



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: 19 July 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: 19 July 2007

PROSECUTOR
v.
VOJISLAV ŠEŠELJ

PUBLIC FILING

**DECISION ON THE ACCUSED'S MOTION FOR REVIEW OF THE
ORDER OF 15 MAY 2007**

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 the Accused’s “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 (Submission No. 293)”, filed confidentially on 14 June 2007 (“14 June 2007 Motion”);

NOTING that in its Order of 15 May 2007, the Trial Chamber postponed a determination of the Accused’s request for the initiation and execution of contempt proceedings (“Request for Contempt Proceedings”) until after the completion of the Accused’s trial (“15 May 2007 Order”);¹

NOTING that on 5 June 2007, the Accused submitted orally that he had not received the Prosecution response to his Request for Contempt Proceedings (“Prosecution Response to Contempt Motion”)² in a language he understands before the 15 May 2007 Order was issued and that he could not, therefore, file a reply;

NOTING that in the 14 June 2007 Motion, the Accused seeks to have the 15 May 2007 Order reconsidered by the Trial Chamber in light of the addendum to the Motion submitted by the Accused on 21 May 2007 (“Addendum”)³ and the fact that he has not been able to file a reply since he has not received the Prosecution Response to Contempt Motion in a language he understands;

NOTING that in the 14 June 2007 Motion, the Accused requests authorisation to exceed the word limit as set down in the Practice Direction on the Length of Briefs and Motions (“Practice Direction”), and submits that

a valid reason to exceed the length of this Motion is contained in the fact that Professor Vojislav Šešelj requests a review of the Order and must elaborate in detail on the reasons which would show that suspension of contempt proceedings is an extremely important matter which significantly affects the fairness and expeditiousness of the proceedings and their outcome, and a new decision by the Trial Chamber would fundamentally help to ensure the lawfulness of the proceedings.⁴

NOTING the many submissions that the Accused makes in the 14 June 2007 Motion in support of his application for review, including: (a) In all previous cases before the Tribunal, priority has been

¹ Order Regarding Mr. Šešelj’s Motion for Contempt Proceedings, 15 May 2007.

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

³ Addendum to Professor Vojislav Šešelj’s Motion for Trial Chamber III to Instigate Proceedings for Contempt of the Tribunal Against Carla Del Ponte, Hildegard Uertz-Retzlaff and Daniel Saxon, dated 21 May 2007, filed confidentially on 2 July 2007.

⁴ 14 June 2007 Motion, p. 2.

given to dealing with allegations of contempt, one of the reasons being that contempt allegations raise the issue of the proper administration of justice; (b) Failing to deal urgently with the allegations of contempt leaves unresolved the question of interference with the Tribunal's administration of justice and the allegations cannot be addressed through cross-examination of witnesses at trial; (c) Contrary to the assertion in the 15 May 2007 Order that postponement of contempt proceedings will protect Mr. Šešelj's right to a fair and expeditious trial, his right will only be protected by instigating contempt proceedings and rendering an authoritative decision on the contempt allegations before the commencement of his trial; (d) Despite postponing the instigation of contempt proceedings, the 15 May 2007 Order indicates that there is "reason to believe" that contempt has been committed by the Prosecution, and conducting the trial "against a backdrop of the constant presence of reasonable ground to suspect Prosecution representatives committed the crime of contempt" will infringe Mr. Šešelj's right to a fair trial;

NOTING that the Trial Chamber, in its Decision of 20 June 2007, ordered that (i) the Accused shall file a reply to Prosecution Response to Contempt Motion no later than seven days after either the date of service to the Accused of the decision in a language he understands, or the date of service to the Accused of Prosecution Response to Contempt Motion in a language he understands, whichever occurs last, and (ii) the Prosecution shall file any responses to the 14 June 2007 Motion and the Addendum no later than seven days after their respective filing;⁵

NOTING the "Prosecution's Response to the Accused's Motion for Trial Chamber III to Review its Order of 5 May 2007 (No. 293)", filed on 21 June 2007 ("Response to 14 June 2007 Motion"), in which the Prosecution submits that the 14 June 2007 Motion should be dismissed on the grounds that (i) despite many previous warnings and without advance authorisation, the 14 June 2007 Motion "grossly exceeds the permissible word count", and (ii) the allegations of contempt lack merit;

NOTING that the Prosecution states that at the time of filing the Response to the 14 June 2007 Motion it had not received the translations of the Addendum and, therefore, "at this point" has "no further submissions to make";

NOTING that in the Addendum, the Accused reiterates and elaborates upon submissions made in the 14 June 2007 Motion and includes 16 accounts derived from attached court-certified statements as further support of his allegations of contempt by the Prosecutor and members of the Office of the Prosecutor;

NOTING the “Prosecution Response to Submission No. 290”, filed on 6 July 2007, in which the Prosecution submits that the “Addendum adds nothing that merits further response”;

NOTING “Professor Vojislav Šešelj’s Reply to the Prosecution’s Confidential and Partly *Ex Parte* Response with an Annex” filed confidentially on 18 July 2007 (“Reply to Prosecution Response to Contempt Motion”), which does not provide any further support for the Accused’s request for reconsideration;

CONSIDERING that the Trial Chamber has re-examined the 15 May 2007 Order in light of the Addendum and the Accused’s Reply to Prosecution Response to Contempt Motion and sees no reason to come to a decision different from that set out in the 15 May 2007 Order;

RECALLING that the Appeals Chamber has established that “a Chamber has inherent discretionary power to reconsider a previous interlocutory decision in exceptional cases ‘if a clear error of reasoning has been demonstrated or if it is necessary to do so to prevent injustice’”;⁶

CONSIDERING that the Accused’s submissions do not demonstrate any clear error of reasoning in the 15 May 2007 Order or that reconsideration is necessary to prevent an injustice;

⁵ 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 the Time Limit in Which to Seek Certification Under Rule 73, 20 June 2007 (“20 June 2007 Decision”).

⁶ *Ndindabahizi v. Prosecutor*, Case No. ICTR-01-71-A, Decision on Defence “Requête de l’Appelant en Reconsidération de la Décision du 4 avril 2006 en Raison d’une Erreur Matérielle”, 14 June 2006, para. 2, quoting *Kajelijeli v. Prosecutor*, Case No. ICTR-98-44A-A, Judgment, 23 May 2005, paras 203–204. See also, *Prosecutor v. Milutinović et al.*, Case No. IT-05-87-T, Decision on Prosecution Motion for Reconsideration of Oral Decision dated 24 April 2007 Regarding Evidence of Zoran Lilić, 27 April 2007, para. 4.

CONSIDERING further that the Accused is hereby warned that he is obliged to comply with the Practice Direction, which requires him to file motions, response and replies that do not exceed 3,000 words, or seek authorisation in advance from the Chamber to exceed the word limit, providing an explanation of the exceptional circumstances that necessitate the oversized filing;

PURSUANT TO Rule 54 of the Rules,

HEREBY DENIES the Accused's 14 June 2007 Motion.

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



Patrick Robinson
Presiding

Dated this nineteenth day of July 2007
At The Hague
The Netherlands

[Seal of the Tribunal]