

IT-03-67-PT
DC-1/18198B;
04 June 2007

4/18198B;
Hc

**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-PT

Date: 17 May 2007

Original: ENGLISH
French

BEFORE THE PRE-TRIAL JUDGE

Before: Judge Jean-Claude Antonetti

Registrar: Mr Hans Holthuis

Decision of: 17 May 2007

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

**DECISION ON PROSECUTION MOTIONS FOR VARIATION OF
DECISION ON FORM OF DISCLOSURE**

The Office of the Prosecutor:

Ms Christine Dahl
Mr Ulrich Müsemeyer
Mr Klaus Hoffman

The Accused:

Mr Vojislav Šešelj

I, Jean-Claude Antonetti, Judge 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 two motions for variation of a disclosure order¹ filed by the Office of the Prosecutor (“Prosecution”) respectively on 5 October 2006 (“First Motion”) and 12 February 2007 (“Second Motion”), in which the Prosecution identifies 36 written statements it says are irrelevant to the Indictment in Case No. IT-03-67-PT (“Indictment”);

NOTING the “Decision on Form of Disclosure” rendered by Trial Chamber I on 4 July 2006 (“Decision of 4 July”) which directs the Prosecution “to provide the Accused with those witness statements in its possession in which the Accused is mentioned by name and which are not subject to protection”;²

NOTING the response to the Second Motion submitted on 25 April 2007 by the Accused (“Response”) whereby the Accused objects to the Prosecution motions and requests leave;

NOTING the request of the Accused contained in his Response to exceed the word limit of 800 words established in the decision of 19 June 2006 on the filing of motions,

CONSIDERING that by way of its motion, the Prosecution indicates in the First Motion that it had identified 35 written statements from witnesses of Albanian nationality who mentioned Vojislava Šešelj (“Accused”) by name and which relate exclusively to events in Kosovo from the year 1998;³

CONSIDERING that, in the Second Motion, the Prosecution indicates that it has identified the written statement of an international official, taken in accordance with

¹ “Prosecution’s Motion for Variation of Disclosure Order” and “Prosecution’s Second Motion for Variation of Disclosure Order with Confidential and *Ex Parte* Annex.”

² Decision of 4 July 2006, para. 17.

Rule 70 of the Rules of Procedure and Evidence (“Rules”), which mentions the Accused by name but which also refers exclusively to events in Kosovo from 1998;⁴

CONSIDERING that in the First and Second Motions the Prosecution argues that since relevance to the Indictment is a prerequisite to the requirement for disclosure of statements, and since these statements fall outside the geographical and temporal framework of the Indictment, the Prosecution requests a variation of the Decision of 4 July 2006 on form of disclosure so that the 36 statements may be exempted from the disclosure requirements;⁵

CONSIDERING that in the Response, the Accused states that even if the 36 written statements mentioning the name of the Accused do not fall within the framework of the Indictment, they may be relevant, particularly with respect to the character of the Accused and his pattern of conduct, and could even contain exculpatory evidence;⁶

CONSIDERING that, at this stage of the proceedings, it is neither up to the Pre-Trial Judge nor the Prosecution to opine on the relevance of the 36 statements to the Indictment or on whether the information is necessary for the preparation of the defence of the Accused;

CONSIDERING further that the Prosecution provides no new information which would enable the Pre-Trial Judge to revise the Decision of 4 July 2006 which would direct the disclosure of the 36 statements to the Accused;

FOR THE FOREGOING REASONS

PURSUANT TO Rules 65 *ter* (B) and 66 (B) of the Rules,

³ First Motion, para. 2.

⁴ Second Motion, 12 February 2007, para. 3.

⁵ First Motion, paras. 7-8, Second Motion, paras. 4, 6.

⁶ The Registry received the Response on 12 March 2007. Response, p. 3.

AUTHORIZE, with respect to the limit being minimally exceeded, the Response to go beyond the limit of 800 words;

DENY the First and Second Motions;

ORDER the Prosecution to:

1) Comply without delay with the Decision of 4 July 2006 in which:

“The Prosecution is hereby directed to provide the Accused with those witness statements in its possession in which the Accused is mentioned by name and which are not subject to protection. [...] As for material subject to protection, the Prosecution is to seek the Trial Chamber’s permission for partial disclosure, or non disclosure, of any such material in its possession.”⁷

2) moreover, with respect to the statement discussed in the Second Motion, to initiate without delay the procedure provided for in Rule 70(B) of the Rules.

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

/signed/

Jean-Claude Antonetti

Pre-Trial Judge

Done this seventeenth day of May 2007

At The Hague

The Netherlands

[Seal of the Tribunal]

⁷ Decision of 4 July, para. 17.