

**UNITED
NATIONS**

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-AR65.1

Date: 14 April 2015

IN THE APPEALS CHAMBER

Before:

Judge William H. Sekule, Presiding
Judge Arlette Ramaroson
Judge Khalida Rashid Khan
Judge Bakhtiya Tuzmukhamedov
Judge Koffi Kumelio A. Afande

Registrar:

Mr. John Hocking

Date:

14 April 2015

THE PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC

**URGENT PROSECUTION MOTION FOR ENFORCEMENT OF
DECISION ON REVOCATION OF PROVISIONAL RELEASE**

The Office of the Prosecutor:

Mr. Serge Brammertz
Mr. Mathias Marcussen

The Accused:

Vojislav Šešelj

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-03-67-AR65.1

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v.

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PUBLIC

**URGENT PROSECUTION MOTION FOR ENFORCEMENT OF DECISION ON
REVOCATION OF PROVISIONAL RELEASE**

1. On 30 March 2015, the Appeals Chamber ordered the Trial chamber to “immediately” issue an order revoking Šešelj’s provisional release (Decision).¹ Some two weeks later, the Trial Chamber has failed to implement the Appeals Chamber’s Decision. Accordingly, the Appeals Chamber should issue a further order for the Trial Chamber to revoke Šešelj’s provisional release within one day of its decision on this Motion.

2. On 30 March 2015, the Appeals Chamber granted the Prosecution’s appeal² against the Trial Chamber’s decision not to reconsider its *proprio motu* order³ granting Šešelj provisional release.⁴ The Appeals Chamber found that, because Šešelj has stated that he will not voluntarily return to the Tribunal if he is ordered to, no reasonable trial chamber could remain satisfied that the first two pre-conditions of Rule 65(B) of the Rules of Procedure and Evidence remain satisfied.⁵ The Appeals Chamber therefore

¹ *Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-AR65.1, Decision on Prosecution Appeal against the Decision on the Prosecution Motion to Revoke the Provisional Release of the Accused, 30 March 2015 (“Decision”).

² *Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-AR65.1, Prosecution Appeal of the Decision on the Prosecution Motion to Revoke the Provisional Release of the Accused, 20 January 2015.

³ *Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-T, Order on the Provisional Release of the Accused *Proprio Motu*, 6 November 2014.

⁴ Decision.

⁵ Decision, para. 19.

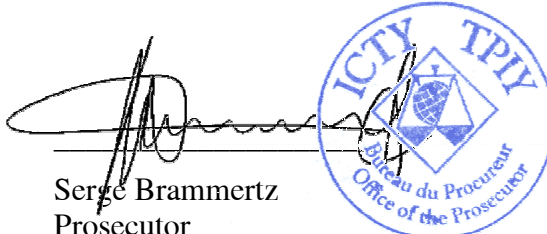
interalia ordered the Trial Chamber to “immediately revoke Šešelj’s provisional release and order his return to the UNDU”.⁶

3. The Appeals Chamber’s Decision was unequivocal. The Trial Chamber was left with no discretion about whether to revoke the provisional release or the timeframe within which to do it. The Trial Chamber has nevertheless still not implemented the Decision. Instead, it waited ten days before taking any action and then only ordered the Registrar to provide it with updated medical information regarding Šešelj’s health.⁷

4. There is no justification for this delay in the implementation of the Appeals Chamber’s unequivocal order. Šešelj’s health is irrelevant to the implementation of the Decision.⁸ Furthermore, Šešelj’s health condition cannot prevent implementation of the Decision as his health need not suffer any prejudice from his return to The Hague.⁹

5. For the foregoing reasons, the Appeals Chamber should order the Trial Chamber to revoke Šešelj’s provisional release within one day of its decision on this Motion.

Word Count: 544



Serge Brammertz
Prosecutor

Dated this 14th day of April 2015

At The Hague, The Netherlands

⁶ Decision, para. 22.

⁷ *Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-T, Décision avant-dire-droit sur le fond relative à la révocation de la mise en liberté de l’accusé, 10 April 2015.

⁸ Rather, Šešelj’s health condition is one of the factors that the Appeals Chamber explicitly held could be considered in determining whether Šešelj can be granted provisional release in the future after Šešelj returns to The Hague. Decision, para. 22. *See also*, para. 20.

⁹ The Deputy Registry confirmed on 10 April 2015, that if Šešelj returns to the UNDU he will continue to benefit from medical treatment, which independent experts have verified are in conformity with both Dutch and international guidelines. *Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-T, Deputy Registrar’s Submission in Relation to the Décision avant-dire-droit sur le fond relative à la révocation de la mise en liberté de l’accusé, 10 April 2015, para. 6 and Annexed Internal Memorandum from the Deputy Registrar dated 9 April 2015, para. 1.