



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-T
Date: 13 May 2008
Original: ENGLISH
French

IN TRIAL CHAMBER III

Before: Judge Jean-Claude Antonetti, Presiding
Judge Frederik Harhoff
Judge Flavia Lattanzi

Registrar: Mr Hans Holthuis

Order of: 13 May 2008

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

CONFIDENTIAL DOCUMENT

**ORDER IN LIEU OF AN INDICTMENT FOR CONTEMPT AGAINST
LJUBIŠA PETKOVIĆ**

The Office of the Prosecutor:

Mr Daryl Mundis

The Accused:

Mr Vojislav Šešelj

The Republic of Serbia

Ljubiša Petković

TRIAL CHAMBER III ("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");

NOTING the confidential Summons issued on 7 April 2008 to Ljubiša Petković (assigned pseudonym VS-011 until his testimony¹) to appear as a witness summoned by the Chamber pursuant to Rule 98 of the Rules of Procedure and Evidence of the Tribunal ("Summons" and "Rules", respectively);

NOTING the Memorandum of Service of the Summons, filed on 5 May 2008 by authorities of the Republic of Serbia, indicating the Ljubiša Petković had been duly served the Summons on 17 April 2008 and reporting his refusal to appear as a witness before the Chamber with any other status than "witness for the Defence" and including a series of conditions to be fulfilled to ensure his testimony, in particular the deliverance of a safe conduct and the payment of various expenses;²

NOTING the Order for the Transfer of Witness VS-011 to Ensure His Testimony as a Witness Summoned by the Chamber, issued confidentially by the Chamber on 6 May 2008 ("Transfer Order"), requesting the authorities of the Republic of Serbia to immediately take all necessary measures in order to guarantee the appearance of Witness VS-011 as a witness summoned by the Chamber and to ensure his mandatory presence in The Hague on Saturday 10 May 2008 so that he could testify as of 13 May 2008;³

NOTING the letter addressed to the Chamber on 9 May 2008 by the authorities responsible for implementing the Transfer Order, reporting that they were unable to contact Witness Ljubiša Petković;

NOTING the absence of Ljubiša Petković at the hearing of Tuesday 13 May commencing at 1415 hours, the date indicated in the Summons for his testimony;

¹ Decision on Protective Measures, confidential, 30 August 2008, p. 8.

² Order on Served Order, confidential, 6 May 2008.

³ Order for the Transfer of Witness VS-011 to Ensure His Testimony as a Witness Summoned by the Chamber, confidential, 6 May 2008, p. 2.

NOTING the provisions of Rule 77 of the Rules that apply in this case, in particular that:

- (A) The Tribunal in the exercise of its inherent power may hold in contempt those who knowingly and wilfully interfere with its administration of justice, including any person who:

[...]

- (iii) without just excuse fails to comply with an order to attend before or produce documents before a Chamber; [...]

- (C) When a Chamber has reason to believe that a person may be in contempt of the Tribunal, it may:

[...]

- (iii) initiate proceedings itself;

- (D) If the Chamber considers that there are sufficient grounds to proceed against a person for contempt, the Chamber may:

[...]

- (ii) in circumstances described in paragraph (C) (ii) or (iii), issue an order in lieu of an indictment and [...] prosecute the matter itself;

CONSIDERING that the Chamber has reasons to believe that Ljubiša Petković is guilty of contempt of the Tribunal and that there is thus cause to initiate proceedings against him pursuant to Rule 77 (C) (iii) of the Rules;

CONSIDERING that the Chamber finds that there are sufficient grounds to prosecute Witness Ljubiša Petković for contempt and, pursuant to Rule 77 (D) (ii) of the Rules, issue an order in lieu of an indictment and initiate proceedings itself;

FOR THE FOREGOING REASONS

PURSUANT TO Rule 77 of the Rules

ORDERS that:

(i) Ljubiša Petković, born on 29 November 1952 in Deronje (Vojvodina, Serbia), shall be prosecuted for having knowingly and wilfully interfered in the administration of justice by refusing to respect the Summons and appear as a witness summoned by the Chamber;

(ii) the Chamber shall initiate proceedings;

(iii) Ljubiša Petković shall appear before the Chamber on 27 May 2008 at 1425 hours in Courtroom III;

(iv) The Registry of the Tribunal shall assign a case number to the proceedings indicated in the present Order.

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

/signed/

Jean-Claude Antonetti
Presiding Judge

Done this thirteenth day of May 2008
At The Hague
The Netherlands

[Seal of the Tribunal]