



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: 5 April 2012

Original: ENGLISH
French

IN TRIAL CHAMBER III

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

Registrar: Mr John Hocking

Order of: 5 April 2012

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC DOCUMENT

**REDACTED VERSION OF THE “ORDER FURTHER TO THE 'ORDER TO
PROCEED
WITH A NEW MEDICAL EXAMINATION' OF 12 MARCH 2012”**

The Office of the Prosecutor

Mr Mathias Marcussen

The Accused

Mr Vojislav Šešelj

TRIAL CHAMBER III 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 (“Chamber” and “Tribunal” respectively);

PROPRIO MOTU,

NOTING the “Order to Proceed with a New Medical Examination”, issued publicly on 12 March 2012 (“Order of 12 March 2012”), in which the Chamber ordered the Registrar to appoint a panel of three medical experts with a view to providing a report on the compatibility of the detention of Vojislav Šešelj (“Accused”) at the United Nations Detention Unit (“Detention Unit”) with his health, and encouraged the Accused to cooperate by allowing these experts to examine him and/or to have access to his medical records,¹

CONSIDERING that the Chamber notes that the Accused once again informed the Registry of the Tribunal (“Registry”) of his refusal to cooperate, or be examined by a panel of three doctors, or to let them consult his medical records,²

[redacted],³

CONSIDERING that the Chamber is always extremely concerned about the Accused's health and deems that, despite the Accused's refusal to cooperate, it is in the interest of justice and the health of the Accused himself to allow this panel of experts to carry out its mission,

CONSIDERING that the Chamber notes that Rule 34 (D) (ii) of the Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Tribunal or Otherwise Detained on the Authority of the Tribunal⁴ stipulates that

¹ Order of 12 March 2012, p. 2.

² **Internal Memorandum of the Registrar of the Tribunal sent to the Judges of the Chamber, 30 March 2012**; see also the Order of 12 March 2012, p. 1, in which the Chamber already noted that the Accused was refusing to cooperate.

³ **[redacted]**.

⁴ Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Tribunal or Otherwise Detained on the Authority of the Tribunal (“Rules Governing Detention”) adopted on 15 May 1994 and amended on 21 July 2005.

(D) Information contained in the detainee's medical records may be consulted or disclosed:

[...]

(ii) in the interest of justice and the good administration of trial, by order of a Judge or Chamber of the Tribunal, after consultation with the medical officer.

CONSIDERING that, in light of the current circumstances of the case and the urgency of the situation, the Chamber deems it necessary to apply this provision and redefine the mandate of the panel of three medical experts,

FOR THE FOREGOING REASONS

PURSUANT TO Rule 54 of the Rules of Procedure and Evidence, and Rule 34 (D) (ii) of the Rules Governing Detention,

ORDERS the Registrar:

- (a) to appoint a panel of three medical experts and to provide, as soon as possible and at the latest within 30 days of the date of this Order, their report on the compatibility of the Accused's detention at the Detention Union with his health,
- (b) to obtain, pursuant to Rule 35 (A) and (B) of the Rules Governing Detention, an opinion of the Medical Officer on the Accused's health as well as on the possibility that his physical health may have been or could be affected by the conditions of his detention and to disclose this opinion to the panel of three medical experts,
- (c) to allow the panel of three medical experts to visit the Detention Unit so as to assess the compatibility of the medical facilities with the Accused's health,
- (d) to seek advice from the Medical Officer of the Detention Unit on whether it would be appropriate for the panel of three medical experts to consult, pursuant to Rule 34 (D) (ii) of the Rules Governing Detention, the Accused's medical records and, if the Medical Officer of the Detention Unit thinks so, to

allow the panel of three medical experts to consult the Accused's medical records in order to draw up the aforementioned report,

- (e) to disclose to the panel of three medical experts the public report on the Accused's health compiled by four Serbian doctors on 10 February 2012⁵ and any other documents that this panel deems necessary to draw up its report.

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

 /signed/
Jean-Claude Antonetti
Presiding Judge

Done this fifth day of April 2012
At The Hague
The Netherlands

[Seal of the Tribunal]

⁵ The Chamber notes that this report, which in particular concluded that the Accused's health problems could not be dealt with in circumstances of detention, was published on the Accused's website at the beginning of March 2012 (*see* <http://www.vseselj.com/index.php?a=1274>).