



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: 21 July 2011

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: 21 July 2011

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC DOCUMENT

**DECISION ON REGISTRY SUBMISSION PURSUANT TO RULE 33 (B) OF
THE RULES OF PROCEDURE AND EVIDENCE ON 22 JUNE 2011**

The Office of the Prosecutor

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 the Registry’s Submission Pursuant to Rule 33 (B) of the Rules of Procedure and Evidence (“Rules”) and filed publicly along with a confidential and *ex parte* annex on 22 June 2011 (“Request”),¹ requesting that the Chamber order the relevant national jurisdictions identified in the annex to the Request to disclose information and documentation concerning the financial status of Vojislav Šešelj (“Accused”), likewise described in further detail in the annex to the Request,

NOTING the Decision on the Funding of the Defence, rendered by the Chamber on 29 October 2010, filed confidentially with *ex parte* annexes, whereby the Chamber, unable to rule on the financial status of the Accused and desiring to avoid any negative repercussion upon the progress of the trial, ordered the Registry, commencing 29 October 2010 and, unless fresh evidence were adduced, continuing until the conclusion of the trial, to fund the Accused’s defence team in the amount of 50% of the sums allocated in principle to a fully indigent accused, based on the Remuneration Scheme for Persons Assisting Indigent Self-Represented Accused as well as having assessed the complexity of the case at Level 3 (“Decision of 29 October 2010”),²

NOTING the decision rendered confidentially by the Appeals Chamber dated 8 April 2011 (“Decision of 8 April 2011”),³ upholding the Decision of 29 October 2010,

NOTING Article 21 paragraph (4)(b) of the Statute, which states that every accused enjoys the right to adequate time and facilities for the preparation of his defence,

¹ “Registry Submission Pursuant to Rule 33(B) Further to the Decision on Financing of the Defence”, public with a confidential and *ex parte* annex, 22 June 2011.

² “Decision on Financing of Defence”, confidential with annexes *ex parte* from both parties, 29 October 2010, paras 21 to 27. A public, redacted version was filed on 2 November 2010.

³ “Decision on the Registry Submissions Pursuant to Rule 33(B) Regarding the Trial Chamber’s Decision on Financing of Defence”, confidential, 8 April 2011. A public, redacted version of this decision was filed on 17 May 2011. The Decision of 8 April 2011 was rendered following an appeal lodged by the Registry on 19 November 2010 (“Registry Submission Pursuant to Rule 33(B) Following the Trial Chamber’s Decision on Financing of Defence Dated 29 October 2010”, public with public, confidential and *ex parte* annexes, 19 November 2010).

NOTING Article 29 paragraph (2) of the Statute of the Tribunal (“Statute”) concerning co-operation and judicial assistance, whereby States comply without undue delay with any request for assistance or any order issued by a Trial Chamber,

NOTING Article 9 of the Directive on the Assignment of Defence Counsel (“Directive”),⁴ whereby the Registrar may at any time request relevant information from any person likely to be able to supply it,

NOTING the Scheme for Persons Assisting Indigent Self-Represented Accused (“Scheme for Remuneration of Self-Represented Accused”),⁵ which specifies that, to the extent that procedural tasks are not regulated by the Scheme for Remuneration of Self-Represented Accused, the Directive and the other policy statements from the Registry apply *mutatis mutandis* as appropriate,

CONSIDERING that the Chamber finds that it may certainly request the co-operation of the States concerned on the basis of Article 29 of the Statute, so that they may in turn request that the competent jurisdictions issue the documents and information needed by the Registry,

CONSIDERING, however, that, in the view of the Chamber, the issuance of an order to a State on the basis of Article 29 of the Statute ought only to be used as a last resort; that the Registry, within the framework of the powers granted to it under Article 9 of the Directive, must first employ every means at its disposal to obtain the information and the documentation needed from the relevant national jurisdictions and inform the Chamber that all of the measures undertaken have proved to no avail,

CONSIDERING that the Chamber notes that the Registry has not demonstrated that it has undertaken all measures one might reasonably expect on its part for the purpose of obtaining the information and documentation sought from the relevant national jurisdictions,

⁴ Directive No. 1/94, IT/73/Rev. 11, adopted on 30 January 1995 and amended most recently on 29 June 2006.

⁵ Remuneration Scheme for Persons Assisting Indigent Self-Represented Accused, adopted on 28 September 2007 and subsequently amended, with the 1 April 2010 text now authoritative. The 1 April 2010 text was brought to the Chamber’s attention in an internal memorandum issued by the Registrar and addressed to the Head of Chambers as of 27 May 2010 (“Second Revision of the Remuneration Scheme for Persons Assisting Indigent Self-Represented Accused”).

CONSIDERING that the Registry also did not show that, subsequent to these initiatives, said information or said documentation was denied or that the relevant national jurisdictions refused to cooperate,

CONSIDERING that the Chamber for this reason finds that the Request is premature,

FOR THE FOREGOING REASONS,

PURSUANT TO Article 29 of the Statute and Rule 54 of the Rules,

DENIES the Request.

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

/signed/
Jean-Claude Antonetti
Presiding Judge

Done this twenty-first day of July 2011
At The Hague
The Netherlands

[Seal of the Tribunal]