

IT-03-67-R77.2
D269 - D267
27 APRIL 2009

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UNITED
NATIONS



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-R77.2

Date: 27 April 2009

Original: English

IN TRIAL CHAMBER II

Before: Judge O-Gon Kwon, Presiding
Judge Iain Bonomy
Judge Kevin Parker

Acting Registrar: Mr. John Hocking

Decision: 27 April 2009

PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC

**DECISION ON *AMICUS CURIAE* PROSECUTOR'S MOTION
FOR ORDER OF NON-DISCLOSURE**

The *Amicus Curiae* Prosecutor:
Mr. Bruce MacFarlane, Q.C.

The Accused:
Mr. Vojislav Šešelj

TRIAL CHAMBER II (“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”)

BEING SEISED of the “Prosecutor’s Motion for Order of Non-Disclosure” filed confidentially on 30 March 2009 (“Motion”), in which the *amicus curiae* prosecutor (“*Amicus* Prosecutor”) requests that the Chamber order the Accused not to disclose to the public material disclosed to him pursuant to Rule 66 and 68 of the Rules of Procedure and Evidence of the Tribunal (“Rules”);¹

NOTING in particular the *Amicus* Prosecutor’s submission that, although most of the material he seeks to disclose to the Accused is covered by previous non-disclosure orders issued in the case of *Prosecutor v. Vojislav Šešelj* (“*Šešelj* case”), it is essential given the nature of the allegations in the present case that the Chamber reaffirms the applicability of these previous non-disclosure orders in these proceedings;²

NOTING that the Accused did not respond to the Motion;

NOTING the “Decision on Prosecution’s Motion for Order of Non-Disclosure” and the “Decision on ‘Prosecution’s Motion for non-Disclosure of Materials Provided Pursuant to Rules 66(A)(ii) and 68 and for Protective Measures for Witnesses During the Pre-Trial Phase’”, issued in the *Šešelj* case on 13 March 2003 and 11 February 2004, respectively;

CONSIDERING that these two decisions, in addition to any further non-disclosure order issued in the *Šešelj* case, shall also apply in the present proceedings but that the definition of the “public” shall be amended to reflect the specific circumstances of the present case, namely that it is prosecuted by the *Amicus* prosecutor;

PURSUANT TO Rule 53(A) and 54 of the Rules

HEREBY DECLARES that

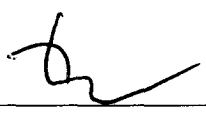
- i) any non-disclosure order issued in the *Šešelj* case shall continue to apply in these proceedings;
- ii) for the purposes of the present case, the “public” shall be defined as:

¹ Motion, para. 6.

² Motion, para. 9.

all persons, governments, organisations, entities, clients, associations, and groups other than the Judges of the Tribunal, the staff of the Registry (assigned to either Chambers or the Registry), and the *Amicus* Prosecutor and his staff. The “public” specifically includes, without limitation, family, friends and associates of the Accused; accused persons in other cases or proceedings before the Tribunal; defence counsel in other cases or proceedings before the Tribunal; as well as the media and journalists.

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



Judge O-Gon Kwon
Presiding Judge

Dated this twenty-seventh day of April 2009
At The Hague
The Netherlands

[Seal of the Tribunal]