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Vojislav Šešelj: The Question of Ethics and Responsibility

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The ICTY Trial Chamber decided on a temporary release for Vojislav Šešelj, leader of the Serb Radical Party. The decision itself was not unanimous but was unique for having been made despite many legal deficiencies. The conditions under which Šešelj was released did not restrict his public and political activism in Serbia. Šešelj has been prosecuted clumsily in ICTY from the beginning. The Šešelj case actually revealed all the court's systemic deficiencies. Fragile for starters, the indictment against him had not encompassed the time of his formal ties with Milošević, and this was crucial for proving his involvement in a joint criminal enterprise. Keeping him detained for so long – four years since his trial was over – is perhaps the biggest failure. Following on the reactions to Šešelj's release, ICTY Chief Prosecutor Serge Bramertz requested the Trial Chamber to withdraw the decision on early release and order him back. According to Bramertz, Šešelj's behavior upon return to Serbia undermines the argument for his early release. "The Chamber's trust in Šešelj was groundless," he said. When Šešelj learned that Prosecutor Bramertz filed for his return to The Hague, he said, "Serge Bramertz is a fool. I've promised nothing as they simply kicked me out. I will never go back by my own free will. Let's see what will happen if my main accomplices in 'war crimes,' Tomislav Nikolić and Aleksandar Vučić, try to have me arrested at the Court's request."

The developments related to his release indicate that the international community has yet to take stance on the character of the 1990s wars and thus put an end to manipulations standing in the way of regional consolidation. This is most important for the afterwar generations that have been raised on mythical narratives. Although Šešelj is no longer a major political figure, his chauvinistic and racist views are once again stirring up the suppressed national passions and hate speech of the 1990s and generating new conspiracy theories.

Overcoming the past is the key to regional stability. Incidents such as the "Šešelj case" testify that the region as a whole has not abandoned the nationalistic matrix. Therefore, the international community should pass a declaration, a resolution, or a statement so as to have the 1990s wars properly defined and a joint historical narrative – younger generations are in much need of – established. Younger generations should be presented with all facts, objectively systematized and chronologically explained.

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