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**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-PT
Date: 12 March 2007
Original: English

THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL

Before: Judge Fausto Pocar, President
Registrar: Mr. Hans Holthuis
Decision of: 12 March 2007

THE PROSECUTOR

v

VOJISLAV ŠEŠELJ

**DECISION ON APPEAL AGAINST
REGISTRY DECISION OF 19 DECEMBER 2006**

Counsel for the Prosecutor:

Ms. Hildegard Uertz-Retzlaff
Mr. Ulrich Müssemer
Mr. Daniel Saxon

The Accused:

Mr. Vojislav Šešelj

PM

1. On 5 January 2007, Vojislav Šešelj (“Šešelj”) filed before me his “Appeal by Professor Vojislav Šešelj Against the Registrar’s Letter/Decision of 19 December 2006” (“Appeal”).¹ In his Appeal, Šešelj requests that I rescind the Registrar’s letter/decision of 19 December 2006 (“Impugned Decision”) and order the Registrar to: (1) “accept the fact that detention and pre-trial proceedings have lasted four years, during which Professor Vojislav Šešelj was not allowed to receive visits from his legal advisors or have privileged communication with them”; (2) “affirm the need to enable the legal advisors to be present in the Hague and have privileged communication with Professor Vojislav Šešelj every day”; (3) “increase the monthly remuneration for the case manager”; (4) “increase the monthly allowance for the rent of an office/living space to be used by the case manager and legal advisors”; and (5) “order the remuneration for travelling expenses and daily allowances of legal advisors”.² The Registrar filed a submission in response to the Appeal on 9 February 2007 pursuant to Rule 33(B) of the Rules of Procedure and Evidence of the Tribunal (“Rules”).³

Submissions

2. In his Appeal, Šešelj states that on 22 November 2006, Trial Chamber I examined his request for an order to approve the payment of expenses for the preparation of his defence and ordered the Registry of the International Tribunal to produce a written decision in response to that request within thirty (30) days. Šešelj notes that subsequently, on 7 December 2006, the Registrar accepted Aleksandar Vučić, Zoran Krasić and Slavko Jerković to be Šešelj’s legal advisors and granted them privileged communication under all relevant rules and regulations including the Code of Professional Conduct for Defence Counsel. Following that decision, the Registrar sent the Impugned Decision to Šešelj wherein he addressed the administration of facilities granted to Šešelj for the preparation and presentation of his case, including coverage of certain costs for Šešelj’s case manager and legal advisors.⁴

3. Šešelj contends that the section of the Impugned Decision entitled “Costs” is unlawful and based on a blatant disregard for the obligation to ensure a fair trial. He submits that this part of the Impugned Decision is contrary to the equality of arms principle which “is possible only if

¹ Translation of the Appeal was filed on 22 January 2007.

² Appeal, p. 8.

³ “Registry Submission Pursuant to Rule 33(B) of the Rules of Procedure and Evidence Regarding Vojislav Šešelj’s Appeal Against the Registry’s Decision of 19 December 2006” filed partly confidential on 9 February 2007.

⁴ Appeal, p. 3.

both parties have equal means in the proceedings, or if they are equal with regard to the legal arsenal used in the proceedings.”⁵ However, “there can be no equality if the Prosecution has unlimited access to all the evidence, can engage an unlimited number of associates and investigators and has almost unlimited funding at its disposal [...]”⁶

4. He further argues that the Registrar’s decision to only “cover certain reasonable costs” rather than provide legal aid constitutes a continuation of restrictions against Šešelj, his case manager and legal advisers.⁷ In this respect, he notes that taking into account his case manager’s qualifications, the work she needs to do and the monthly remuneration paid to other Tribunal staff, “she has been offered the lowest monthly remuneration obviously with the aim of preventing Professor Vojislav Šešelj from hiring anyone [...]”⁸ In addition, Šešelj submits that in light of the complexity of the proceedings against him and that he was only allowed privileged communication with his legal advisers on 21 December 2006, the Registrar’s decision “to reimburse one of the legal advisers for the cost of travel to The Hague in the pre-trial phase only once per month is inadequate [...]” and precludes the proper preparation and assistance he needs for his self-representation.⁹ He contends that the expenses for daily attendance of his legal advisers must be approved because, as a person representing himself, he will need to discuss with his legal advisers each day the Prosecution materials. In sum, Šešelj argues that in light of the practice of the Tribunal in other cases more or less of the same complexity as his case, the Registrar has failed to remunerate necessary and reasonable expenses for his defence resulting in continued obstruction and denial of his right to self-representation and has called into question the fairness of his trial.¹⁰

Discussion

5. From the outset, I note that in addition to Šešelj’s arguments against the Registrar’s decision to grant cover certain reasonable costs for Šešelj’s case manager and approved legal advisers, Šešelj also proffers a number of arguments contesting the basis for the Registrar’s finding in the Impugned Decision that as of today’s date, Šešelj is ineligible to receive legal aid

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*, pp. 4, 6.

⁸ *Id.*, p. 6.

⁹ *Id.*, pp. 6, 7.

¹⁰ *Id.*, p. 7.

from the International Tribunal as a self-represented accused.¹¹ Furthermore, Šešelj submits that he should obtain reimbursement for expenses incurred over the past four years in engaging members of his Expert Team to help him mount his defence.¹² Because these arguments are separate from Šešelj's requested relief of increasing the coverage of reasonable costs granted by the Registrar,¹³ I will not consider them here.¹⁴

6. Turning to Šešelj's submissions in support of his requested relief, I find that they fall outside of the scope of my competence to decide. Šešelj correctly notes that I have a general power to supervise the administrative activities of the Registrar,¹⁵ including where they may impinge upon the rights of an accused before the International Tribunal.¹⁶ Here, the basis for Šešelj's Appeal is the Registrar's alleged violation of his right to effectively represent himself and consequent violation of his right to a fair trial by providing insufficient costs coverage for his case manager and approved legal advisers. However, issues relating to an accused's exercise of the right to self-representation under the Statute of the International Tribunal are expressly for a Chamber to decide in light of its inherent power and duty to ensure the fair and expeditious management of its proceedings.¹⁷ Furthermore, review of a decision by the Registrar on allocation of funds in terms of its impact upon the right of an accused to "equality of arms" with the Prosecution lies with the relevant Chamber.¹⁸ Thus, Šešelj's arguments are to be raised before the Trial Chamber presently seized with Šešelj's case.

7. On the basis of the foregoing reasons, Šešelj's Appeal is **DENIED**.

¹¹ *Id.*, pp. 4-5.

¹² *Id.*, pp. 3-4.

¹³ *See supra* para. 1.

¹⁴ Furthermore, I note that these same arguments are more appropriately raised in subsequent filings by Šešelj before me, which I will consider in due course.

¹⁵ *See* Rule 19 of the Rules. *See also* Appeal, p. 7.

¹⁶ *Prosecutor v. Delić*, Case No. IT-04-83-PT, Decision on Request for Review, 8 June 2005, para. 6.

¹⁷ *See Prosecutor v. Krajišnik*, Case No. IT-00-39-A, Decision on "Motion Seeking Review of the Decisions of the Registry in Relation to Assignment of Counsel", 29 January 2007, fn. 11 (emphasis added) citing *Prosecutor v. Šešelj*, Case No. IT-03-67-AR73.3, Decision on Appeal Against the Trial Chamber's Decision on Assignment of Counsel, 20 October 2006, para. 16. *See also Prosecutor v. Blagojević*, Case No. IT-02-60-AR73.4, Public and Redacted Reasons for Decision on Appeal by Vidoje Blagojević to Replace His Defence Team, 7 November 2003, para. 7.

¹⁸ *See e.g., Prosecutor v. Milutinović et al.*, Case No. IT-99-37-AR73.2, Decision on Interlocutory Appeal on Motion for Additional Funds, 13 November 2003, paras. 23-24.

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

Done this 12th day of March 2007,
At The Hague,
The Netherlands.



Judge Fausto Pocar
President

[Seal of the International Tribunal]