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Tribunal Pénal  
International pour  
l'ex-Yougoslavie

# JUDGEMENT SUMMARY

*(Exclusively for the use of the media. Not an official document)*

CHAMBERS

The Hague, 24 July 2009

## Judgement Summary For Vojilav Šešelj

*Please find below the summary of the Judgement read out today by Judge Kwon:*

This is only a summary which does not form part of the Judgement delivered by the Trial Chamber. The only authoritative account of the Trial Chamber's findings is the written Judgement, copies of which will be made available after the hearing. The Amicus Curiae and the Accused will be given a confidential version of the Judgement, and a public edited version will be available to the public.

On 21 January 2009, the Chamber issued an order in lieu of indictment, wherein it charged the Accused with having knowingly and wilfully interfered with the administration of justice of the Tribunal by disclosing confidential information in violation of orders granting protective measures to three witnesses, and by disclosing excerpts of the written statement of a witness in a book authored by him.

The Accused pleaded not guilty during the initial appearance held on 6 March 2009. During the trial which was held on 29 May 2009, the Accused represented himself, and no witnesses were called.

Rule 77(A)(ii) provides that the Tribunal, in the exercise of its inherent power, may hold in contempt those who knowingly and wilfully interfere with its administration of justice, including any person who discloses information relating to those proceedings in knowing violation of an order of a Chamber. In the present case, the Accused is charged with contempt of the Tribunal pursuant to Rule 77(A)(ii) for having disclosed information relating to Tribunal's proceedings in knowing violation of an order of a Chamber. Disclosure of information within the meaning of this Rule includes the publication of a witness's identity where protective measures have been granted to avoid such disclosure. The *mens rea* element for this form of commission of contempt is the knowledge of the alleged contemnor that his disclosure of a particular piece of information is done in violation of an order of a Chamber.

The Chamber shall now turn to the material element of the offence punishable under Rule 77(A)(ii):

First, the Accused has admitted to being the author of the Book and having given instructions regarding its preparation.

Second, in light of the evidence presented, the Chamber is also satisfied that the Book was published after decisions granting protective measures had been issued by the Trial Chamber hearing the Šešelj case in respect of each of the three protected witnesses.

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Third, the Book abounds with a myriad of detailed personal information related to the said witnesses both under their own names and under the pseudonyms attributed to them in the Šešelj case.

The Chamber is thus satisfied beyond a reasonable doubt that the information contained in the Book, when read as a whole, identifies each of the three protected witnesses and thus violates the orders granting protective measures issued by the Trial Chamber hearing the Šešelj case.

The Chamber shall now turn to the mental element of the offence punishable under Rule 77(A)(ii), namely whether the Accused knew he was disclosing confidential information which identified three protected witnesses in violation of orders by a Trial Chamber.

The Chamber first considers that the Accused was bound by the relevant decisions to ensure that the information contained in the Book would not identify, or tend to identify protected witnesses. These decisions either were *inter partes* documents or were issued orally in court in the presence of the Accused. He thus knew of the relevant protective measures by the time the Book was published.

Stressing that the Book was not intended for the general public, the Accused submitted that his intention was not to disclose the names of protected witnesses, but to “unmask a plot in public” with respect to some events referred to in the indictment in the Šešelj case. The Accused also argued that he did not reveal the names of the protected witnesses for the purpose of intimidating them. The Chamber considers this contention to be irrelevant to the Accused’s responsibility pursuant to Rule 77(A)(ii), where the *mens rea* element is solely whether “the alleged contemnor knew that his disclosure of a particular piece of information was done in violation of an order of a Chamber.

During the course of trial, the Accused produced five press articles in support of his contention that the identity of the protected witnesses was already available to the public prior to the publication of the Book. The Chamber considers that these articles neither mention that the witness is a protected witness in the Šešelj case nor contain any references to the pseudonyms assigned to the witnesses in the Šešelj case. Therefore, they do not support the Accused’s submission that the identity of the witness was available to the public prior to the publication of the Book.

The Chamber is thus satisfied beyond a reasonable doubt that the Accused knew he was disclosing information which identified three persons as protected witnesses before the Tribunal when he published the Book, and that, therefore, he did so intentionally, with the knowledge that by doing so, he was violating Trial Chamber orders.

Accordingly, the Chamber is satisfied beyond a reasonable doubt that the Accused is guilty of the offence of contempt pursuant to Rule 77(A)(ii) of the Rules.

In its determination of the sentence, the Chamber took into consideration the gravity of the offence, as well as the need for deterrence. In particular, the Chamber notes with grave concern the deliberate way in which the protective measure decisions imposed by the Šešelj Trial Chamber were defied. The Chamber considers this a serious interference with the administration of justice, particularly given the potential adverse impact of such conduct upon witnesses’ confidence in the Tribunal’s ability to guarantee the effectiveness of protective measures. Furthermore, the Chamber recognises the need to discourage this type of behaviour, and to take such steps as it can to ensure that there is no repetition of such conduct on the part of the Accused or any other person.

For the foregoing reasons, having considered all the evidence and arguments presented by the parties, pursuant to Rules 54 and 77 of the Rules, the Chamber:

FINDS the Accused, Vojislav Šešelj, GUILTY of one count of contempt of the Tribunal, punishable under Rule 77(A)(ii) of the Rules;

SENTENCES the Accused to a single term of imprisonment of fifteen months; and

ORDERS the Accused to secure the withdrawal of the Book from his internet website and to file a report with the Registrar on the actions taken to this effect by 7 August 2009.

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