



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: 20 June 2007
Original: English

IN TRIAL CHAMBER III

Before: Judge Patrick Robinson, Presiding
Judge Jean-Claude Antonetti, Pre-Trial Judge
Judge Iain Bonomy

Registrar: Mr. Hans Holthuis

Decision of: 20 June 2007

PROSECUTOR
v.
VOJISLAV ŠEŠELJ

PUBLIC FILING

**DECISION ON THE ACCUSED'S ORAL REQUEST TO REPLY TO THE
PROSECUTION RESPONSE TO HIS MOTION FOR CONTEMPT
PROCEEDINGS (SUBMISSION 293) AND ON PROSECUTION'S MOTION
FOR VARIATION OF TIME LIMIT IN WHICH TO SEEK
CERTIFICATION UNDER RULE 73**

Office of the Prosecutor

Ms. Christine Dahl

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”);

BEING SEISED OF an oral submission made by Vojislav Šešelj (“Accused”) during the last Status Conference held before the Pre-Trial Judge on 5 June 2007, in which the Accused contended that he did not receive the “Prosecution Response to [his] Motion to Instigate Contempt Proceedings with Confidential Annexes A-J and Confidential and *Ex Parte* Annex K” (“Prosecution Response”) in a language he understands before the “Order Regarding Mr. Šešelj’s Motion for Contempt Proceedings” was issued on 15 May 2007 (“Contempt Order”), and therefore that he was not in a position to request leave to file a reply pursuant to Rule 126*bis* of the Rules of Procedure and Evidence of the Tribunal (“Rules”);¹

NOTING the “Motion by Professor Vojislav Šešelj for Trial Chamber III to Instigate Proceedings for Contempt of the Tribunal Against Carla Del Ponte, Hildegard Uertz-Retzlaff and Daniel Saxon” filed on 23 March 2007 (“Motion”);

NOTING the Prosecution’s response filed on 12 April 2007 (“Response”);²

NOTING further the “Motion for Trial Chamber III to Review its Order of 15 May 2007 Postponing a Decision on the Motion to Instigate Contempt Proceedings Until After the Completion of the Trial” filed by the Accused on 14 June 2007 (“Motion for Review”), wherein the Accused seeks to have the Contempt Order reconsidered by the Trial Chamber in light of i) an addendum to the Motion submitted on 21 May 2007 (“Addendum”)³; and ii) the fact that he still has not received the Response in a language he understands;⁴

NOTING that the translation of the Response into a language the Accused understands was still pending and had not yet been served on the Accused when the Trial Chamber issued its Contempt Order;⁵

¹ Status Conference of 5 June 2007, T. 1261.

² Prosecution Response to Vojislav Šešelj’s Motion to Instigate Contempt Proceedings with Confidential Annexes A-J and Confidential and *Ex Parte* Annex K, 12 April 2007.

³ Addendum to Professor Vojislav Šešelj’s Motion for Trial Chamber III to Instigate Proceedings for Contempt of the Tribunal, 21 May 2007.

⁴ Motion for Review, pp. 2–3, 9.

⁵ Internal correspondence from the Court Management and Support Section of the Tribunal informing the Trial Chamber that the translation of the Response into a language the Accused understands will be finalised by mid-June 2007.

NOTING that the Trial Chamber first learned of this procedural oversight when the Accused raised it orally at the Status Conference of 5 June 2007;⁶

NOTING that Rule 126bis of the Rules provides, *inter alia*, that “[a] reply to the response, if any, shall be filed within seven days of the filing of the response, with the leave of the relevant Chamber”;

CONSIDERING therefore that the Trial Chamber finds that the Accused should be allowed to file a request for leave to file a reply to the Response pursuant to Rule 126bis of the Rules, and that if leave is granted, the Trial Chamber shall re-examine the Contempt Order in light of the arguments put forth in the Accused’s reply;

CONSIDERING further that it is in the interests of justice to also examine the Contempt Order in light of any relevant argument presented by the Accused in the Motion for Review and the Addendum;

CONSIDERING consequently that the Trial Chamber shall also examine any response to the Motion for Review and to the Addendum the Prosecution wishes to file;

NOTING further the “Prosecution’s Motion for Variation of Time Limit in Which to Seek Certification under Rule 73” filed on 1 June 2007 (“Certification Time-Limit Request”), wherein the Prosecution seeks an extension of time in which to file its request for certification to appeal the Contempt Order;⁷

NOTING the automatic right to appeal provided for in Rule 77(J) of the Rules, according to which “[a]ny decision rendered by a Trial Chamber under this Rule shall be subject to appeal. Notice of appeal shall be filed within fifteen days of filing of the impugned decision”;

CONSIDERING that while the Contempt Order was rendered pursuant to Rule 54, the arguments it sought to address and the disposition clearly fall within the ambit of Rule 77 of the Rules, and that therefore, the Contempt Order, in the terms of Rule 77(J), was also rendered under Rule 77;⁸

CONSIDERING therefore that the Prosecution is not required to file with the Trial Chamber a request for certification to appeal the Contempt Order;

⁶ Status Conference of 5 June 2007, T. 1261.

⁷ Certification Time-Limit Request, para. 6.

⁸ Contempt Order, p. 3: “**HEREBY ORDERS** the postponement of a determination of the request for the initiation and execution of contempt proceedings as set out in the Motion until after the completion of Mr. Šešelj’s trial.”

PURSUANT TO Rules 54, 77(J) and 126*bis* of the Rules,

HEREBY ORDERS that

- i) if he so wishes, the Accused shall file a reply to the Response no later than seven days from either a) the date of service to the Accused of the present decision in a language he understands, or b) the date of service to the Accused of the Response in a language he understands, whichever occurs last; and
- ii) if it so wishes and pursuant to Rule 126*bis* of the Rules, the Prosecution shall file any response to the Motion for review and to the Addendum no later than seven days after their respective filing.

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



Patrick Robinson
Presiding

Dated this twentieth day of June 2007
At The Hague
The Netherlands

[Seal of the Tribunal]