

**UNITED
NATIONS**



Mechanism for International Criminal Tribunals

Case No. MICT-16-99-A

Date: 17 October 2017

Original: English

BEFORE THE APPEALS CHAMBER

Before: Judge Theodor Meron, Presiding
Judge Lee G. Muthoga
Judge Florence Rita Arrey
Judge Ben Emmerson
Judge Ivo Nelson de Caires Batista Rosa

Registrar: Mr. Olufemi Elias

Order of: 17 October 2017

PROSECUTOR

v.

VOJISLAV ŠEŠELJ

PUBLIC

SCHEDULING ORDER FOR THE APPEAL HEARING

The Office of the Prosecutor:

Mr. Serge Brammertz
Mr. Mathias Marcussen
Ms. Barbara Goy

The Respondent:

Mr. Vojislav Šešelj, *pro se*

THE APPEALS CHAMBER of the International Residual Mechanism for Criminal Tribunals (“Appeals Chamber” and “Mechanism”, respectively);¹

BEING SEISED of the Prosecution’s appeal² against the judgement rendered in this case on 31 March 2016 by Trial Chamber III of the International Criminal Tribunal for the former Yugoslavia (“ICTY”);³

CONSIDERING that the briefing in this case is complete;⁴

CONSIDERING that, in accordance with Rule 141 of the Rules of Procedure and Evidence (“Rules”), “[a]fter the expiry of the time-limits for filing the briefs [...], the Appeals Chamber shall set the date for the hearing and the Registrar shall notify the Parties”;

CONSIDERING that Vojislav Šešelj has elected to represent himself and that he has the right to self-representation at the appeal stage;⁵

CONSIDERING that Šešelj has the right to be present at the appeal hearing, that his presence is required,⁶ and that he may waive his right to appear before the Appeals Chamber only if his interests are represented by counsel;⁷

NOTING that, in his Response Brief, Šešelj has indicated his intention not to participate in the appeal hearing;⁸

RECALLING that, in view of this, on 18 September 2017, the Appeals Chamber specifically warned Šešelj that, should he maintain his intention not to attend the appeal hearing, it would

¹ Order Assigning Judges to a Case Before the Appeals Chamber, 10 May 2016.

² Prosecution’s Notice of Appeal, 2 May 2016; Prosecution Appeal Brief, 18 July 2016 (confidential with confidential annex; public redacted version filed on 29 August 2016); Corrigendum to Prosecution Appeal Brief, 29 August 2016 (confidential with confidential annex).

³ *Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-T, Judgement, 14 June 2016 (“Trial Judgement”) (original French version filed on 31 March 2016). See also Trial Judgement, Individual Statement of Judge Mandiaye Niang, 14 June 2016 (original French version filed on 31 March 2016); Trial Judgement, Concurring Opinion of Presiding Judge Jean-Claude Antonetti Attached to the Judgement, 16 September 2016 (original French version filed on 31 March 2016); Trial Judgement, Partially Dissenting Opinion of Judge Flavia Lattanzi – Amended Version, 1 July 2016 (original French version filed on 12 April 2016).

⁴ See Profes[s]or Vojislav [Š]ešelj’s Respondent’s Brief, 7 February 2017 (original B/C/S version received on 19 December 2016) (“Response Brief”); Prosecution Reply Brief, 22 February 2017.

⁵ See *Prosecutor v. Momčilo Krajišnik*, Case No. IT-00-39-A, Decision on Momčilo Krajišnik’s Request to Self-Represent, on Counsel’s Motions in Relation to Appointment of *Amicus Curiae*, and on the Prosecution Motion of 16 February 2007, 11 May 2007, paras. 10-13.

⁶ See Article 19(4)(d) of the Statute. See also *Ferdinand Nahimana et al. v. The Prosecutor*, Case No. ICTR-99-52-A, Judgement, 16 May 2008 (original French version filed on 28 November 2007), paras. 96, 109.

⁷ See Rules 98 and 131 of the Rules.

⁸ Response Brief, paras. 410-412 (where Šešelj submits that “this is his final communication with the ICTY and that he does not further intend to participate in any way in proceedings before the ICTY”, that he “will never return to The Hague Tribunal voluntarily”, and that he “is taking the opportunity in his last submission to the ICTY to inform the Appeals Chamber that he has no intention of coming to The Hague even for the rendering of the Appeal Judgement”).

instruct the Registrar to assign a standby counsel to represent his interests at the hearing,⁹ and would allow him to respond in writing to the substance of the appeal hearing following receipt of the B/C/S appeal hearing transcript;¹⁰

RECALLING FURTHER that the Appeals Chamber considered the possibility that, should Šešelj not be able to travel to The Hague for the hearing, he may request to participate by way of video-conference link, and that it sought clarification of his position within 10 days of his receipt of the Order;¹¹

NOTING that Šešelj did not respond to the Order;¹²

RECALLING that, in view of his refusal to respond to the Order, on 11 October 2017, the Appeals Chamber instructed the Registrar to assign a standby counsel in the event that Šešelj does not appear for the appeal hearing, and decided that the mandate of standby counsel shall be strictly limited to ensuring that Šešelj's procedural rights at the appeal hearing are protected and shall not extend to responding to the substance of the Prosecution's appeal;¹³

HEREBY ORDERS that the hearing of the appeal in the present case shall take place on Wednesday, 13 December 2017, in The Hague, the Netherlands;

INFORMS the parties that the timetable of the hearing shall be as follows, subject to adjustments as appropriate:

Wednesday, 13 December 2017

13:00 – 13:10 Introductory statement by the Presiding Judge (10 minutes)

13:10 – 14:10 Submissions of the Prosecution (1 hour)

14:10 – 14:30 Pause (20 minutes)

14:30 – 15:30 Response by Šešelj, in the event that he participates in the hearing (1 hour)

15:30 – 16:00 Reply by the Prosecution, in the event that Šešelj responds (30 minutes)

⁹ Order in Relation to the Appeal Hearing, 18 September 2017 ("Order"), p. 3. *See also* Order, p. 2.

¹⁰ Order, p. 2.

¹¹ Order, p. 3.

¹² Decision on Assignment of Standby Counsel for the Appeal Hearing, 11 October 2017 ("Decision Assigning Standby Counsel"), p. 2.

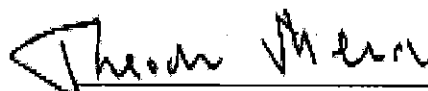
¹³ Decision Assigning Standby Counsel, pp. 2, 3.

INFORMS the parties that, should Šešelj not participate in the hearing, his response in writing to the oral arguments of the Prosecution is due within 10 days of receiving the B/C/S transcript of the hearing, and the Prosecution's reply is due within five days from the receipt of an English translation of Šešelj's written response, if any; and

ORDERS the Registrar to facilitate the B/C/S transcription of the appeal hearing, in the event that Šešelj does not attend, and to serve the B/C/S transcript on Šešelj as soon as practicable after the appeal hearing.

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

Done this 17th day of October 2017,
At The Hague,
The Netherlands



Judge Theodor Meron, Presiding

[Seal of the Mechanism]



**TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH THE
MECHANISM FOR INTERNATIONAL CRIMINAL TRIBUNALS/
FICHE DE TRANSMISSION POUR LE DÉPÔT DE DOCUMENTS DEVANT LE
MÉCANISME POUR LES TRIBUNAUX PÉNAUX INTERNATIONAUX**

I - FILING INFORMATION / INFORMATIONS GÉNÉRALES

To/ À :	MICT Registry/ <i>Greffe du MPTI</i>	<input type="checkbox"/> Arusha/ <i>Arusha</i>	<input checked="" type="checkbox"/> The Hague/ <i>La Haye</i>
From/ De :	<input checked="" type="checkbox"/> Chambers/ <i>Chambre</i>	<input type="checkbox"/> Defence/ <i>Défense</i>	<input type="checkbox"/> Prosecution/ <i>Bureau du Procureur</i> <input type="checkbox"/> Other/ <i>Autre :</i>
Case Name/ Affaire :	Prosecutor v. Vojislav Šešelj	Case Number/ Affaire n° :	MICT-16-99-A
Date Created/ Daté du :	17 October 2017	Date transmitted/ Transmis le :	17 October 2017
		No. of Pages/ Nombre de pages :	4
Original Language / Langue de l'original :	<input checked="" type="checkbox"/> English/ <i>Anglais</i>	<input type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Kinyarwanda <input type="checkbox"/> B/C/S <input type="checkbox"/> Other/ <i>Autre</i> (specify/préciser) :
Title of Document/ Titre du document :	SCHEDULING ORDER FOR THE APPEAL HEARING		
Classification Level/ Catégories de classification :	<input checked="" type="checkbox"/> Unclassified/ <i>Non classifié</i>	<input type="checkbox"/> Ex Parte Defence excluded/ <i>Défense exclue</i>	
	<input type="checkbox"/> Confidential/ <i>Confidentiel</i>	<input type="checkbox"/> Ex Parte Prosecution excluded/ <i>Bureau du Procureur exclu</i>	
	<input type="checkbox"/> Strictly Confidential/ <i>Strictement confidentiel</i>	<input type="checkbox"/> Ex Parte R86(H) applicant excluded/ <i>Art. 86 H) requérant exclu</i>	
		<input type="checkbox"/> Ex Parte Amicus Curiae excluded/ <i>Amicus curiae exclu</i>	
		<input type="checkbox"/> Ex Parte other exclusion/ <i>autre(s) partie(s) exclue(s)</i> (specify/préciser) :	
Document type/ Type de document :	<input type="checkbox"/> Motion/ <i>Requête</i>	<input type="checkbox"/> Submission from parties/ <i>Écritures déposées par des parties</i>	<input type="checkbox"/> Indictment/ <i>Acte d'accusation</i>
	<input type="checkbox"/> Decision/ <i>Décision</i>	<input type="checkbox"/> Submission from non-parties/ <i>Écritures déposées par des tiers</i>	<input type="checkbox"/> Warrant/ <i>Mandat</i>
	<input checked="" type="checkbox"/> Order/ <i>Ordonnance</i>	<input type="checkbox"/> Book of Authorities/ <i>Recueil de sources</i>	<input type="checkbox"/> Notice of Appeal/ <i>Acte d'appel</i>
	<input type="checkbox"/> Judgement/ <i>Jugement/Arrêt</i>	<input type="checkbox"/> Affidavit/ <i>Déclaration sous serment</i>	

II - TRANSLATION STATUS ON THE FILING DATE/ ÉTAT DE LA TRADUCTION AU JOUR DU DÉPÔT

<input type="checkbox"/> Translation not required/ <i>La traduction n'est pas requise</i>					
<input checked="" type="checkbox"/> Filing Party hereby submits only the original, and requests the Registry to translate/ <i>La partie déposante ne soumet que l'original et sollicite que le Greffe prenne en charge la traduction :</i> (Word version of the document is attached/ <i>La version Word est jointe</i>)					
<input type="checkbox"/> English/ <i>Anglais</i>	<input checked="" type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Kinyarwanda	<input checked="" type="checkbox"/> B/C/S	<input type="checkbox"/> Other/ <i>Autre</i> (specify/préciser) :	
<input type="checkbox"/> Filing Party hereby submits both the original and the translated version for filing, as follows/ <i>La partie déposante soumet l'original et la version traduite aux fins de dépôt, comme suit :</i>					
Original/ Original en	<input type="checkbox"/> English/ <i>Anglais</i>	<input type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Kinyarwanda	<input type="checkbox"/> B/C/S	<input type="checkbox"/> Other/ <i>Autre</i> (specify/préciser) :
Translation/ Traduction en	<input type="checkbox"/> English/ <i>Anglais</i>	<input type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Kinyarwanda	<input type="checkbox"/> B/C/S	<input type="checkbox"/> Other/ <i>Autre</i> (specify/préciser) :
<input type="checkbox"/> Filing Party will be submitting the translated version(s) in due course in the following language(s)/ <i>La partie déposante soumettra la (les) version(s) traduite(s) sous peu, dans la (les) langue(s) suivante(s) :</i>					
<input type="checkbox"/> English/ <i>Anglais</i>	<input type="checkbox"/> French/ <i>Français</i>	<input type="checkbox"/> Kinyarwanda	<input type="checkbox"/> B/C/S	<input type="checkbox"/> Other/ <i>Autre</i> (specify/préciser) :	

Send completed transmission sheet to/ *Veillez soumettre cette fiche dûment remplie à :*
JudicialFilingsArusha@un.org OR/OU JudicialFilingsHague@un.org

Rev: April 2014/Rév. : Avril 2014