING SEIZED OF the “Request by Vojislav Šešelj for the Trial Chamber II to Issue an Order for the Prosecutor’s Office to Disclose to the Accused all Documents Relating to the ‘Serbian Guard’” (“Motion”) by Vojislav Šešelj (“Accused”) filed on 28 February 2006 (Submission no. 135);

NOTING the “Prosecution’s Response to ‘Request by Professor Vojislav Šešelj for the Trial Chamber II to Issue an Order for the Prosecutor’s Office to Disclose to the Accused All Documents Relating to the ‘Serbian Guard’ (Submission no. 135)’” (“Response”), in which the Prosecution submits that the Motion: (a) exceeds the allowable length for motions provided for in the Practice Direction on Length of Briefs and Motions (IT/184/Rev.2) (“Practice Direction”); (b) repeats an earlier submission; (c) lacks any foundation under Rule 54 of the Tribunal’s Rules of Procedure and Evidence (“Rules”), on which it purports to rely; and (d) some of the material the Accused seeks falls within the Prosecution’s ordinary disclosure obligations pursuant to Rule 66(B) of the Rules and for these reasons requests the Trial Chamber to dismiss the Motion and;

NOTING that the Prosecution submits that it will disclose relevant material pertaining to the activities of the Serbian Guard, in municipalities where crimes with which the Accused is charged were committed, once the Trial Chamber has made its decision on the appropriate form of disclosure;¹

CONSIDERING that the Motion clearly exceeds the allowable word limit of 3,000 words provided for in the Practice Direction, and that the Motion should be dismissed on this basis;

NOTING that the Accused filed a motion on 22 March 2005, in which he requested an order requiring the Prosecution to supply the Accused with all documents on the formation of the Serbian Guard and its participation in war crimes committed on the territory of the former Yugoslavia,² and that the previous Trial Chamber seized of the matter denied the request,

¹ Response, paras 16-17.

² Request by the Accused to Trial Chamber II to Issue a Binding Order Subject to Penalty (Subpoena) to the Prosecutor Pursuant to Rule 54 of the Rules of Procedure and Evidence (Submission no. 79), dated 3 March 2005, filed 22 March 2005.

holding that the requested material fell within “the ordinary disclosure obligations of the Prosecution under the Rules and until those obligations have been satisfied, it would be premature to give any further consideration to that issue” and that the Accused “has not provided any support for an order outside the scope of the ordinary disclosure under the Rules”;³

NOTING this Trial Chamber’s Decision on Form of Disclosure, filed on 4 July 2006;

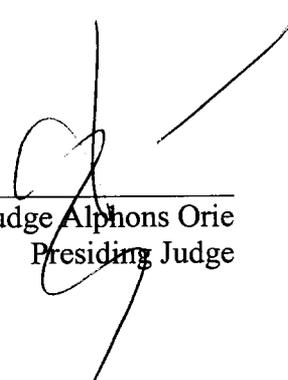
CONSIDERING that the Motion does not raise any new issues and that Trial Chamber II has previously addressed the matter of the disclosure to the Accused of documentation relating to the establishment of the Serbian Guard;

FOR THE FOREGOING REASONS,

DENIES the Motion.

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

Dated this 12th day of July 2006
The Hague
The Netherlands



Judge Alphons Orie
Presiding Judge

[Seal of the Tribunal]

³ Decision on Requests by the Accused for Trial Chamber II to Issue Subpoena Orders (Submissions nos. 77, 78, and 79), dated 3 June 2005, filed 9 June 2005, p. 4.