



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 May 2012  
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 May 2012

**THE PROSECUTOR**

**v.**

**VOJISLAV ŠEŠELJ**

**PUBLIC DOCUMENT**

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**DECISION ON ACCUSED'S RESPONSE TO CORRIGENDUM TO  
PROSECUTION'S CLOSING BRIEF OF 20 APRIL 2012**

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**The Office of the Prosecutor**

Mr Mathias Marcussen

**The Accused**

Mr Vojislav Šešelj

## I. 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 a motion from Vojislav Šešelj (“Accused”), filed as a confidential document on 11 May 2012,<sup>1</sup> in which the Accused objects to the Corrigendum to the Closing Brief filed by the Office of the Prosecutor (“Prosecution”) as a confidential document on 20 April 2012<sup>2</sup> (“Motion” and “Corrigendum”, respectively). On 15 May 2012, the Prosecution filed its response to the Motion as a confidential document<sup>3</sup> (“Response”).

2. Although the aforementioned submissions by the parties have been filed as confidential documents, the Chamber is issuing the present decision as a public document pursuant to Rule 78 of the Rules of Procedure and Evidence (“Rules”), deeming that the present decision does not disclose any confidential information.

## II. PROCEDURAL BACKGROUND

3. On 30 January 2012, the Accused submitted his Final Brief, filed as a confidential document by the Registry of the Tribunal (“Registry”) on the same date.<sup>4</sup> On 5 February 2012, the Prosecution filed its Closing Brief as a confidential document.<sup>5</sup>

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<sup>1</sup> “Response to Corrigendum to Prosecution’s Closing Brief”, 11 May 2012 (confidential). The Chamber deems that the Accused erroneously qualified his Motion as a Response, since he drafted an actual motion for relief.

<sup>2</sup> “Corrigendum to Prosecution’s Closing Brief”, 20 April 2012 (confidential with confidential annex).

<sup>3</sup> “Prosecution Response to Motion Concerning Corrigendum to Closing Brief”, 15 May 2012 (confidential).

<sup>4</sup> “Завршни претресни поднесак одбране проф. др Војислава Шешеља”, 30 January 2012 (confidential). See also, “Certificate”, 31 January 2012 (confidential); for the English translation, see “Professor Vojislav Šešelj’s Final Brief”, 21 March 2012 (confidential); for the French translation, see “*Mémoire en clôture de Vojislav Šešelj*”, 27 March 2012 (confidential) (“Accused Final Brief”).

<sup>5</sup> “Prosecution Closing Brief”, 5 February 2012 (confidential with confidential annexes); “Corrigendum to Prosecution Final Trial Brief”, 6 February 2012 (confidential); “Re-filing of Prosecution Final Trial Brief”, 6 February 2012 (confidential); “Corrigendum to Prosecution’s Closing Brief”, 20 April 2012 (confidential with confidential annex); for the French translation, see “*Nouveau dépôt du mémoire en clôture de l’Accusation*”, 29 February 2012 (confidential), and “*Notification du dépôt d’une version*”.

4. On 20 March 2012, following the Closing Argument of the Prosecution<sup>6</sup> and the Closing Argument of the Accused,<sup>7</sup> the Presiding Judge of the Chamber declared the hearing closed pursuant to Rule 87 (A) of the Rules.<sup>8</sup>

5. On 20 April 2012, the Prosecution filed the Corrigendum as a confidential document. On 9 May 2012, the Prosecution filed a corrigendum to Annex B of its Closing Brief.<sup>9</sup>

### III. ARGUMENTS OF THE PARTIES

#### A. Arguments of the Accused

6. The Accused claims that by filing the Corrigendum two months after the end of the Closing Arguments, the Prosecution violated Rule 86 (B) of the Rules according to which it was due to file its Closing Brief five days before its final Closing Argument at the latest.<sup>10</sup>

7. The Accused equally argues that this two-month period between the final Closing Argument and the Corrigendum is one of the many elements showing the continuous unprofessional conduct of the Prosecution.<sup>11</sup>

8. Finally, the Accused requests that the Chamber deny the Corrigendum or, in the alternative, grant two additional hours for the closing argument, in order to examine the changes proposed on the basis of his right to a fair trial as set out under Article 21 of the Statute of the Tribunal.

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*publique expurgée du mémoire en clôture de l'Accusation*", 20 April 2012 (public with public annex) ("Prosecution Closing Brief").

<sup>6</sup> Closing argument, "T(E)" of 5 March 2012, pp 1713 to 17179; "T(E)" of 6 March 2012, pp. 17180 to 17269; "T(E)" of 7 March 2012, pp. 17270 to 17323.

<sup>7</sup> Closing Arguments, "T(E)" of 14 March 2012, pp. 17332 to 17406; "T(E)" of 15 March 2012, pp. 17407 to 17475 and "T(E)" of 20 March 2012, pp. 17476 to 17554.

<sup>8</sup> Closing Arguments, "T(E)" of 20 March 2012, pp. 17553 and 17554.

<sup>9</sup> "Corrigendum to Annex B to Prosecution's Closing Brief", 9 May 2012 (public with a public redacted Annex A and a confidential Annex B) ("Second Corrigendum").

<sup>10</sup> Motion, para. 2.

<sup>11</sup> Motion, paras 1 to 8. The Accused alleges, as an example, that he had been charged without any evidence having been brought on the link between him and the alleged crimes (*ibid.*, para. 2); that the Prosecution requested several successive amendments to the Indictment (*ibid.*, paras 3 to 5 and 7); that

## **B. Arguments of the Prosecution**

9. The Prosecution requests that the Motion be denied, arguing that the Corrigendum is limited to correcting technical errors, spellings and footnotes, without introducing any substantial change to the arguments of the Closing Brief.<sup>12</sup> It adds that, under the pretext of the present Motion, the Accused reiterates his unsupported arguments and allegations that were already set out in his Final Brief and in his Closing Argument without, however, showing the existence of a prejudice resulting from the technical corrections introduced by the Corrigendum.<sup>13</sup>

## **IV. DISCUSSION**

10. The Chamber recalls that it is case-law and established practice that when a minor or formal error is discovered in a previously filed submission, and if the correction of this error is necessary for the purpose of clarification, a party may file a corrigendum to the said submission without seeking prior approval from the Chamber.<sup>14</sup>

11. Having examined the Corrigendum, the Chamber holds that the proposed changes are simply corrections to typography or referencing and do not bring about any change to the essence of the arguments presented in the Closing Brief of the Prosecution. For this reason, the Chamber considers that the corrections in the Corrigendum are purely technical and do not prejudice the rights of the Accused in any way. Consequently, the Chamber takes note of the Corrigendum and deems that it is not necessary to grant the Accused the possibility of responding.

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the Prosecution had presented 40 false Prosecution witnesses (*ibid.*, paras 3 and 7) and that the Prosecution had tried to assassinate him by imposing counsel at the end of 2006 (*ibid.*, paras 6 and 7).

<sup>12</sup> Motion, paras 2 and 4.

<sup>13</sup> Motion, para. 3.

<sup>14</sup> *The Prosecutor v. Ferdinand Nahimana et al.*, Case No. ICTR-99-52-A, “Decision on Appellant Jean Bosco Barayagwiza’s Motion for Leave to Present Additional Evidence Pursuant to Rule 115 of the Rules of Procedure and Evidence”, 8 December 2006 (public), para. 14, referring to *The Prosecutor v. Ferdinand Nahimana et al.*, Case No. ICTR-99-52-A, “Decision on the Appellant Jean-Bosco Barayagwiza’s Corrigendum Motions of 5 July 2006”, 30 October 2006 (public), p. 2, and *The Prosecutor v. Željko Mejačić et al.*, Case No. IT-02-65-AR11bis.1, “Decision on Joint Defense Motion for Enlargement of Time to File Appellant’s Brief”, 30 August 2005 (public), p. 3.

12. With regard to the arguments of the Accused relating to a continuous unprofessional conduct of the Prosecution, the Chamber recalls that, in any event, the arguments having ended, the trial is currently at the deliberation stage and the parties are not allowed to present any arguments to the Chamber. Moreover, the Chamber notes that these arguments have already been presented in several motions of the Accused and denied by the Chamber.<sup>15</sup>

13. Finally, and even though it is not covered in the Motion, the Chamber also takes note of the corrections presented in the Second Corrigendum of the Prosecution to the extent that it only corrects technical errors in Annex B of the Closing Brief of the Prosecution, without introducing any fundamental changes.<sup>16</sup>

14. Nevertheless, in order to allow efficient work, and based on a single consolidated Final Brief, the Chamber invites the parties to show diligence and to avoid, in the future, filing multiple corrigenda to final briefs.

## V. DISPOSITION

15. **FOR THE FOREGOING REASONS**, the Chamber **DENIES** the Motion and **TAKES NOTE** of the two corrigenda to the Closing Brief of the Prosecution.

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

/signed/  
Jean-Claude Antonetti  
Presiding Judge

Done this twenty-first day of May 2012  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**

<sup>15</sup> *e.g.*, “Decision on Accused’s Claim for Damages on Account of Alleged Violations of His Elementary Rights During Provisional Detention”, 21 March 2012 (public with a concurring separate opinion of Presiding Judge Jean-Claude Antonetti in public annex) and its references.

<sup>16</sup> The Chamber notes that in the Second Corrigendum, the Prosecution simply replaces a chart and a footnote that were not visible in Annex B of the Closing Brief due to a layout error.