



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: 9 June 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:** 9 June 2011

**THE PROSECUTOR**

**v.**

**VOJISLAV ŠEŠELJ**

***PUBLIC DOCUMENT***

***WITH A SEPARATE CONCURRING OPINION BY PRESIDING JUDGE  
JEAN-CLAUDE ANTONETTI IN ANNEX***

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**CONSOLIDATED DECISION REGARDING ORAL MOTIONS BY THE  
ACCUSED CONCERNING THE PRESENTATION OF HIS DEFENCE**

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**The Office of the Prosecutor**

Mr Mathias Marcussen

**The Accused**

Mr Vojislav Šešelj

## I. INTRODUCTION

### PROCEDURAL BACKGROUND

1. 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”) is seized of several motions brought by Vojislav Šešelj (“Accused”) at the hearing of 5 May 2011 and which would, he says, affect the presentation of his defence evidence.<sup>1</sup> The Accused is requesting: (1) the regularisation of the status of his legal associate Zoran Krsić (“Motion No. 1”);<sup>2</sup> (2) the suspension of disciplinary proceedings against his legal associate Boris Aleksić (“Motion No. 2”);<sup>3</sup> (3) retroactive payment of the costs of his Defence since his arrival at the Tribunal in February 2003 (“Motion No. 3”);<sup>4</sup> (4) disclosure of a motion for contempt directed against the Accused that was brought by the Office of the Prosecutor (“Prosecution”) in 2005 (“Motion No. 4”);<sup>5</sup> (5) the return of binders containing documents disclosed then withdrawn by the Prosecution (“Motion No. 5”)<sup>6</sup> and (6) the translation of two of his books entitled, respectively, “The Ideology of Serbian Nationalism” and “The Roman Catholic Criminal Project of an Artificial Croatian Nation” (“Motion No. 6”).<sup>7</sup>

### II. PRELIMINARY OBSERVATIONS

2. The Chamber has decided to join the six motions cited above and to answer them by means of a consolidated decision.

3. Taking into account the time necessary to examine and respond to these motions, the Chamber is reconsidering the time which was granted to the Accused until 17 June 2011, at the hearing of 5 May 2011, to provide his 65 *ter* list of witnesses and evidence and henceforth extends that time to six weeks, running from the receipt by the Accused of the BCS translation of this Decision.

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<sup>1</sup> Hearing of 5 May 2011, hearing transcript in French (“T(F)”) 16991-17000.

<sup>2</sup> Hearing of 5 May 2011, T(F) 16991.

<sup>3</sup> Hearing of 5 May 2011, T(F) 16991 and T 16992 (the Chamber likewise refers to the English hearing transcript “T” because the T(F) is incomplete on this point).

<sup>4</sup> Hearing of 5 May 2011, T(F) 16991-16994.

<sup>5</sup> Hearing of 5 May 2011, T(F) 16994.

<sup>6</sup> Hearing of 5 May 2011, T(F) 16994-16996.

<sup>7</sup> Hearing of 5 May 2011, T(F) 16996-16997.

### III. CONCERNING MOTION NO. 1

#### A. Procedural History

4. On 21 December 2006, Zoran Krasić signed a confidentiality agreement with the Tribunal Registry,<sup>8</sup> thereby becoming one of the privileged legal associates of the Accused. Thanks to this status, he was able to access confidential information in the case, as well as to have access to the courtrooms, receive restricted communications with the Accused and make periodic visits to the United Nations Detention Unit, as well as have his travel expenses to The Hague paid for by the Tribunal.

5. In its correspondence dated 28 November 2008, the Registry notified the Accused of the suspension of Zoran Krasić's status as a privileged legal associate given the allegations of witness intimidation, allegations of disclosure of confidential information to third parties and public statements seeking to discredit the Tribunal.<sup>9</sup>

6. On 1 September 2009, the Accused again requested that Zoran Krasić be designated as a privileged legal associate,<sup>10</sup> which the Registry refused on 10 September 2009<sup>11</sup> on grounds that the reasons for the suspension of his status as a privileged legal associate, set forth in the Registry's Letter of 28 November 2008, remained at issue. Moreover, according to the Registry, the lack of evidence from the Accused with regard to his indigence justified not reimbursing Zoran Krasić's travel expenses, a reimbursement previously made on a complementary basis, as there was no obligation to do so.

7. The Accused lodged an appeal of the Decision of 10 September 2009 with the President of the Tribunal ("President") on 15 September 2009.<sup>12</sup>

8. On 21 October 2009, the President dismissed the Accused's appeal on grounds that the Registry had not acted unreasonably, in its Letter of 28 November 2008 and particularly in the Decision of 10 September 2009, inasmuch as it concerned the

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<sup>8</sup> English translation of the BCS original of the agreement signed between this associate and the Registry entitled "Undertaking by Mr Z. Krasić", 21 December 2006.

<sup>9</sup> Letter from the Registrar to Vojislav Šešelj, 28 November 2008 ("Letter of 28 November 2008").

<sup>10</sup> "Submission 423", 1 September 2009.

<sup>11</sup> Letter from the Registrar to Vojislav Šešelj, 10 September 2009 ("Decision of 10 September 2009").

<sup>12</sup> "Submission 425", 15 September 2009.

suspension of communications between the Accused and Zoran Krasić and the reimbursement of travel expenses for this associate.<sup>13</sup>

9. On 12 January 2010, the Accused looked to the Chamber, asking it to grant his request to restore Zoran Krasić as a privileged legal associate.<sup>14</sup>

10. In a decision of 10 February 2010, the Chamber noted that it lacked jurisdictional competence to question the grounds set forth by the Registry as a basis for its decisions to suspend the status of privileged legal associate for Zoran Krasić and likewise noted that these grounds, upheld by the Decision of 21 October 2009, remained at issue as of the day of the Decision of 10 February 2010.<sup>15</sup> The Chamber decided moreover to authorize Zoran Krasić to assist the Accused publicly in court during the phase of Defence evidence presentation, should such presentation occur, and directed the Registry to reimburse his travel expenses in order to assist the Accused during this phase.<sup>16</sup>

## **B. Arguments of the Parties**

### **1. Arguments by the Accused**

11. The Accused is requesting the “regulat[ion]” of the status of his associate Zoran Krasić and adds that if this motion is denied, he will not mount a defence.<sup>17</sup>

### **2. Arguments by the Prosecution**

12. The Prosecution contests this, in a submission filed confidentially and *ex parte* from the Accused on 13 May 2011.<sup>18</sup> The Prosecution states, moreover, that the Accused has not argued any errors of law, or new facts or arguments in support of its Motion No. 1 that would enable reconsideration of the Decision of 10 February

<sup>13</sup> “Decision on Vojislav Šešelj’s Request for Review of Registrar’s Decision of 10 September 2009”, public, 21 October 2009 (“Decision of 21 October 2009”).

<sup>14</sup> Hearing of 12 January 2010, T(F) 14829.

<sup>15</sup> “Decision on the Accused’s Oral Request to Reinstate Messrs. Zoran Krasić and Slavko Jerković as Privileged Associates”, public, 10 February 2010, para. 14 (“Decision of 10 February 2010”).

<sup>16</sup> Decision of 10 February 2010, p. 5.

<sup>17</sup> Hearing of 5 May 2011, T(F) 16991.

<sup>18</sup> “Prosecution’s Supplemental Objection to the Accused’s Oral Request to Reinstate Legal Adviser Zoran Krasić’s Status as a Privileged Legal Associate”, confidential and *ex parte* from the Accused with an annex, 13 May 2011; a confidential redacted version and a public redacted version were filed on 27 May 2011 (“Reply No. 1”), para. 15.

2010.<sup>19</sup> The Prosecution next contends that Zoran Krasić continues to breach the confidential status of certain documents<sup>20</sup> and to receive confidential documents when he is no longer authorized to do so.<sup>21</sup> [redacted].<sup>22</sup>

### C. Applicable Law

13. A Trial Chamber enjoys inherent power to reconsider its own decisions and may entertain a request for reconsideration if the requesting party establishes for the Chamber that the reasoning of the impugned decision contains a clear error or that particular circumstances, which may be new facts or arguments, justify reconsideration in order to avoid injustice.<sup>23</sup>

### D. Discussion

14. The Chamber considers, first of all, that Motion No. 1 must be analyzed as a request for reconsideration of the Decision of 10 February 2010.

15. The Chamber subsequently observes that the Accused has neither argued nor established in support of Defence Motion No. 1, that the reasoning of the Decision of 10 February 2010 contains a clear error or that particular circumstances, which may be new facts or arguments, justify reconsideration in order to avoid injustice.

16. For that reason, the Chamber is compelled to deny Motion No. 1, even while recalling that Zoran Krasić is authorised to assist the Accused in public hearings during the phase for presentation of his Defence evidence, if such presentation were to occur. The Chamber recalls that its decision concerning defence financing dating from 29 October 2010<sup>24</sup> and upheld on appeal,<sup>25</sup> likewise resolves, from the date of the

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<sup>19</sup> Reply No. 1, paras 8-10.

<sup>20</sup> Reply No. 1, para. 11.

<sup>21</sup> Reply No.1, para. 12.

<sup>22</sup> [redacted]

<sup>23</sup> *The Prosecutor v. Jadranko Prlić et al.*, No. IT-04-73.16, “Decision on Jadranko Prlić’s Interlocutory Appeal Against the Decision on Prlić Defence Motion for Reconsideration of the Decision on Admission of Documentary Evidence”, public, 3 November 2009, para. 18; *The Prosecutor v. Stanislav Galić*, Case No. IT-98-29-A, “Decision on Defence’s Request for Reconsideration”, public, 16 July 2004, pp. 3 and 4, citing directly to *The Prosecutor v. Zdravko Mucić et al.*, Case No. IT-96-21A<sup>bis</sup>, “Judgment on Sentence Appeal”, public, 8 April 2003, para. 49; [redacted].

<sup>24</sup> “Decision on Financing of Defence” confidential with annexes *ex parte* from both parties, 29 October 2010, p. 7. A public redacted version was filed on 2 November 2010 (“Decision of 29 October 2010”).

decision forward, the issue of any expenses for travel and accommodation in The Hague for this associate.

#### IV. CONCERNING MOTION NO. 2

##### A. Procedural History

17. At the Accused's request, Boris Aleksić became one of the privileged legal associates, replacing Aleksandar Vucić on 24 September 2008, the date whereon he signed a confidentiality agreement with the Registry.

18. During the Hearing of 5 May 2011, the Accused informed the Chamber that the Registry had opened disciplinary proceedings against Boris Aleksić.<sup>26</sup>

##### B. Arguments of the Parties

###### 1. Arguments by the Accused

19. The Accused is requesting the immediate suspension of disciplinary proceedings against his legal associate Boris Aleksić and states that, if this is not done, he will not mount a defence.<sup>27</sup>

###### 2. Arguments by the Prosecution

20. The Prosecution did not bring a written submission in reply to Motion No. 2.

##### C. Applicable Law

21. Articles 40 and 44 of the Code of Professional Conduct for Counsel Appearing Before the International Tribunal ("Code of Professional Conduct"), provide that, when misconduct within the meaning of Article 35 of Code of Professional Conduct is alleged against counsel or a team member, the investigation is conducted by a Disciplinary Panel.

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<sup>25</sup> "Decision on the Registry Submission Pursuant to Rule 33 (B) Regarding the Trial Chamber's Decision on Defence Financing", confidential, 8 April 2011. A public redacted version of this decision was filed on 17 May 2011.

<sup>26</sup> Hearing of 5 May 2011, T(F) 16991.

<sup>27</sup> Hearing of 5 May 2011, T(F) 16991 and T 16992.

22. Article 48 of that same Code, for its part, provides that in certain cases an appeal of the Disciplinary Panel decision may subsequently be lodged with the Disciplinary Board.

23. Article 20 of the Tribunal Statute (“Statute”), establishes in its first paragraph:

The Trial Chambers shall ensure that a trial is fair and expeditious and that the proceedings are conducted in accordance with the rules of procedure and evidence, with full respect for the rights of the accused and due regard for the protection of victims and witnesses.

#### **D. Discussion**

24. The Chamber observes that competence to hearing a disciplinary proceeding falls expressly and exclusively to the Disciplinary Panel (first instance) or to the Disciplinary Board (on appeal), based on the Code of Professional Conduct.

25. The Chamber nevertheless was curious regarding the issue of its competence to entertain Motion No. 2 in light of Article 20 of the Statute and whether the disciplinary proceeding instigated against Boris Aleksić did not consequently infringe upon the right of the Accused to a fair trial, which it is the Chamber’s duty to assure in virtue of Article 20(1) of the Statute. The fact that this competence of the Chamber is not expressly provided for by the Code of Professional Conduct does nothing to displace the Chamber’s inherent jurisdiction under the Statute, as the Code of Professional Conduct must be interpreted in light of the Statute – a higher standard.<sup>28</sup> The Chamber, however, is of the view that the existence of disciplinary proceedings against members of a defence team does not violate the right of an accused to a fair trial. Quite to the contrary, the purpose of such proceedings is to ensure that the conduct of the defence teams remains above reproach, and chiefly, in the interest of the accused they are intended to assist.

26. Therefore, the Chamber denies Motion No. 2.

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<sup>28</sup> In this regard, for example: *The Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-PT, “Decision on Appeal Against Decisions of the Registrar of 4 January 2007 and 9 February 2007”, public, 25 April 2007, para. 12, where the President of the Tribunal confirms that it falls to the Trial Chamber to examine decisions of the Registry which may violate the right of an accused to a fair trial.

## V. CONCERNING MOTION NO. 3

### A. Procedural History

27. The Accused has been detained by the Tribunal since February 2003. He started requesting financing for his defence on 31 October 2003, repeating this request at regular intervals throughout his trial. He decided, furthermore, to conduct his own defence during his trial and the Appeals Chamber acknowledged his right to do so.<sup>29</sup>

28. During the hearing of 2 March 2010, the Accused indicated that he would need two years to prepare his defence, were the Tribunal not to finance it.<sup>30</sup>

29. [redacted].

30. [redacted].

31. In a decision on 5 July 2010, the Registry denied the Accused's request for financing his defence since 31 October 2003.<sup>31</sup>

32. On 6 July 2010, the Registry rendered a public decision denying the Accused's request for financing his defence, on grounds that the latter had not furnished all information necessary for evaluating his financial situation.

33. [redacted]

34. [redacted].<sup>32</sup>

35. During the administrative hearing of 21 September 2010, the Accused indicated having received a letter from the Registry soliciting his opinion concerning the degree of complexity of this phase of the case. The Accused alleged that the Registrar had already, in the past, evaluated the complexity of this case as being at the

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<sup>29</sup> See Case No. IT-03-67-AR73.3, "Decision on Appeal Against the Trial Chamber's Decision on Assignment of Counsel", public, 20 October 2006.

<sup>30</sup> Hearing of 2 March 2010, T(F) 15575-15576.

<sup>31</sup> "Decision", confidential and *ex parte* from the Prosecution, 5 July 2010. A redacted, public version of this decision was filed on 6 July 2010.

<sup>32</sup> [redacted]



maximum level, namely, Level 3 and had, as a consequence, paid the three successively appointed counsel mandated by the previous Trial Chamber in charge of this case.<sup>33</sup>

36. [redacted].

37. [redacted].

38. [redacted].

39. [redacted].<sup>34</sup>

40. In a decision dated 29 October 2010, the Chamber ordered the Registrar “from this day forward until the end of the trial, to fund 50% of the funds allocated in principle to a totally indigent accused, to the defence team for the Accused consisting of three privileged associates, a case manager and an investigator, based on the Scheme for Persons Assisting Indigent Self-Represented Accused and on the basis of a determination of the complexity of this case at Level 3, unless other information is provided”.<sup>35</sup>

41. Following an appeal by the Registry on 19 November 2010,<sup>36</sup> the Decision of 29 October 2010 was upheld, in an Appeals Chamber decision dated 8 April 2011.<sup>37</sup>

## **B. Arguments of the Parties**

### **1. Arguments by the Accused**

42. The Accused is requesting that his defence costs be borne retroactively, from the time of his arrival at the Tribunal in February 2003 onward, and alleges that in its

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<sup>33</sup> Hearing of 21 September 2010, T(F) 16407. The Chamber notes, moreover, that the Accused likewise requested that all travel costs related to his defence be reimbursed.

<sup>34</sup> [redacted]

<sup>35</sup> “Decision on Financing of Defence”, confidential with annexes *ex parte* from both parties, 29 October 2010, p. 7. A redacted public version was filed on 2 November 2010 (“Decision of 29 October 2010”).

<sup>36</sup> “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.

<sup>37</sup> “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 redacted public version of this decision was filed on 17 May 2011.

Decision of 29 October 2010 the Chamber decided nothing about the retroactive reimbursement of his defence costs for the last eight years. He adds, moreover, that if the Chamber does not grant his motion, he will not mount a defence.<sup>38</sup>

## 2. Arguments by the Prosecution

43. The Prosecution did not bring a written submission in reply to Motion No. 3.

### C. Discussion

44. The Chamber recalls that when it ordered, in its Decision of 29 October 2010, that the reimbursement for the financing of the Defence enter into effect starting 29 October 2010, it was understood that this financing was not supposed to be retroactive and did not apply starting on 31 October 2003, because the Chamber, aware of the scope of the Accused's request for financing, nonetheless decided that the reimbursement was only supposed to enter into effect from 29 October 2010 onward. The Chamber points out moreover that the financing of the Defence was not ordered on grounds that the Accused was indigent, but rather, to safeguard the rights of the Defence and to prevent the trial from being paralysed.<sup>39</sup>

45. The Chamber points out moreover that the Accused did not lodge any appeal of the Decision of 29 October 2010.

46. For this reason, the Chamber considers that Motion No. 3 can only be analyzed as a request for reconsideration of the Decision of 29 October 2010. Applying the principles set forth on prior occasions,<sup>40</sup> the Chamber observes that the Accused does not argue or establish in support of his Motion No. 3 that the reasoning of the Decision of 29 October 2010 contains a clear error or that particular circumstances, which may be new facts or arguments, justify reconsideration in order to avoid injustice.

47. For this reason, the Chamber denies Motion No. 3.

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<sup>38</sup> Hearing of 5 May 2011, T(F) 16991-16994.

<sup>39</sup> Decision of 29 October 2010, para. 26.

<sup>40</sup> See *supra*, para. 13 on the law applicable to reconsideration of decisions.

## VI. CONCERNING MOTION NO. 4

### A. Procedural History

48. On [redacted] 2005, the Prosecution filed, confidentially and *ex parte* from the Accused, with Trial Chamber II (“Chamber II”) then seized of the pre-trial proceedings in this case, a motion seeking to have Chamber II authorize it to investigate a potential contempt case against [redacted], pursuant to Rule 77 (C)(i) of the Rules.<sup>41</sup>

49. In a confidential decision, *ex parte* from the Accused, dated [redacted] 2005, Chamber II denied the Motion for Contempt of 2005.<sup>42</sup>

50. On 26 September 2005, the Accused stated at a public hearing that he had been informed by Chamber II of the existence of the Motion for Contempt of 2005 and of the fact that Chamber II had denied that Motion. As such, he requested disclosure of these documents and thus the removal of their *ex parte* character, arguing that he had the right to do so as this was directed to him, which Chamber II immediately proceeded to deny.<sup>43</sup>

### B. Arguments of the Parties

#### 1. Arguments by the Accused

51. The Accused is requesting disclosure of the Motion for Contempt of 2005, stating that he was informed by Chamber II of the existence of this motion and of the fact that Chamber II had denied it. He adds that he demanded that the Motion for Contempt of 2005 and of the Decision of 2005 be disclosed, but to no avail. He adds,

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<sup>41</sup> “Prosecution’s Motion for an Order Directing the Prosecutor to Investigate Potential Contempt of the Tribunal”, confidential and *ex parte*, [redacted] 2005 (“Motion for Contempt of 2005”). The Chamber notes that this motion was accompanied by 6 annexes (“Annexes of the Motion for Contempt of 2005”).

<sup>42</sup> “Decision on Prosecution’s Motion for an Order Directing the Prosecutor to Investigate Potential Contempt of the Tribunal”, confidential and *ex parte*, [redacted] 2005 (“Decision by Chamber II of 2005”).

<sup>43</sup> Hearing of 26 September 2005, T(F) 407-408 (“Decision by Chamber II on 26 September 2005”).

moreover, that if the Chamber does not grant his motion, he will not mount a defence.<sup>44</sup>

## 2. Arguments by the Prosecution

52. The Prosecution contested Motion No. 4 during the Hearing of 5 May 2011.<sup>45</sup> [redacted],<sup>46</sup> [redacted].<sup>47</sup> [redacted].<sup>48</sup> [redacted].<sup>49</sup>

### C. Discussion

53. The Chamber finds that Motion No. 4 can only be understood as a request for reconsideration of the Chamber II Decision of 26 September 2005.

54. As an initial matter, the Chamber recalls that, just as it did when reconsidering the Order of 15 May 2007, rendered by Trial Chamber III, sitting in a different formation,<sup>50</sup> it has competence to examine this request for reconsideration: although the impugned decision stems from another trial chamber, it does in fact concern the same case presently entrusted to this Chamber.

55. In this instance, applying the principles laid out previously,<sup>51</sup> the Chamber observes that the Accused neither argues nor establishes that the Chamber II Decision of 26 September 2005 contains a clear error or that particular circumstances, which may be new facts or arguments, justify reconsideration in order to avoid injustice.

56. Therefore, the Chamber denies Motion No. 4.

## VII. CONCERNING MOTION NO. 5

### A. Procedural History

<sup>44</sup> Hearing of 5 May 2011, T(F) 16994.

<sup>45</sup> Hearing of 5 May 2011, T(F) 17005.

<sup>46</sup> [redacted]

<sup>47</sup> [redacted]

<sup>48</sup> [redacted]

<sup>49</sup> [redacted]

<sup>50</sup> See “Decision in Reconsideration of the Decision of 15 May 2007 on Vojislav Šešelj’s Motion for Contempt against Carla Del Ponte, Hildegard Uertz-Retzlaff and Daniel Saxon”, confidential, 29 October 2010. A public redacted version of this decision was likewise filed on 29 October 2010.

<sup>51</sup> See *supra*, para. 13 concerning the law applicable to reconsideration of a decision.

57. [redacted],<sup>52</sup> [redacted].<sup>53</sup> [redacted].<sup>54</sup> [redacted].

58. [redacted].<sup>55</sup>

59. The Binders were seized on 25 November 2005.<sup>56</sup>

## **B. Arguments of the Parties**

### **1. Arguments by the Accused**

60. The Accused is requesting that the Binders be returned and says that, if they are not, he will not mount a defence.<sup>57</sup>

### **2. Arguments by the Prosecution**

61. [redacted].<sup>58</sup>

## **C. Discussion**

62. [redacted].<sup>59</sup>

63. The Chamber points out, however, that the documents contained in the Binders that were seized primarily concern three individuals,<sup>60</sup> who were finally withdrawn from the Final 65 *ter* List of Prosecution Witnesses. For this reason, the Chamber considers that this portion of Motion No. 5 covering them is moot.

64. The Chamber then notes that the documents contained in the Binders seized likewise involve 12 witnesses<sup>61</sup> who came to testify before the Chamber in this case and that only one of them – namely, Ibrahim Kujan (formerly VS-1024) – had been

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<sup>52</sup> [redacted]

<sup>53</sup> [redacted]

<sup>54</sup> [redacted].

<sup>55</sup> [redacted]

<sup>56</sup> Report by United Nations Detention Unit in The Hague, dated 25 November 2005, dispatched via e-mail from the Registry to Chamber II on 28 November 2005.

<sup>57</sup> Hearing of 5 May 2011, T(F) 16994-16996.

<sup>58</sup> [redacted].

<sup>59</sup> See: “Prosecution’s Submission of Revised Final Witness List With Confidential Annex A”, public, 29 March 2007 (French version filed on 16 April 2007).

<sup>60</sup> [redacted].

the subject of a re-disclosure of identity measure.<sup>62</sup> What is more, on 22 July 2008, the day he testified, the latter declined all of the protective measures afforded him, which the Chamber duly noted, agreeing to remove these measures.<sup>63</sup>

65. For this reason, the Chamber observes that nothing stands in the way of returning to the Accused that portion of the Binders regarding these 12 witnesses.<sup>64</sup>

66. Therefore, the Chamber is granting Motion No. 5 in part, and orders the Prosecution and/or the Registry, as the case may be, to return to the Accused without delay those Binders seized on 25 November 2005 [redacted] regarding these 12 witnesses<sup>65</sup> who came to testify before the Chamber.

## VIII. CONCERNING MOTION NO. 6

### A. Procedural History

67. In an order dated 27 November 2007 and filed publicly, the Chamber authorized the Accused to translate at most 10,000 pages of documents, including his books, which he hoped to present in his defence.<sup>66</sup>

68. In an order dated 19 February 2008 and filed publicly, the Chamber ordered that the Accused's two works entitled "The Ideology of Serbian Nationalism" and "The Roman Catholic Criminal Project of an Artificial Croatian Nation", respectively ("Works") be translated into English in timely fashion and no later than the presentation of the Defence case.<sup>67</sup>

69. The Accused received the English translation of these two Works on 13 May 2011.<sup>68</sup>

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<sup>61</sup> They are: VS-1028, VS-1067, VS-1111, Safet Sejdić (formerly VS-1057), Redžep Karišik (formerly VS-1026), VS-1068, Fahrudin Bilić (formerly VS-1069), Ibrahim Kujan (formerly VS-1024), VS-1051, VS-1025, VS-1060 and Fadil Ković (formerly VS-1014).

<sup>62</sup> [redacted]

<sup>63</sup> Hearing of 22 July 2008, T(F) 9637.

<sup>64</sup> See *supra* footnote 61.

<sup>65</sup> See *supra* footnote 61.

<sup>66</sup> "Order Concerning the Translation of Documents the Accused Intends to Tender as Defence Evidence", public, 27 November 2007, pp. 2-3.

<sup>67</sup> "Second Order Concerning the Translation of the Documents the Accused Intends to Tender as Defence Evidence", public, 19 February 2008, p. 2.

<sup>68</sup> See procès-verbal of reception dated 16 May 2011, signed 13 May 2011.

## **B. Arguments of the Parties**

### 1. Arguments by the Accused

70. The Accused is requesting the translation of his two Works and indicates that, if this is not done, he will not mount a defence.<sup>69</sup>

### 2. Arguments by the Prosecution

71. The Prosecution did not submit a written submission in reply to Motion No. 6.

## **C. Discussion**

72. The Chamber observes that the Accused received the translation into English of his two Works on 13 May 2011.

73. The Chamber finds for this reason that Motion No. 6 has become moot.

## **IX. DISPOSITION**

### 74. **FOR THE FOREGOING REASONS**

**PURSUANT TO** Article 20(1) of the Statute, Rules 54, 65 *ter*, 73 and 75 of the Rules and Articles 40, 44 and 48 of the Code of Professional Conduct,

**DENIES** Motion No. 1, Motion No. 2, Motion No. 3 and Motion No. 4.

**RECALLS** that Zoran Krsić is authorized to assist the Accused in public hearings during the presentation of his Defence evidence in the event this presentation does occur.

**GRANTS IN PART** Motion No. 5.

**ORDERS** the Prosecution and/or the Registry, as the case may be, to immediately return to the Accused the Binders seized on 25 November 2005 [redacted] insofar as they concern the 12 witnesses<sup>70</sup> who came to testify before the Chamber.

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<sup>69</sup> Hearing of 5 May 2011, T(F) 16996-16997.

**DECLARES** Motion No. 5, insofar as it concerns the three persons who did not appear before the Chamber,<sup>71</sup> to be moot.

**DECLARES** Motion No. 6 to be likewise moot.

**ORDERS** the Accused to tender his 65 *ter* list of witnesses and exhibits at the latest within the time-limit of six weeks, running from his receipt of the BCS translation of this Decision.

**DECLARES** that if such list is not tendered, that the Chamber shall prepare a scheduling order for the closing arguments of the Prosecution and the Defence.

Presiding Judge Jean-Claude Antonetti annexes a separate and concurring opinion hereto.

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

          /signed/            
Jean-Claude Antonetti  
Presiding Judge

Done this ninth day of June 2011  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**

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<sup>70</sup> They are VS-1028, VS-1067, VS-1111, Safet Sejdić (formerly VS-1057), Redžep Karišik (formerly VS-1026), VS-1068, Fahrudin Bilić (formerly VS-1069), Ibrahim Kujan (formerly VS-1024), VS-1051, VS-1025, VS-1060, and Fadil Ković (formerly VS-1014).

<sup>71</sup> [redacted].