



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 September 2007

ENGLISH

Original: French

BEFORE THE PRE-TRIAL JUDGE

Before: Judge Jean-Claude Antonetti

Registrar: Mr Hans Holthuis

Order of: 20 September 2007

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC DOCUMENT

**ORDER FOR CLARIFICATION OF PROSECUTION'S MOTIONS
FOR ADMISSION OF STATEMENTS PURSUANT TO RULES 89 (F), 92 *BIS*,
92 *TER* AND 92 *QUATER* OF THE RULES OF PROCEDURE AND
EVIDENCE**

The Office of the Prosecutor:

Ms Christine Dahl

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”);

PROPRIO MOTU

NOTING the motions filed by the Office of the Prosecutor (“Prosecution”), which are currently pending before Trial Chamber III (“Chamber III”), for the admission of a certain number of written statements and transcripts pursuant to Rules 89 (F), 92 *bis*, 92 *ter* and 92 *quater* of the Rules of Procedure and Evidence of the Tribunal (“Pending Motions” and “Rules”, respectively);¹

NOTING the obligation which falls upon the pre-trial Judge, pursuant to Rule 65 *ter* (B) of the Rules, to ensure that the proceedings are not unduly delayed and to take any measure necessary to prepare the case for a fair and expeditious trial;

CONSIDERING that a great majority of the Pending Motions were filed by the Prosecution before other Trial Chambers successively and for a certain time and deal

¹ “Partly Confidential and *ex parte* Prosecution's Motion for the Admission of Written Statements of Witnesses VS-018 and VS-052 Pursuant to Rule 89(F)”, 11 September 2006; “Partly Confidential Prosecution's Motion for the Admission of Written Statements of Witnesses VS-011 and VS-015 Pursuant to Rule 89(F)”, 15 September 2006; “Prosecution's Motion for Admission of Transcripts and Written Statements Pursuant to Rule 92 *bis*”, 6 March 2006; “Confidential and partly *ex parte* Prosecution's Second Motion for Admission of Written Statements and Transcripts”, 2 October 2006 (“Motion of 2 October 2006”); “Prosecution's Motion for the Admission of Written Statements of Witness VS-017 Pursuant to Rule 92 *ter* with Confidential Annex A”, 3 October 2006; “Partly confidential and *ex parte* Prosecution Motion for Admission of Written Statements Pursuant to Rule 92 *ter* - Hrtkovci Crime Base”, 5 October 2006; “Prosecution's Addendum to Prosecution's Second Motion for Admission of Written Statements and Transcripts”, confidential and *ex parte*, 16 October 2007; “Prosecution's Motion for the Admission of Addendum to Written Statement of Witness VS-017 Pursuant to Rule 92 *ter* with confidential annex A”, 19 October 2006; “Partly Confidential and *ex parte* Prosecution's Motion for the Admission of Written Statement of Witness VS-050 Pursuant to Rule 92 *ter*”, 26 October 2007; “Partly Confidential Prosecution's Motion for the Admission of Written Statement of Witness VS-1119 Pursuant to Rule 92 *ter*”, 26 October 2006; “Partly Confidential Prosecution's Motion for the Admission of Written Statement of Witness VS-1119 Pursuant to Rule 92 *ter*”, 26 October 2006; “Partly Confidential and *ex parte* Prosecution's Motion for the Admission of Written Statement of Witness VS-031 Pursuant to Rule 92 *ter*”, 27 October 2006; “Prosecution's Urgent Motion Regarding the Testimony of Witness VS-107 and Related Exhibits”, 1 December 2006; “Prosecution's Confidential Motion for the Admission of Evidence of Witness VS-036 Pursuant to Rule 92 *quater*”, 2 February 2007; “Prosecution's Motion for Admission of Evidence of Witness VS-1008 Pursuant to Rule 92 *quater* and Request for Protective Measures for Witness VS-1008”, 2 February 2007; “Partly Confidential and *ex parte* Prosecution's Motion for Admission of Evidence of Milan Babić Pursuant to Rule 92 *quater*, with Annexes A through D”, 12 March 2007.

with the admission of numerous statements and court transcripts as well as documents pertaining thereto;

CONSIDERING that a careful review of the Pending Motions has enabled the identification of certain problem areas;²

CONSIDERING furthermore that the importance of the principle of orality calls for a meticulous analysis of the Pending Motions in order to rule on the admission into evidence of the said transcripts and statements;

CONSIDERING furthermore that in his “Order Clarifying the Decision Regarding Form of Disclosure” of 26 June 2007, the pre-trial Judge considered that

“one possible approach could be to reduce the size of transcripts and the number of witnesses that the Prosecution intends to present under Rule 92 *bis* of the Rules because, as Chamber I already noted, the admission of evidence in this case via this mode could lead to delays which run contrary to the very spirit of that provision of the Rules”;³

CONSIDERING therefore that the pre-trial Judge deems that it is essential at this stage of the proceedings, now that a date has been set for the commencement of the trial,⁴ to review the nature and scope of the Prosecution motions for the admission of statements pursuant to Rules 89 (F), 92 *bis*, 92 *ter*, and 92 *quater* of the Rules;

FOR THE FOREGOING REASONS

PURSUANT TO Rule 54 of the Rules,

² See for example the Motion of 2 October 2006, where the Prosecution failed to make reference to the documents it intended to tender through witnesses who were the subject of the motion; *see also* “Prosecution’s Notification of Witnesses It No Longer Intends to Call”, 30 November 2006.

³ “Order Clarifying the Decision Regarding Form of Disclosure”, 26 June 2007, p. 3, referring to the “Decision on Provision of Previous Testimony in Audio Format”, 22 November 2006; *see also* “Corrigendum to Decision on Provision of Previous Testimony in Audio Format”, 23 November 2006, para. 18.

⁴ Scheduling Order, 18 September 2007.

ORDER the Prosecution to file, by no later than Thursday 4 October 2007, a consolidated motion for all of the statements and transcripts whose admission it seeks pursuant to Rules 89 (F), 92 *bis*, 92 *ter*, and 92 *quater* by indicating:

(i) the witnesses whose statements and transcripts the Prosecution will seek to admit under Rules 89 (F), 92 *bis*, 92 *ter*, and 92 *quater* of the Rules;

(ii) all of the documents the Prosecution intends to tender into evidence through each of these witnesses, and

(iii) the specific references to the said statements in the Pending Motions in order to enable the Trial Chamber assigned to hear the case to rule in an efficient manner.

ORDER the Accused to file his response pursuant to Rule 126 *bis* of the Rules no later than 14 days following receipt of the translation of the Prosecution's consolidated motion into a language he understands.

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

/signed/

Jean-Claude Antonetti

Pre-Trial Judge

Done this twentieth day of September 2007

At The Hague

The Netherlands

[Seal of the Tribunal]