

VIEW FROM THE HAGUE

ON COMMUNICATION RESTRICTIONS FOR MILOŠEVIĆ AND ŠEŠELJ

The International Criminal Tribunal for the former Yugoslavia is one of the very few courts in the world that runs its own Detention Unit. Within the Tribunal, the Registry is tasked with the day-to-day running of the detention facilities. The rules that regulate the Unit's functioning meet the highest international standards. The rules apply equally to all 54 current residents of the facility in the northern Hague suburb of Scheveningen, including Mssrs. Slobodan Milošević and Vojislav Šešelj.

Some basic principles underlie the Tribunal's rules of detention. First, all persons awaiting trial must be presumed innocent unless found guilty and be so treated. Second, their human dignity must be fully respected. This implies, among other things, that they must be humanely treated at all times during custody and that all their fundamental physical, moral and spiritual needs must be met. Third, no discrimination whatsoever, based on race, colour, gender, language, ethnic origin, religion or other ground shall be practised or tolerated in the unit. The facilities provided by the Detention Unit are intended for the well-being of the accused and should not be used for purposes that undermine the Tribunal's mandate to assist in establishing peace and security in the former Yugoslavia.

Communication Privileges

The Tribunal's Detention Unit accords its residents considerable communication privileges. However, it also imposes some rules. One of these is the prohibition on communication with the media. There are very important reasons for this: one of them is to protect the accused from incriminating him/herself by making a statement to the media that could later be used against them in court. In addition to that, the Tribunal must ensure that the accused do not have means to threaten the safety of witnesses, in particular protected witnesses, and that the integrity of court proceedings is protected. After all, the place for the accused to defend themselves is in the courtroom, not in the media.

Some residents of the UN Detention Unit chose to violate these rules. In each instance, sanctions were imposed. Most recently, this happened with Mr. Šešelj and Mr. Milošević.

At the beginning of December, the Commanding Officer of the Detention Unit received reports that both Šešelj and Milošević had recently made statements to their political parties and supporters, using communication facilities provided by the Unit, with the intention of having these statements reported in the media. As a result, on 11 December, the Registry prohibited both Milošević and Šešelj from speaking or meeting with anyone apart from their immediate family, their legal representatives (if they have them) and diplomatic and consular officials for 30 days. They were both permitted to continue corresponding in writing.

Seselj Violated the Decision

Mr. Šešelj addressed the Serbian Radical Party press conference held on 25 December over the telephone from the Detention Unit, in direct violation of this decision. The Registry then issued a new decision further restricting his ability to communicate. He continues to be able to speak with lawyers, if he chooses to appoint them, and with diplomatic or consular representatives. On 8 January 2004, the Registry extended the existing communication restrictions against both inmates for another 30 days.

The restrictions on Šešelj and Milošević's communications will not in any way affect their ability to conduct their defence before the Tribunal. They continue to have unimpeded access to fully confidential communication with their legal representatives. It is important to note in this regard that the Registry took both decisions independently. Neither the Prosecution nor the Trial Chambers requested this action, or had any role in taking it.

The restrictions on Milošević and Šešelj's communications are temporary. They were issued for two consecutive 30-day periods. Whether communications restrictions will be lifted or extended depends largely on the individuals concerned.

Outreach Programme

outreach@icty.org