



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: 27 August 2008

Original: ENGLISH

French

IN TRIAL CHAMBER III

Before: Judge Jean-Claude Antonetti, presiding
Judge Frederik Harhoff
Judge Flavia Lattanzi

Registrar: Mr Hans Holthuis

Order of: 27 August 2008

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC DOCUMENT

**ORDER ON THE ACCUSED'S ORAL MOTION TO OBTAIN THE
CONFIDENTIAL AND *EX PARTE* VERSION OF THE MOTION TO
IMPOSE COUNSEL**

The Office of the Prosecutor:

Ms Christine Dahl
Mr Daryl Mundis

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");

SEIZED of the motion brought orally by the Accused on 26 August 2008 ("Motion of the Accused")¹ seeking the full disclosure of the motion to impose counsel, filed by the Prosecution on 28 July 2008, as well as its annexes, filed on 1 August 2008 ("Motion to Impose Counsel");²

NOTING the Motion to Impose Counsel, in which the Prosecution formally objects to the disclosure of "sensitive" information to the Accused and requests that the Prosecution, along with the Victims and Witnesses Section of the Tribunal, be informed prior to any potential disclosure;³

NOTING Article 20 (1) of the Statute of the Tribunal according to which the Chamber has a duty to ensure that proceedings are conducted with full respect for the rights of the accused and regard for the protection of victims and witnesses;

NOTING Rule 70 (A) of the Rules of Procedure and Evidence of the Tribunal ("Rules") which provides: "Notwithstanding the provisions of Rules 66 and 67, reports, memoranda, or other internal documents prepared by a party, its assistants or representatives in connection with the investigation or preparation of the case, are not subject to disclosure or notification under those Rules";

CONSIDERING that consequently the Chamber may not disclose documents and information which might jeopardize the safety of witnesses, in particular in the event that the allegations made in the Motion to Impose Counsel should prove to be well-founded;

¹ Hearing of 26 August 2008, Transcript in French, 9806.

² Prosecution's Motion to Terminate the Accused's Self-Representation, with annexes, confidential and *ex parte*, 29 July 2008 ("Motion to Assign Counsel"), confidential and *inter partes* version filed on 30 July 2008 and annexes filed on 1 August 2008 (a confidential and *inter partes* version was filed on 18 August 2008); public version filed 8 August 2008.

³ Motion to Impose Counsel, para. 5.

CONSIDERING furthermore that the internal documents of the Prosecution which were disclosed to the Chamber in the confidential and *ex parte* version of the Motion to Impose Counsel are not subject to disclosure to the Accused;

CONSIDERING nonetheless that the Chamber holds that the statements inserted at tabs 16 and 61, to which reference is made in the confidential and *inter partes* version of the Motion to Impose Counsel,⁴ may be disclosed to the Accused;

CONSIDERING moreover that the Chamber holds that paragraphs 127 to 131 of the annex entitled “Chronology” to the Motion to Impose Counsel (with the exception of the first three sentences), as well as the statements inserted at tabs 34 and 44 may be disclosed to the Accused, who is already in possession of the information about this witness who has already given evidence before the Chamber;

FOR THESE REASONS

IN ACCORDANCE with Article 20 (1) of the Statute and Rules 54 and 70 (A) of the Rules

PARTIALLY GRANTS the Motion of the Accused and **ORDERS** that the following be disclosed to the Accused, as soon as possible and in a language he understands:

- (i) the statements inserted at tabs 16 and 61;
- (ii) the statements inserted at tabs 34 and 44; and
- (iii) paragraphs 127 to 131 (with the exception of the first three sentences) of the annex entitled “Chronology” to the Motion to Impose Counsel.

ORDERS that the Accused shall have one month to respond to the Motion to Impose Counsel, which shall begin to run as from the date he receives, in a language he understands, the documents mentioned in sub-paragraphs (i) to (iii) above.

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

 /signed/

Jean-Claude Antonetti
Presiding Judge

Done this twenty-seventh day of August 2008
At The Hague
The Netherlands

[Seal of the Tribunal]

⁴ See confidential and *inter partes* version of the Motion to Impose Counsel, chronology, footnotes 31 and 32.