

UNITED NATIONS

06 July 2010
NATIONS UNIES MC

INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA

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Prosecutor v Vojislav Šešelj

Case No. IT-03-67-T

DECISION

PUBLIC REDACTED

THE DEPUTY REGISTRAR,

NOTING the Statute of the Tribunal as adopted by the Security Council under Resolution 827 (1993), and in particular Article 21 thereof;

NOTING the Rules of Procedure and Evidence as adopted by the Tribunal on 11 February 1994, as subsequently amended (“Rules”), and in particular Rules 44 and 45 thereof;

NOTING the Directive on Assignment of Defence Counsel, as adopted by the Tribunal on 28 July 1994, as subsequently amended (“Directive”), and in particular, Articles 6, 7, 8, 9, 10 and 11 thereof;

CONSIDERING that Mr. Vojislav Šešelj (“Accused”) was transferred to the seat of the Tribunal on 24 February 2003;

CONSIDERING that on 26 February 2003, the Accused informed the Registry that he had decided to represent himself in proceedings before the Tribunal,¹ in accordance with Rule 45 of the Rules;

CONSIDERING that on 31 October 2003, the Accused requested for the first time that the Tribunal “finance [his] defence”² and that he was subsequently provided with a copy of the Declaration of Means form and asked to complete it to enable an assessment of his financial status;

CONSIDERING that on 19 November 2003, the Accused returned a completed Declaration of Means form, without page two of the form, which is used to request the assignment of counsel;

CONSIDERING that at that time, the Registry’s authority to pay public funds for an accused’s defence was conditional upon the assignment of counsel under Rule 45 of the Rules, but that

¹ *Prosecutor v. Vojislav Šešelj*, IT-03-67, “Notice from the Accused (25.02.03)”, 26 February 2003.

² Letter from the Accused to the Registrar (Submission No. 24), 31 October 2003.

nevertheless the Registry commenced a preliminary inquiry into the Accused's financial status pursuant to Article 9 of the Directive³ in the event that he would request the assignment of counsel;

CONSIDERING that on 30 July 2007, the pre-trial judge issued the "Decision on the Financing of the Defence of the Accused" ("First Decision on Financing"),⁴ whereby he granted, under certain preconditions, the Accused's request for Tribunal funding for his defence as a self-represented accused;

CONSIDERING that the preconditions in the First Decision on Financing included, *inter alia*, that the Accused must prove, in accordance with Article 8(A) of the Directive, that he does not have sufficient means to pay for his defence;

CONSIDERING that in light of the First Decision on Financing, the Registrar reopened its investigation into the Accused's financial means;

CONSIDERING that by letter dated 28 September 2007 ("28 September 2007 Letter"), the Registry updated the Accused on the status of its inquiry into his means and requested that the Accused update information regarding assets contained in his Declaration of Means as well as provide additional information and documentation regarding assets not listed therein;

CONSIDERING that to date, the Accused has not replied to the 28 September 2007 Letter, nor has he provided the information and documentation requested therein;

CONSIDERING that on 30 October 2007, the Trial Chamber issued its "Decision on Implementing the Financing of the Accused" ("Second Decision on Financing"),⁵ reiterating the preconditions that must be met by the Accused before the Tribunal would provide funding for his defence and inviting the Accused to provide the relevant documentation to the Registry;

CONSIDERING that to date, the Accused has not provided the information or documentation relevant to the Second Decision on Financing;

CONSIDERING that on 3 February 2009, the Accused filed his "Request for the Trial Chamber to Secure the Financing of Professor Vojislav Šešelj's Defence" ("Request"),⁶ arguing that the Registry had not complied with the First Decision on Financing and that the Registry had all the information it needed to assess his financial status since it had checked the information provided by him with the Serbian authorities;

CONSIDERING that on 23 April 2009, the Trial Chamber issued its "Decision on Financing of Accused's Defence" ("Third Decision on Financing"),⁷ dismissing the Request and inviting the

³ The authority to gather financial information was formerly enshrined in Article 10 of the Directive (IT/73/Rev.9) in force at that time.

⁴ *Prosecutor v. Vojislav Šešelj*, IT-03-67-PT, "Decision on the Financing of the Defence of the Accused", 30 July 2007.

⁵ *Prosecutor v. Vojislav Šešelj*, IT-03-67-T, "Decision on Implementing the Financing of the Accused", 30 October 2007.

⁶ *Prosecutor v. Vojislav Šešelj*, IT-03-67-T, "Request for the Trial Chamber to Secure the Financing of Professor Vojislav Šešelj's Defence", 3 February 2009.

⁷ *Prosecutor v. Vojislav Šešelj*, IT-03-67-T, "Decision on Financing of Accused's Defence", 23 April 2009.

Accused to furnish the documents requested by the Registry so that his indigency status could be evaluated.⁸

CONSIDERING that, in the Third Decision on Financing, the Trial Chamber stated:

the Accused does not show that he has provided the Registry with all the documents needed to prove that he does not have the financial means to ensure his defence and, as a result, to obtain financial aid from the Tribunal, it holds consequentially that as long as the information required in [the Registry's] 28 September 2007 letter has not been provided, the Chamber cannot instruct the Registry to disburse the funds requested by the Accused to prepare his defence;⁹

CONSIDERING that to date, the Accused has not provided the information or documentation relevant to the Third Decision on Financing;

CONSIDERING that on 10 March 2010, the Registry addressed a letter to the Accused ("10 March 2010 Letter") compiling all available, albeit incomplete, information regarding the Accused's means and allowing him the opportunity to confirm such information and provide supporting documentation where necessary;

CONSIDERING that to date, the Accused has not provided the information and documentation requested in the 10 March 2010 Letter;

CONSIDERING that on 12 April 2010, the Registry addressed another letter to the Accused ("12 April 2010 Letter") providing him with detailed instructions for obtaining all the remaining information and documentation necessary for the Registry to make an indigency determination, including outlining the assistance provided by the Serbian Embassy for obtaining the various documents required;

CONSIDERING that to date, the Accused has not provided the information and documentation requested in the 12 April 2010 Letter;

CONSIDERING that the Directive applies *mutatis mutandis* to self-represented accused seeking Tribunal funding for their defence teams;¹⁰

CONSIDERING that pursuant to Article 8(A) of the Directive, the burden of proof lies with the accused to show that he does not have sufficient means to remunerate his defence team;

CONSIDERING that by continuously refusing to provide the information and documentation the Registry requires to complete its inquiries, as most recently memorialized in the 12 April 2010 Letter, the Accused has failed to meet his burden of proof;

CONSIDERING therefore that the Registry has been unable to make an indigency determination to date;

CONSIDERING that pursuant to Article 8(C) of the Directive, where the accused fails to comply with his obligations under Articles 8(A) and (B) to produce or facilitate the production of evidence

⁸ *Id.*, para. 27.

⁹ *Id.*, para. 23.

¹⁰ Paragraph (A)(1) of the Remuneration Scheme for Persons Assisting Indigent Self-Represented Accused, 1 April 2010. [REDACTED].

to the extent that the Registry is unable to properly assess the accused's ability to remunerate his defence team, the Registry may deny the request for remuneration after warning the accused and giving him an opportunity to respond;

CONSIDERING that by letter dated 25 June 2010, the Registry warned the Accused that it would deny his requests for funding if he did not indicate his intention to provide or facilitate the production of the requested documentation by 2 July 2010;

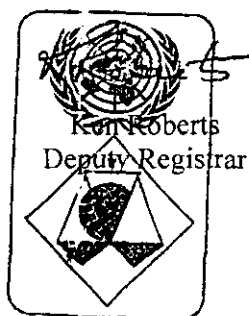
CONSIDERING that to date, the Accused has neither provided the requested documentation nor indicated his intent to so provide;

CONSIDERING the Accused's long history of non-compliance with Registry requests regarding his financial status, and the Registry's consequent inability to make an indigency determination;

HEREBY DECIDES to take action pursuant to Article 8(C) of the Directive; and

DENIES the Accused's requests for Tribunal funding for his defence team.

Respectfully submitted,



Dated this 5th day of July 2010,
At The Hague,
The Netherlands.