



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: 20 May 2010
Original: ENGLISH
French

IN TRIAL CHAMBER III

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

Registrar: Mr John Hocking

Decision of: 20 May 2010

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC

**DECISION ON PROSECUTION URGENT MOTION TO LIFT
CONFIDENTIALITY OF MIODRAG PANIĆ'S STATEMENT**

The Office of the Prosecutor

Mr Peter Kremer, QC
Mr Mathias Marcussen

The Accused

Mr Vojislav Šešelj

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”),

SEIZED of an urgent motion, filed confidentially on 6 May 2010 (“Motion”),¹ by the Office of the Prosecutor (“Prosecution”), for leave to lift the confidentiality of Miodrag Panić’s statement attached in the Annex to Vojislav Šešelj’s submission 394 (“Submission 394” and “Accused” respectively), which was filed confidentially in this case on 23 September 2008 (“Statement”),²

CONSIDERING that the Prosecution requests leave to lift the confidentiality of the Statement so as to be able to use it at the hearing of 3 June 2010 before the Appeals Chamber during which Miodrag Panić is to testify in the review proceedings of *The Prosecutor v. Veselin Šljivančanin*, Case No. IT-95-13/1-R.1 (“Šljivančanin Review Proceedings”), the Appeals Chamber asked that an assessment be made of the probative value and relevance of Miodrag Panić’s Statement given to Veselin Šljivančanin,³

NOTING the need for an urgent decision on the Motion, the Prosecution requests that the Chamber gives a ruling on the Motion before 26 May 2010,⁴

CONSIDERING, first of all, that the Chamber notes that the Accused submitted his Submission 394 to which the Statement is appended on 21 August 2008, without marking it as “Confidential”, thereby indicating his consent that his Submission be filed publicly,

¹ “Urgent Prosecution Motion to Lift Confidentiality of Statement of Miodrag Panić”, confidential, 6 May 2010 (“Motion”).

² See Submission 394, translation of BCS original entitled: “Professor Vojislav Šešelj’s Motion for Trial Chamber III to Order Measures and Ensure Protection of Defence Witnesses”, confidential, submitted on 21 August 2008, filed on 23 September 2008, pp. 69-71 (“Statement”).

³ Motion, para. 3 referring to the order of the Appeals Chamber dated 20 April 2010 entitled: “Scheduling Order for Hearing Regarding Veselin Šljivančanin’s Application for Review”, p. 1.

⁴ Motion, para. 4.

CONSIDERING that it is the Chamber who ordered that the Registry file Submission 394 confidentially on 23 September 2008, since it dealt with protected witnesses in this case,

CONSIDERING that it is not necessary therefore to wait until the deadline for the Accused's response to the Motion has expired, since the confidentiality of the Statement is due to a decision of the Chamber and not to the consent of the Accused,

CONSIDERING, then, that to date, Miodrag Panić has not been granted protective measures in this case,

CONSIDERING, lastly, that the Chamber deems that the Prosecution request is justified by that of the Appeals Chamber,

CONSIDERING, as a consequence, that there is no bar to lifting the confidentiality of the Statement attached in the Annex on pages 69 to 71 of the Accused's Submission 394 and nothing prevents its use in the Šljivančanin Review Proceedings,

FOR THE FOREGOING REASONS,

PURSUANT TO Rule 54 of the Rules of Procedure and Evidence,

GRANTS the Motion.

ORDERS that the confidentiality of pages 69 to 71 of Submission 394 be lifted.

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

 /signed/
Jean-Claude Antonetti
Presiding Judge

Done this twentieth day of May 2010
At The Hague
The Netherlands

[Seal of the Tribunal]