



CASE INFORMATION SHEET

(IT-03-67)

VOJISLAV ŠEŠELJ



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	Founder of the Serbian National Renewal Party, (later renamed the Serbian Chetnik Movement), which was banned by the authorities of the Socialist Federal Republic of Yugoslavia (SFRY) in December 1990. Appointed president of the newly founded Serbian Radical Party (SRS) in February 1991. Elected member of the Assembly of the Republic of Serbia in June 1991
Indictment	Initial:14 February 2003; operational indictment filed: 7 December 2007
Surrendered	23 February 2003
Transferred to ICTY	24 February 2003
Plea	3 November 2005: no plea entered. Not guilty plea entered on his behalf
Commencement of trial	7 November 2007
Closing arguments	5-20 March 2012
Trial Chamber Judgement	31 March 2016, acquitted of all charges

INDICTMENT

Three counts of crimes against humanity

- Persecutions on political, racial or religious grounds (Count 1)
- Deportation, inhumane acts (forcible transfer) - (Counts 10 to 11)

Six counts of violations of the laws or customs of war

- Murder – Count 4
- Torture and cruel treatment – (Count 8 to 9)
- Wanton destruction, destruction or wilful damage done to institutions dedicated to religion or education, plunder of public or private property – (Counts 12 to 14)¹

Alleged Responsibility of the Accused

Šešelj is alleged to have propagated a policy of uniting "all Serbian lands" in a homogeneous Serbian state, which he referred to as "Greater Serbia". This state was to include Serbia, Montenegro, Macedonia and considerable parts of Croatia and Bosnia and Herzegovina (BiH).

Vojislav Šešelj is alleged to be individually criminally responsible for the crimes in the indictment. The indictment alleges that he planned, ordered, instigated, committed or otherwise aided and abetted in the planning, preparation or execution of these crimes.

¹ Counts 2, 3, 5, 6 and 7 were removed from the initial indictment.

“Commission” in the indictment includes the participation of Vojislav Šešelj in a joint criminal enterprise (JCE). The aim of the JCE was for the permanent forcible removal of a majority of the Croat, Muslim and other non-Serb civilian populations from parts of Croatia, BiH and from the province of Vojvodina in the Republic of Serbia. The indictment alleges that the JCE came into existence before 1 August 1991 and continued until at least December 1995. It included the participation of a number of persons, *inter alia* Slobodan Milošević (former President of Serbia), and other ethnic Serb top political and military officials. Šešelj participated in the JCE until September 1993, when he came into conflict with Milošević.

Acting alone and in concert with other members of the JCE, Šešelj is alleged to have participated in the recruitment, formation, financing, supply, support and direction of Serbian volunteers connected to the SRS and/or Serbian Chetnik Movement. He is also accused of having participated in the planning and preparation of the take-over of towns and villages in Croatia and in a number of municipalities in Bosnia and Herzegovina, and the subsequent forcible removal of the majority of the non-Serb population from those areas. He is accused of having participated in the provision of financial, material, logistical and political support necessary from the Serbian authorities and from Serbs living abroad for the take-overs. He is accused of collecting the funds to support the aim of the JCE, with the help of Slobodan Milošević. In addition, he stands accused of having recruited Serbian volunteers connected to the SRS and indoctrinated them with his extreme ethnic rhetoric so that they engaged in the forcible removal of the non-Serb population in the targeted territories through the commission of crimes as specified in the indictment, with particular violence and brutality.

Finally, the indictment states that, in his inflammatory speeches, he instigated Serb forces to commit crimes, encouraged the creation of a homogeneous "Greater Serbia" by violence, and thereby participated in war propaganda and incitement of hatred towards non-Serb people.

THE TRIAL

The trial commenced on 27 November 2006, in the absence of Vojislav Šešelj who had been on a hunger-strike since 10 November 2006 and refused to appear in court. On the same day, the Trial Chamber issued a decision terminating the self-representation status of the Accused and assigning Counsel to conduct his defence.

On 27 and 28 November 2006, the Prosecution delivered its opening statement.

On 1 December 2006, in light of the medical situation of the Accused, the Trial Chamber ordered an adjournment of the trial until further notice.

On 6 December 2006, the Trial Chamber ordered the Dutch authorities to provide medical services with the aim of protecting the health and welfare of the Accused and to avoid loss of life.

On 7 December 2006, Šešelj filed an appeal against the decision assigning him counsel and on 8 December 2006, the Appeals Chamber issued its decision “nullif[ying] the opening of the proceeding in this case and order[ing] that the trial restart” when Vojislav Šešelj was “fully able to participate in the proceeding as a self-represented accused.”

On 7 November 2007, the trial restarted with the opening statement by the Prosecution. On 11 December 2007, the Prosecution started the presentation of evidence.

On 11 February 2009, the Trial Chamber issued a majority decision (Judge Antonetti dissenting) granting the Prosecution’s request to adjourn the proceedings due to the alleged intimidation of their witnesses.

On 24 November 2009, the Chamber granted the Accused’s request to review of the adjournment decision and ordered that the trial should resume on 12 January 2010.

On 13 January 2010, the Prosecution completed the presentation of its evidence.

On 4 May 2011, the Trial Chamber issued an oral decision pursuant to Rule 98*bis* dismissing the motion for acquittal filed by the Accused. Judge Antonetti appended a dissenting opinion.

There was no Defence case.

The parties presented their closing arguments between 5 and 20 March 2012.

On 9 July 2013, Vojislav Šešelj filed a motion seeking the disqualification of Judge Frederik Harhoff on the basis of a letter that the Judge wrote dated 6 June 2013. On 28 August 2013, Judge Harhoff was disqualified from this case by the specially appointed Chamber that found he had demonstrated an unacceptable appearance of bias in favour of conviction.

On 31 October 2013, Judge Mandiaye Niang replaced Judge Harhoff on the bench in this case. Subsequently, on 13 December 2013, the new Trial Chamber ordered the proceedings to resume as soon as Judge Niang familiarised himself with the case file.

On 6 November 2014, the Trial Chamber ordered, *proprio motu*, the provisional release of Vojislav Šešelj on humanitarian grounds due to the deterioration of his health. The Accused was transferred to Serbia on 12 November 2014.

TRIAL CHAMBER JUDGEMENT

The judgement was pronounced on 31 March 2016. The Majority, Judge Lattanzi dissenting, found that the Prosecution failed to prove the existence of a criminal purpose, a legal requirement to the JCE.

The Majority, Judge Lattanzi dissenting, also found that the recruitment of volunteers through which Vojislav Šešelj was deemed to have participated in the JCE or aided and abetted the crimes, was a legal activity regulated by the Yugoslav constitution and other relevant laws at the time. In any event, the Majority, Judge Lattanzi dissenting, concluded that the volunteers, once recruited and sent to the front, were not under the authority of Vojislav Šešelj, but rather under military command, as per the principle of Unicity of Command embodied in the pertinent regulations.

In relation to the accused's speeches, the Majority, Judge Lattanzi dissenting, could not rule out the reasonable possibility that some of those speeches were made in a context of conflict and were meant to boost the morale of the troops of his camp, rather than calling upon them to spare no one. Another Majority, Judge Antonetti dissenting, found that two other speeches constituted clear appeals for the expulsion and forcible transfer of Croats. This holding was not sufficient, however, to enter a conviction since the Majority, Judge Lattanzi dissenting, did not find that there were widespread or systematic attacks against a civilian population during the relevant period, ruling out thereby the existence of crimes against humanity. The Majority also held that the Prosecutor did not offer compelling evidence to establish or assess the impact of Šešelj's speeches or the link to crimes committed at a later stage or in remote areas.

Subsequently, Vojislav Šešelj was cleared of all charges of the indictment, with a majority decision on eight counts and a unanimous decision on one count.

Judge Antonetti appended a concurring opinion, Judge Niang appended a statement whereas Judge Lattanzi filed a partially dissenting opinion.

STATISTICS

Trial days	175
Prosecution witnesses	90
Prosecution exhibits	1367
Defence exhibits	6
Chamber witnesses	9
Chamber exhibits	26

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