



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: 16 March 2016
Original: ENGLISH
French

IN TRIAL CHAMBER III

Before: **Judge Jean-Claude Antonetti, Presiding**
Judge Mandiaye Niang
Judge Flavia Lattanzi

Registrar: **Mr John Hocking**

Decision of: **16 March 2016**

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC DOCUMENT

ORDER ON ARRANGEMENTS FOR DELIVERY OF JUDGEMENT

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”);

CONSIDERING that the Scheduling Order of 12 February 2016 ordered the Serbian authorities to take all the necessary measures to ensure the Accused’s appearance on the date the judgement is scheduled to be delivered, 31 March 2016, and to inform the Chamber, before 15 March 2016, of any difficulties that arise in the execution of the present order;

CONSIDERING that the Serbian authorities replied to the Chamber confidentially and *ex parte* (“Response”);

CONSIDERING that in the interest of justice, the Chamber lifts the confidentiality of the Response in the part referring to the medical treatment which the Accused is undergoing;

CONSIDERING that the Response indicates that the medical treatment cannot be interrupted or continued in The Hague;

CONSIDERING that, under these conditions, the transfer of the Accused to The Hague is not required by the Chamber;

For the foregoing reasons

DECLARES that the judgement will be delivered at 10 a.m. on 31 March 2016 without the presence of the Accused;

INVITES the Accused to inform the Registry in writing, before 22 March 2016, whether he wishes to follow the delivery of the judgement via video-link from Belgrade;

Judge Niang attaches a separate opinion to the present Order.

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

/signed/
Jean-Claude Antonetti
Presiding Judge

Done this sixteenth day of March 2016
At The Hague
The Netherlands

[**Seal of the Tribunal**]

Separate Opinion of Judge Mandiaye Niang

1. I do not agree with the reasons put forth in the order to justify the absence of the Accused during the delivery of the judgement. It seems to me that the exemption from having to appear is a position that poorly disguises the triumphant defiance by an Accused who has always maintained his refusal to return after his provisional release.

2. The Serbian authorities who were to ensure the arrest and transfer of the Accused were unenthusiastic, to say the least. They did not follow-up on the first order of the Chamber.¹ In responding to the second order,² they brought up difficulties that made any return by the Accused within the required deadline seem unrealistic.³

3. The Accused is, of course, ill and receiving treatment but his activities in Serbia certainly attract considerable attention. It is ironic that the Tribunal is excusing the Accused at a moment when he is readily attending a hearing at a Belgrade court – a hearing that is nothing more than an offshoot of our procedure here.

4. In short, faced with someone thumbing their nose at us, we look away to avoid seeing the affront and in the process use the Accused's treatment as a convenient excuse. I prefer to acknowledge the obstacles that are in the way and have everyone honour their responsibilities.

5. I would indeed hold the hearing on 31 March to deliver the judgement; I would hold it despite the Accused's absence, not because his presence would not be required, but because he refuses to appear and the Serbian authorities would not use the means available to them to force him to appear.

/signed/

Judge Mandiaye Niang

¹ "Order in Preparation for Delivery of Judgement", 26 January 2016 (confidential and *ex parte*). On 9 February 2016 the Registry filed a report on the failure to act (confidential and *ex parte*) confirming the inertia of the Serbian authorities.

² Scheduling Order of 12 February 2016.

³ Report (confidential and *ex parte*) of the Serbian Ministry of Justice, filed on 4 March 2016.