



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: 10 April 2008  
Original: ENGLISH  
French

**IN TRIAL CHAMBER III**

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

**Registrar:** Mr Hans Holthuis

**Decision of:** 10 April 2008

**THE PROSECUTOR**

v.

**VOJISLAV ŠEŠELJ**

***PUBLIC DOCUMENT***

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**DECISION ON THE ACCUSED'S MOTION FOR CERTIFICATION TO  
APPEAL THE ORAL DECISION OF 20 MARCH 2008**

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**The Office of the Prosecutor**

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 a motion for certification to appeal presented orally by Vojislav Šešelj (“Motion” and “Accused”, respectively) on 20 March 2008 with regard to the Chamber’s oral decision rendered the same day (“Impugned Decision”);<sup>1</sup>

**NOTING** the Chamber’s oral decision rendered on 18 March 2008 granting the oral motion by the Office of the Prosecutor (“Prosecution”) of the same day to remove the confidentiality, solely for the Parties in the present case, of certain information contained in documents obtained from third parties (“Documents”), so that the Prosecution may disclose them to the Accused pursuant to Rule 66 (A) (ii) of the Rules of Procedure and Evidence (“Rules”);<sup>2</sup>

**NOTING** the Impugned Decision in which the Chamber modified and clarified its oral decision of 18 March 2008 by ruling on the Prosecution’s urgent motion to obtain protective measures with regard to the Documents (filed confidentially and *ex parte* on 19 March 2008) and in which the Chamber ordered in particular that the Documents thus disclosed to the Accused be returned to the Tribunal Registry (“Registry”) at the end of the present proceedings;<sup>3</sup>

**CONSIDERING** that the Accused requested certification to appeal only the part of the Impugned Decision regarding his obligation to return the Documents to the Registry at the end of trial;<sup>4</sup>

**CONSIDERING** that the Accused submits he has the right to keep all the documents he receives during the trial;<sup>5</sup>

**CONSIDERING** that in light of Rule 73 (B) of the Rules, decisions regarding all motions are without interlocutory appeal save with certification by the Chamber after

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<sup>1</sup> Hearing of 20 March 2008, Transcript in French (“CT(F)”) 5099 (private session).

<sup>2</sup> Hearing of 18 March 2008, CT(F) 4894-4895 (private session).

<sup>3</sup> Hearing of 20 March 2008, CT(F) 5097 (private session).

<sup>4</sup> Hearing of 20 March 2008, CT(F) 5099 (private session).

having verified that the decision involves an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial and for which an immediate resolution by the Appeals Chamber may materially advance the proceedings;

**CONSIDERING** consequently that the certification of an appeal is a discretionary power of the Chamber which must, in any case, verify beforehand that the two cumulative conditions set out in Rule 73 (B) of the Rules have been fulfilled in the present case;<sup>6</sup>

**CONSIDERING** that in the present case, the question of the Accused returning the Documents at the end of the trial does not constitute an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, and furthermore that the immediate resolution of this issue by the Appeals Chamber will do nothing to materially advance the proceedings;

**CONSIDERING** that in this case, the Accused will be entitled to all the documents that have been disclosed to him and that deal with his case, until the end of his trial before the Tribunal;

## **FOR THE FOREGOING REASONS**

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<sup>5</sup> Hearing of 20 March 2008, CT(F) 5099 (private session).

<sup>6</sup> *The Prosecutor v. Pavle Strugar*, Case No. IT-01-42-T, Decision on Defence Motion for Certification, 17 June 2004, para. 2; *The Prosecutor v. Milan Milutinović, Nikola Šainović, Dragoljub Ojdanić, Nebojša Pavković, Vladimir Lazarević and Sreten Lukić*, Case No. IT-05-87-T, Decision on Prosecution's Request for Certification of Interlocutory Appeal of Second Decision on Addition of Wesley Clark to Rule 65 *ter* List, 14 March 2007, para. 3.

**PURSUANT TO** Articles 20 (1) and 21 (4) of the Statute and Rule 73 (B) of the Rules,

**DENIES** the Motion.

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

          /signed/            
Jean-Claude Antonetti  
Presiding Judge

Done this tenth day of April 2008  
At The Hague  
The Netherlands

**[Seal of the Tribunal]**