

Seselj Calls Court a "Theatrical Production"

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Serbian ultra-nationalist leader puts on a show at his latest court appearance. Journalists and members of the public who squeezed into the tiny public gallery of the Hague tribunal's Courtroom Two had a ringside seat this week for another signature performance from Serbian Radical Party leader Vojislav Seselj.

Seselj – famous for the obscene language and insults he hurls at the court – referred to the defence lawyer whom trial judges had assigned to him as “that man with the bird’s nest on his head” and was sent out at his own request shortly after the status conference started.

Before leaving, Seselj described the court as a “theatrical production” which had “denied me my right to represent myself”.

“You have brought actors here to represent me, and you are acting in contravention of my human rights,” he said.

Seselj’s regular outbursts and vitriolic written submissions to the court – at last count there were around 200 – have caused outrage and amusement in equal measure amongst those who monitor tribunal proceedings.

When Seselj was testifying as a defence witness for the late Yugoslav president Slobodan Milosevic in 2005, prosecutor Geoffrey Nice requested that he read one particularly vulgar submission aloud in court.

The footage of Seselj doing so was broadcast on Serbia’s B-92 television channel, and gained infamy after it became available as an audio clip on the internet. It was even downloaded as a ring-tone for mobile phones in Serbia and Montenegro.

The September 14 status conference was designed to work through all the prosecution and defence issues ahead of the start of the trial, which Presiding Judge Alphons Orie announced would begin in early November.

Since the beginning of proceedings, Seselj has claimed the right under international law to represent himself and manage his own defence. However, in August the trial judges assigned him a permanent defence counsel because of his rude outbursts and uncooperative behaviour – an attitude still apparent at this week’s status conference.

Early on, Seselj interrupted Judge Orie, saying, “You are duty bound to stay the proceedings until you deal with the motion I submitted this morning to dismiss Judge Orie.”

The judge reminded Seselj that the court can only deal with submissions filed through the proper channels, in this case his newly assigned lawyer David Hooper.

Seselj replied, "Hooper will never be able to do anything on my behalf", adding, "He has no right to represent me."

He then asked the judge to order the guards to escort him out of the courtroom.

The conference continued without Seselj, with Judge Orié hearing prosecution and defence arguments on various issues including when the identities of protected witnesses should be revealed to the defence, and how necessary such protection really was.

Normally the defence learns the identity of protected witnesses around 30 days ahead of the trial, but the prosecution is seeking a delay to disclosure in this case.

In the past, Seselj has revealed the identity of protected witnesses over the phone to people outside the court, who then threatened to harm the individuals concerned.

Comparing Seselj's case with that of Milosevic - where disclosure of witnesses occurred 10 days before the start of the trial - prosecution lawyer Hildegard Uertz-Retzlaff said, "Delayed disclosure is perfectly acceptable in this case."

She told the court that a delicate balance needs to be struck to avoid exposing witnesses to risk, and that the date needed to be moved closer to the trial start in view of the security concerns.

Hooper told the court that the prosecution's reasons for wanting such stringent measures had not been included in any submissions or explained to the court.

Uertz-Retzlaff explained that stating why each witness needed to be protected would necessitate revealing their identity.

Judge Orié gave the prosecution team five days to review whether their witnesses really did need protective measures and to justify why.

Attention then turned to the issue of streamlining the indictments.

Seselj was indicted in February 2003 on 14 counts of crimes against humanity and violations of the laws or customs of war for his alleged actions in Bosnia and Croatia between 1991 and 1993. It was amended in July 2005.

After lessons learnt during the lengthy trial of Milosevic, the judges tried to encourage prosecutors to cut some charges so as to expedite proceedings.

However, Uertz-Retzlaff suggested that the indictment had already been streamlined adequately. She said the situation in each of the nine municipalities where Seselj is accused of either instigating or personally committing crimes is unique.

“We have only charged Seselj with a few offences per municipality, so we do not want to drop a municipality because we would lose whole chapters of criminal conduct,” said the prosecution lawyer.

The prosecution estimates that the trial will last for six months, based on a five-day week with four hours of evidence a day.

Both the prosecution and Judge Orić asked whether Hooper – who requested a four-day week – could cope with such an intense start to the trial as he will have only six weeks to prepare the defence case.

Reverting back to the issue of Seselj’s wish to represent himself, Hooper asked Judge Orić whether the accused could conduct additional cross-examination of witnesses.

The judge explained that he would need to hear why it was necessary for Seselj to take over his own defence, and said the chamber would not allow the accused to personally conduct cross-examinations if he did not go through Hooper.

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