

Seselj's Confidential Access to Lawyer Restored

Author: [Simon Jennings](#)

They overrule registry decision to suspend his privileged communication with legal team. Judges in the trial of a Serbian nationalist politician have ruled to restore his right to confidential telephone conversations with a lawyer in Belgrade, sparking divisions within the tribunal.

Vojislav Seselj, who is charged with war crimes in Serbia and Croatia between 1991 and 1993, is representing himself in The Hague. He had, however, been consulting lawyers in Serbia until the tribunal registrar stopped him making confidential phone calls on September 29 over fears that he was using them to arrange the intimidation of witnesses.

Following the ban, Seselj persistently protested to judges that he could no longer communicate with his lawyers in Belgrade on a confidential basis, yet tribunal rules prevented them from reviewing the decision.

However, on November 27, the judges ruled by a majority of two to one to reinstate his right.

In response, and employing what it calls a "spirit of compliance" with the judges' decision, the registry this week granted temporary privileged communication between Seselj and one named member of his legal team, Boris Aleksic.

However, it called upon the tribunal president to give urgent guidance as it contested the judges' right to make this decision.

According to the registry, the president is "the only competent body" to reverse its ruling.

"There could be no doubt that appeals against decisions taken by the registrar under [tribunal rules of detention should be] properly directed to the president of the tribunal and not to the trial chamber," it has told the president, Judge Patrick Robinson.

The registry also insisted the judges themselves had told Seselj he should appeal to the president, rather than the trial chamber, to lift the ban.

Adding weight to the registrar's case was dissenting Danish judge Frederick Harhoff, who disagreed with his colleagues' view that, as judges, they were entitled to make this decision.

Outvoted by judges Jean-Claude Antonetti and Flavia Lattanzi, Harhoff reasoned that if judges were to be allowed to review decisions about detention made by the registrar, then the rules governing prison procedure would have to be changed.

However, the other two judges said they were entitled to rule on this occasion, as banning Seselj's confidential communication was linked to his right to a fair trial.

They invoked the tribunal's statute which states that judges "shall ensure that a trial is fair and expeditious and that proceedings are conducted... with full respect for the rights of the accused".

Michael Karnavas, a defence lawyer at the Yugoslav tribunal, supported the action taken by the judges.

"I applaud it because if the basis of the decision is the statute and the rights of the accused, then I think [the judges] are spot on," Karnavas told IWPR. He said judges had a duty to intervene to ensure a fair trial.

"At the end of the day, it's the judges that have to make sure that the accused gets a fair trial. It's not the registry's problem, it's the judges'."

Although Judge Antonetti described the ruling as "a major step forward" in the case, his words failed to soothe Seselj.

The defendant condemned the registrar for designating a specific legal adviser and for "meddling" in his defence by suspending the status of his other legal advisors Zoran Krasic and Slavko Jerkovic, who the registry said may have "breached the terms of the confidentiality undertaking signed with the registry".

The registry ruling followed concerns over pressure being put on witnesses at Seselj's orders. In October, one witness testified in court that he had been threatened before coming to The Hague.

The defendant denies identifying or intimidating witnesses, and said the registry had no right to limit the number of his lawyers.

"I do not accept that the registrar can choose from amongst my advisers and say this one's a good one and this one isn't. I am the sole person who can decide matters like that," he told judges in court.

"You can consider that this problem has not been resolved and why you welcome this conduct on the part of the registrar is your own affair, but I must say I am quite amazed at it."

Simon Jennings is an IWPR reporter in The Hague.

Location: Serbia
Croatia

Focus: International Criminal Tribunal for the former
Yugoslavia

Source URL: <https://iwpr.net/global-voices/seseljs-confidential-access-lawyer-restored>