

# Should Novak Djokovic have been allowed to play in the Australian Open?

## What they said...

*'The now twice-infected Djokovic would have more antibodies than any twice-vaccinated player. He couldn't be less of a risk on our streets, so there's no rational reason to keep him [out of the country]'*

**Herald-Sun and Weekly Times commentator, Andrew Bolt**

*'This is about someone who sought to come to Australia and not comply with the entry rules at our border. That's what this is about'*

**Australian Prime Minister, Scott Morrison**

On January 14, 2022, Alex Hawke, Australia's Minister for Immigration revoked Serbian tennis champion Novak Djokovic's visa to enter Australia, preventing him from defending his title in the 2022 Australian Open. <https://www.abc.net.au/news/2022-01-14/novak-djokovic-visa-cancellation-decision-immigration-minister/100748386>

Djokovic applied for a judicial review of the decision, but three Federal Court of Australia judges unanimously dismissed his application.

Djokovic's unvaccinated status and the probability that his presence would encourage antivaxxers within Australia and cause 'civil disorder' were considered by the judges to justify his being deported.

Djokovic said he was 'extremely disappointed' with the decision but accepted the ruling and flew out of Australia on January 17. <https://www.news.com.au/sport/tennis/australian-open/live-novak-djokovic-court-hearing-updates-result-of-visa-cancellation/news-story/5f941dd26abe1171e4a7f2e63644b05b>

The debate around the decision to deport Djokovic continues raising questions regarding vaccination exemptions and other special treatment for elite athletes and the fair application of the Minister for Immigration's power to revoke visas

## Background

The following timeline of events related to Djokovic's attempt to gain entry to Australia for the Australian Open was published by Aljazeera on January 16, 2022.

<https://www.aljazeera.com/news/2022/1/16/novak-djokovics-bid-to-compete-at-australian-open-timeline>

**April 2020:** As the coronavirus pandemic rages, Djokovic issues a statement, saying, "Personally, I am opposed to the vaccination against COVID-19 to be able to travel. But if it becomes compulsory, I will have to make a decision whether to do it, or not."

**June 2020:** With the professional tennis tours on hiatus because of the pandemic, Djokovic organises a series of exhibition matches in Serbia and Croatia with no rules requiring social distancing or masking. The Adria Tour is called off after some players get COVID-19; Djokovic and his wife, Jelena, test positive.

**November 19, 2021:** Confirming an edict made by the Victorian state government in late October, tournament director Craig Tiley says everyone at the 2022 Australian Open must be vaccinated for COVID-19. Djokovic's vaccine status is unknown at the time.

**December 8, 2021:** Victoria state Deputy Premier James Merlino says medical exemptions for the vaccine policy would not be "a loophole for privileged tennis players" and would only be possible in "exceptional circumstances, if you have an acute medical condition".

**December 14, 2021:** Djokovic attends a professional basketball game in Belgrade and is photographed hugging several players from both teams, including some who later tested positive.

**December 16, 2021:** Djokovic later says he took a COVID-19 test in Serbia on this day, which was positive, but he also says he did not know the result until December 17. None of this was public knowledge until January, after his visa was first cancelled and the case went to court in Australia. That positive test is the grounds Djokovic used to justify his medical exemption for the Australian Open.

**December 17, 2021:** Djokovic attends an event in Belgrade honouring youth tennis players. Parents post photos on social media showing Djokovic and the young players without masks. Djokovic later says he was asymptomatic, took an antigen test before the event that showed he was negative, and only received the positive PCR result after the event.

**December 18, 2021:** Djokovic does an interview and photo shoot with the French newspaper L'Equipe, but does not say anything at the time about having tested positive. He says in January that he knew at the time he had COVID-19, saying: "On reflection, this was an error" of judgement.

**December 22, 2021:** According to court documents, Djokovic tests negative for COVID-19 in Serbia.

**December 29, 2021:** Djokovic withdraws from Serbia's team for the ATP Cup, days before the competition is due to begin in Sydney. No reason is given.

**January 1, 2022:** Tiley is asked in a TV interview about Djokovic's status for the Australian Open and responds: "There's quite a bit to play out and I think it will play out in the coming days."

**January 4, 2022:** Djokovic posts on Instagram a photo of himself at an airport with a caption that reads, in part: "I'm heading Down Under with an exemption permission." Tennis Australia follows with a statement confirming Djokovic is on his way to the country with a medical exemption "granted following a rigorous review process involving two separate independent panels of medical experts". Neither Djokovic nor Tennis Australia reveals the basis for his exemption. Tiley says a "handful" of exemptions had been granted out of 26 applications from players or others. A public outcry bubbles up on social media among Australians while Djokovic's flight to Melbourne is in the air.

**January 5, 2022:** Djokovic arrives at Melbourne Tullamarine Airport.

**January 6, 2022:** After being detained for about eight hours, Djokovic is denied entry to the country and his visa is cancelled. He is sent to an immigration hotel, where he remains for four nights. The Australian Border Force says Djokovic failed to meet entry requirements. Australian Prime Minister Scott Morrison tweets: “Rules are rules, especially when it comes to our borders.”

**January 10, 2022:** As part of his legal attempt to overturn the visa cancellation, Djokovic submits an affidavit that says he is not vaccinated for COVID-19. Federal Circuit Court Judge Anthony Kelly reinstates Djokovic’s visa, ruling the player was not given enough time to speak to his lawyers before the decision to deny him entry was made at the airport. Kelly orders the government to release Djokovic from immigration detention. Hours later, Djokovic practises at Melbourne Park.

**January 11, 2022:** With his status still uncertain, Djokovic is installed as the No 1 seed for the men’s field at the Australian Open. The tournament strictly follows the current rankings in determining seedings and Djokovic is ranked No 1; he has spent more weeks atop the ATP than any other man in the history of the men’s professional tour’s computerised rankings.

**January 12, 2022:** Djokovic’s most extensive public comments on the matter come via a post on social media that is put up by someone while he is practising at the Australian Open’s main stadium. He says there was a mistake on his travel declaration for Australia, which failed to indicate he had been in multiple countries over the preceding two weeks. Djokovic blames his agent for checking the wrong box on the form, calling it “a human error and certainly not deliberate”. He also discusses what he says was his positive COVID-19 test in December and the L’Equipe interview.

**January 13, 2022:** Djokovic is included in the Australian Open draw. He is slated to play another Serbian player, Miomir Kecmanovic, in the first round.

**January 14, 2022:** Immigration Minister Alex Hawke says he used his ministerial discretion to revoke Djokovic’s visa on “health and good order grounds, on the basis that it was in the public interest to do so”. Djokovic’s lawyers say they plan to appeal.

**January 15, 2022:** At a 15-minute procedural hearing held via video conference, Federal Court Judge David O’Callaghan says lawyers representing Djokovic and the government must submit written arguments on the appeal of Hawke’s decision later in the day.

**January 16, 2022:** Three Federal Court judges uphold a decision made by Hawke to cancel the 34-year-old Serb’s visa on public interest grounds.

## **Internet information**

On January 20, 2022, The Roar published a comment by Roar Guru, The Boss, titled ‘Djokovic deserved to play the Australian Open’ The comment the multiple ways in which the federal government and other authorities mishandled Djokovic’s application for a visa. The full text can be accessed at <https://www.theroar.com.au/2022/01/20/djokovic-deserved-to-play-the-australian-open/>

On January 17, 2022, Sky News published an overview and comment on the full Novak Djokovic controversy. The piece is titled ‘Novak Djokovic's 2022 Australian Open debacle: What's happened so far? What happens next?’ The comment gives background, a range of

opinions and suggests what the consequences of Djokovic's deportation might be for the player and for Australia's place in international sport.

The full text can be accessed at

<https://www.skysports.com/tennis/news/31870/12509964/novak-djokovics-2022-australian-open-debacle-whats-happened-so-far-what-happens-next>

On January 16, 2022, The Age published a report titled "'Send him home': Poll reveals overwhelming support for decision to deport Novak Djokovic' The report details the results of a recent poll showing a large majority of Australians want Djokovic deported.

The full text can be accessed at <https://www.theage.com.au/politics/federal/send-him-home-poll-reveals-overwhelming-support-for-decision-to-deport-novak-djokovic-20220115-p59oh9.html>

On January 16, 2022, Forbes published a report titled 'Serbian President Blasts Australia For Deporting Djokovic—Fellow Tennis Players Also React' which gives the critical reaction of the Serbian leader to Djokovic's deportation and the more mixed reactions of other tennis players.

The full text can be accessed at

<https://www.forbes.com/sites/annakaplan/2022/01/16/serbian-president-blasts-australia-for-deporting-djokovic-and-players-respond/?sh=51d2978c52bc>

On January 16, 2022, Lad Bible published a comment titled 'Civil Rights Groups Explain Why Novak Djokovic's Deportation Is Concerning'. The opinion piece argues that the current case demonstrates how a government might use its powers to deny visas in order to prevent the discussion of views they oppose.

The full text can be accessed at <https://www.ladbible.com/news/latest-civil-rights-groups-explain-concern-their-over-djokovic-being-deported-20220116>

On January 16, 2022, The Age published an article titled "'Social cohesion': PM and minister welcome court's Djokovic decision'. The report gives further justifications for Djokovic's deportation from the Immigration Minister and the Prime Minister.

The full text can be accessed at <https://www.theage.com.au/sport/tennis/social-cohesion-pm-and-minister-welcome-court-s-djokovic-decision-20220116-p59onn.html>

On January 16, 2022, the Los Angeles Times published an analysis titled 'Australian Open doesn't need Novak Djokovic to put on an intriguing show'. The comment gives an overview of the way Djokovic's visa application was handled and presents arguments for and against the actions taken.

The full text can be accessed at <https://www.latimes.com/sports/story/2022-01-16/australian-open-novak-djokovic-covid-visa-deportation>

On January 16, 2022, Global News Canada published a comment and analysis titled 'Playing by the rules: COVID-19 vaccine exemptions in sport and the Djokovic saga'. The comment gives an overview of the way Djokovic's visa application was handled and presents arguments for and against the actions taken.

The full text can be accessed at <https://globalnews.ca/news/8514984/covid-vaccine-exemptions-sports/>

On January 15, 2022, The Conversation published a comment by Keith Parry, Deputy Head of Department of Sport & Event Management, Bournemouth University, titled "'We're

entering unprecedented territory”: sports expert Q&A on what Djokovic row means for unvaccinated elite athletes’ which suggests the implications of the Djokovic decision for unvaccinated athletes considering playing in Australia and other countries.

The full text can be accessed at <https://theconversation.com/were-entering-unprecedented-territory-sports-expert-qanda-on-what-djokovic-row-means-for-unvaccinated-elite-athletes-174989>

On January 15, 2022, the Daily Mail published an article titled ‘Key reasons why immigration minister ruled Novak Djokovic a “health and good order risk”’. The text includes substantial quotes from Immigration Minister Alex Hawke’s justification for his revoking of Djokovic’s visa.

The full text can be accessed at <https://www.dailymail.co.uk/news/article-10404927/Key-reasons-Novak-Djokovics-visa-cancelled-Australias-Immigration-Minister-revealed.html>

On January 14, 2022, Foreign Policy published a comment titled ‘Novak Djokovic’s Visa Cancellation Is About Politics, Not Health’. The comment argues that Djokovic’s treatment highlights the federal government’s insensitive treatment of suspected illegal immigrants and its attempts to hide its mishandling of Djokovic’s visa application.

The full text can be accessed at <https://foreignpolicy.com/2022/01/14/novak-djokovic-visa-australia-covid-19-vaccine/>

On January 12, 2022, The Conversation published an opinion piece by Joshua Jowitt Lecturer in Law, Newcastle University, titled ‘Novak Djokovic: the legal problem of having one rule for some, another for everyone else’. The comment argues that if law makers want a law or regulation to be followed they need to apply it equally to all.

The full text of the comment can be accessed at <https://theconversation.com/novak-djokovic-the-legal-problem-of-having-one-rule-for-some-another-for-everyone-else-174655>

On January 11, 2022, The National Post published a comment by Dr. Harry Rakowski, an academic Toronto cardiologist, titled ‘Novak Djokovic isn’t a COVID threat and cancelling him would be a double fault’. The opinion piece argues that revoking Djokovic’s visa a second time would be ‘virtue signalling’ and serve no useful purpose.

The full text can be accessed at <https://nationalpost.com/opinion/harry-rakowski-novak-djokovic-isnt-a-covid-threat-and-cancelling-him-would-be-a-double-fault>

On January 11, 2022, The Sydney Morning Herald published an editorial titled ‘By its very nature, Djokovic’s is an exceptional case’. The editorial details how Tennis Australia and the federal government mishandled Novak Djokovic’s visa application.

The full text can be accessed at <https://www.smh.com.au/sport/tennis/by-its-very-nature-djokovic-s-is-a-special-case-20220111-p59ni2.html>

On January 10, 2022, BBC News published a comment and analysis titled ‘Novak Djokovic: Is his vaccine saga an unforced error for Australia?’ The comment gives an overview of the way Djokovic’s visa application was handled and presents arguments for and against the actions taken.

The full text can be accessed <https://www.bbc.com/news/world-australia-59923332>

On January 10, 2022, The Herald Sun published a comment by Andrew Bolt titled ‘Overriding Djokovic court decision would be dangerous’ The comment argues that Djokovic

does not pose an infection risk and that it would be wrong to override his visa reinstatement for face-saving reasons.

The full text can be accessed at <https://www.heraldsun.com.au/news/opinion/andrew-bolt/andrew-bolt-overriding-djokovic-court-decision-would-be-a-dangerous/news-story/c20630ed1bf4a3eaad446d2c932e45bc>

On January 9, 2022, Reuters published a report titled ‘Australia hits back at Djokovic: Nobody has guaranteed entry’. The article details some of the Australian government’s grounds for questioning Djokovic’s capacity to enter Australia.

The full text can be accessed at <https://www.reuters.com/lifestyle/sports/djokovic-begins-4th-day-australian-detention-legal-hearing-looms-2022-01-08/>

On January 9, 2022, The Australian Financial Review published an editorial titled ‘Rules for Djokovic should be rules for all’

The comment argues that rules must be applied consistently to avoid ill will among citizens. The full text can be accessed at <https://www.afr.com/policy/health-and-education/rules-for-djokovic-should-be-rules-for-all-20220109-p59mu6>

On January 5, 22, The Guardian published a report titled “‘Appalling message’: outrage over Novak Djokovic’s medical exemption to play Australian Open’ which gives a range of opinion of those opposed to Djokovic being allowed to play in Australia.

The full text can be accessed at <https://www.theguardian.com/sport/2022/jan/05/appalling-message-outrage-over-novak-djokovics-medical-exemption-to-play-australian-open>

On December 9, 2021, The Conversation published a comment by Keith Rathbone Senior Lecturer, Modern European History and Sports History, Macquarie University, titled ‘Vaccinated or not, Novak Djokovic should be able to play’

The comment explains the exemptions and exceptions being made both on Australia and around the world to allow international sporting competitions to go on during the pandemic. The full text can be accessed at <https://theconversation.com/vaccinated-or-not-novak-djokovic-should-be-able-to-play-173060>

## **Arguments supporting Novak Djokovic playing in the Australian Open**

1. Djokovic is unlikely to have recontracted or spread COVID19

Supporters of Djokovic being able to play in the Australian Open claim that as someone who has contracted the disease twice in the last six months his acquired immunity would be sufficiently high to mean that he would pose no health risk to other players, court attendants or officials.

Djokovic announced that he had tested positive for COVID in June 2021, shortly after having played in an event in Belgrade and then another in Zadar, Croatia.

<https://www.abc.net.au/news/2020-06-23/novak-djokovic-tests-positive-for-coronavirus-covid-19/12386312> After Djokovic’s arrival in Australia, it was reported that he had also tested positive for COVID on December 16, 2021. <https://www.bbc.com/news/world-australia-59920379>

Herald Sun and Weekly Times commentator, Andrew Bolt, has stated, ‘The now twice-infected Djokovic would have more antibodies than any twice-vaccinated player. He couldn’t be less of a risk on our streets, so there’s no rational reason to keep him [detained]... Let me stress this again: Djokovic poses less health risk than the average

Australia Open ball boy. To ban him seems not just irrational but spiteful...’

<https://www.heraldsun.com.au/news/opinion/andrew-bolt/andrew-bolt-overriding-djokovic-court-decision-would-be-a-dangerous/news-story/c20630ed1bf4a3eaad446d2c932e45bc>  
Queensland senator, Matt Canavan, has also claimed that allowing Djokovic to play posed ‘little risk’. Canavan stated, ‘Natural immunity by multiple studies is much, much stronger than the immunity you get from having a vaccination.’ <https://www.telegraph.co.uk/global-health/science-and-disease/djokovic-debacle-does-immunity-infection-provide-much-protection/>

The same point was made by several international commentators and medical authorities. On January 11, 2022, Harry Rakowski, writing for the Canadian National Post, explained the very low level of risk Djokovic poses. Rakowski states, ‘It is highly likely that Djokovic’s December infection was with the Omicron strain now dominating worldwide cases. He is now at least three weeks post infection and almost certainly no longer contagious. Indeed, he is now safer to be around than virtually any uninfected person with full vaccination. The Omicron strain frequently pierces immunity in vaccinated people who themselves can thus transmit infection to others even when asymptomatic. Individuals with recent Omicron infection are highly likely to have high levels of selective antibodies against the new strain. It is akin to having been vaccinated with a special vaccine specifically developed to prevent Omicron infection, a specific vaccine being considered but not yet available to anyone.’ <https://nationalpost.com/opinion/harry-rakowski-novak-djokovic-isnt-a-covid-threat-and-cancelling-him-would-be-a-double-fault> On January 15, 2022, Theresa Raphael, writing for the New York-based Bloomberg Opinion, stated, ‘Assuming he did indeed test positive on Dec. 16, or around then, his antibody levels would presumably be comparable to someone who has been vaccinated. Australians can usually get a temporary exemption of up to six months for a PCR-confirmed infection.’ <https://www.bloomberg.com/opinion/articles/2022-01-15/does-novak-djokovic-really-pose-a-covid-health-risk-in-australia>

A very similar position was put by Dominic Wilkinson, Professor of Medical Ethics, and Member of UKRI Pandemic Ethics Accelerator, University of Oxford, in a comment published by Science Media Centre on January 14, 2022. Professor Wilkinson stated, ‘A key ethical question is whether countries like Australia that wish to reduce spread of Omicron should take into consideration the fact that someone (who is unvaccinated) has confirmed evidence of a recent infection. If he had a positive PCR test in December, there is good reason to think that he would have a comparable (low) risk of being reinfected and then passing on the virus, as if he were doubly vaccinated<sup>1</sup>. He does not pose a risk to other players or to the wider community – any more than the other players in the Australian open. That is not current Australian policy, but it would be an ethically proportionate, logical and rational way of making decisions about entry.’ <https://www.sciencemediacentre.org/expert-comments-from-ethicists-on-the-situation-with-novak-djokovic-and-the-australian-open/>

## 2. Djokovic received different and conflicting directions from Tennis Australia and the Federal Government

Supporters of Djokovic note that the tennis player came to Australia in good faith to play in the Australian Open having been informed by Tennis Australia that he had valid grounds for a vaccination exemption. The original directions he received were later overturned by the Federal Minister for Immigration, Alex Hawke. The original advice from Tennis Australia was supported by a federal circuit court judge.

A leaked document from Tennis Australia reveals that the organisation informed

unvaccinated players and other tennis-related people that they could enter the country for the Australian Open if they had caught COVID within the last six months. Information published from this leaked document by The Herald Sun on January 8, 2022, stated that among the grounds for vaccination exemption was being a recently recovered COVID sufferer. The document states that a recent PCR-conformed COVID infection (occurring after July 31, 2021) would allow vaccination to be deferred for six months.

<https://www.foxsports.com.au/tennis/australian-open/leaked-tennis-australia-letter-is-the-smoking-gun-in-novak-djokovic-debacle/news-story/bc80075d12fb74b43d14dfc090e5e1bd>

Djokovic supplied documentation claiming that he had been diagnosed with COVID via a PCR test on December 18, 2021. <https://www.theguardian.com/sport/2022/jan/12/novak-djokovic-timeline-what-did-he-say-then-and-now-about-his-positive-covid-result> Therefore, according to the advice he received from Tennis Australia, Djokovic would not have needed to be vaccinated until June 18, 2022. His supporters claim that the tennis player had every reason to believe that he would be allowed to play in the Australian Open.

In total, 26 ‘tennis-related people’ applied for vaccination exemptions to attend the Australian Open. These applications were vetted by two separate panels and the vetting was ‘blind’, that is, the panels did not know the names of the people making the applications. This means there was no opportunity for Djokovic to be given special consideration because he was the most recent former winner of the Australian Open. Victorian government minister Jaala Pulford said the ‘blind’ assessment process ensured nobody knew the identity of any of the 26 people who applied for exemptions. She stated, ‘Novak isn’t coming to play the Australian Open [with an exemption] because he’s the biggest tennis star of them all. He’s coming because he has been able to demonstrate through this process that he has an eligibility under the rules that apply to everybody else in the country.’ The two-panel process involved exemption applications being considered by multiple doctors. Pulford further stated, ‘They’re considered by not one doctor that you know, but six that you don’t.’

<https://www.abc.net.au/news/2022-01-05/how-did-novak-djokovic-get-covid-vaccination-exemption/100738684>

The federal Government subsequently overturned Djokovic’s medical exemption and held him in immigration detention while the tennis player’s legal challenge was being heard. In challenging the over-turning of his exemption, Djokovic’s lawyers noted that in addition to meeting all stated requirements, Djokovic had received a document from the Department of Home Affairs on January 1, stating ‘[his] Australia Travel Declaration [had] been assessed’, and that ‘[his] responses indicate[d] that [he met] the requirements for a quarantine-free arrival into Australia where permitted by the jurisdiction of your arrival’.

<https://www.abc.net.au/news/2022-01-08/djokovic-had-exemption-on-grounds-of-recent-covid-19-infection/100745990>

Djokovic’s challenge was upheld by Federal Circuit Court judge, Anthony Kelly. Kelly noted that Djokovic had provided officials at Melbourne’s airport with a medical exemption given to him by Tennis Australia and two medical panels. The judge concluded, ‘The point I’m somewhat agitated about is, what more could this man have done?’

[https://www.espn.com/tennis/story/\\_/id/33033162/australian-judge-reinstates-novak-djokovic-visa-orders-release-hotel-quarantine](https://www.espn.com/tennis/story/_/id/33033162/australian-judge-reinstates-novak-djokovic-visa-orders-release-hotel-quarantine)

3. Many athletes, other than Djokovic, have been granted full or partial exemptions from COVID regulations



Supporters of Novak Djokovic being allowed to remain in Australia note that throughout the COVID epidemic exemptions have been granted and exceptions made to allow sporting competitions to continue. Many argue that these exemptions are valid and that high-level sporting competitions should be able to continue, with safeguards, even if this means treating competitors differently from the general public.

Those managing sporting competitions can be relied upon to organise them in a way that will protect public health and safety. Keith Rathbone, Senior Lecturer in Modern European History and Sports History at Macquarie University has stated, ‘We should trust the [sporting] organisations to work closely with the Commonwealth and state governments to develop COVID protocols that will allow sports to continue and keep locals safe. These should be bespoke rather than general and could include a range of strategies other than vaccine mandates, such as masking, quarantines, social distancing, and COVID bubbles.’  
<https://theconversation.com/vaccinated-or-not-novak-djokovic-should-be-able-to-play-173060>

Special exemptions have already been made for athletes other than Djokovic so that sporting competitions can continue. Most countries have a special visa procedure for elite athletes, for instance. Before COVID, athletes coming to Australia also bypassed many ordinary border rules around importing equipment and goods and earning money without long-term working rights. These special rules have continued during the pandemic. Freedom for athletes to travel has been a cornerstone principle for many sporting organisations, such as the International Olympic Committee. For example, the IOC is currently working with the Chinese government to allow travel for unvaccinated athletes for the 2022 Winter Olympics (with a 21-day quarantine), even though China’s borders have been closed to most other travellers. The US Open did not mandate vaccines for players in 2021. Players were instead tested when they arrived in the United States and then every four days after, and they were ordered into isolation if they returned a positive result. (Fans, however, were required to be vaccinated.)  
<https://theconversation.com/vaccinated-or-not-novak-djokovic-should-be-able-to-play-173060> As of February 22, 2022, the United Kingdom, now states that elite athletes arriving in the country ‘who do not qualify as fully vaccinated will have to take a pre-departure test and a test on or before day 2 after their arrival but are no longer required to take a test on day 8. They are no longer required to self-isolate when they arrive unless their test is positive.’ Under these conditions, Djokovic would be allowed entry to the United Kingdom.  
<https://www.gov.uk/government/publications/guidance-on-coronavirus-covid-19-measures-for-elite-sport/elite-sport-operations>

Australia has already made special provision for athletes to travel within Australia more freely than ordinary citizens have been able to. In 2020, AFL and NRL players – and in some cases, their families – travelled widely into states with border lockdowns. Australian athletes have also been the beneficiaries of special hotel quarantine provisions, priority access to vaccinations, and forewarnings from government officials about border closures. Even without vaccines, the 2021 Australian Open was kept safe using restricted fan zones, mandatory masking, social distancing, frequent testing of players and staff, electronic line calling, and mandatory 14-day hotel quarantine on arrival.  
<https://theconversation.com/vaccinated-or-not-novak-djokovic-should-be-able-to-play-173060>

Supporters of special exemptions being granted elite athletes argue that sporting competitions make a particularly valuable contribution to the morale and mental wellbeing of a nation,

especially in times of hardship such as a pandemic. In an opinion piece published in The Canberra Times on February 11, 2021, John Warhurst, an emeritus professor of political science at the Australian National University, stated, 'Community morale... may just mean the reassuring sense that life can continue as normal in the worst of times. Sport is not the only contributor to this reassurance. But it can provide diversion from the boredom and hardships that pandemic life serves up for many people in the community.'

<https://www.canberratimes.com.au/story/7120400/should-sport-be-prioritised-during-a-pandemic/>

4. Banning Djokovic based on his views is a threat to freedom of expression

It has been argued that the decision of the Minister for Immigration, Alex Hawke, to withdraw Novak Djokovic's entry visa based on his known anti-vaccination views represents a threat to freedom of expression,

The immigration minister cited Djokovic's high profile and previous statements against vaccination and claimed that these statements might encourage others to refuse vaccination. He further claimed that Djokovic's presence could lead to civil unrest.

<https://www.dailymail.co.uk/news/article-10407659/Novak-Djokovic-tennis-stars-legal-battle-reveal-Australias-deportation-laws.html>

Those who reject this view argue that Djokovic's ejection from Australia is more likely to provoke civil unrest than his continued presence would have been. Djokovic's lead counsel argued that his client has played in tournaments all around the world without inciting anti-vax protests. His counsel further pointed out that the anti-vax protests that had recently erupted in Australia concerning Djokovic were against the government's decision to cancel his visa. Djokovic's lead counsel stated, 'It is irrational and unreasonable to only look at one side of the coin.'

<https://www.theage.com.au/sport/tennis/djokovic-has-lost-his-fight-to-stay-in-australia-how-did-the-case-unfold-and-what-happens-now-20220115-p59oif.html>

Civil liberties groups are concerned about the way the government handled the situation and have warned that democratic freedoms could be placed at risk. Australian Lawyers Alliance spokesperson Greg Barns, SC, has released a statement claiming that this case sets a dangerous precedent. Mr Barns has stated, 'Our concern is the Federal Government's view that it did not have to prove that Mr Djokovic would foster views about vaccination that are contrary to the government, but simply that he may foster those sentiments. This is a very low bar for excluding a person from Australia particularly in circumstances where the power to review or appeal the decision is so limited.'  
<https://www.ladbible.com/news/latest-civil-rights-groups-explain-concern-their-over-djokovic-being-deported-20220116>

Mr Barns has stressed the concerning risk to freedom of expression that the Djokovic expulsion poses. He has noted, 'Using the criteria of a possible risk to public order as a reason to refuse a person entry into the country is troubling in a society supposedly committed to freedom of speech and freedom of thought.' Michael Stanton, president of Liberty Victoria, has additionally claimed, 'It's very different from [denying a visa] for someone who has expressly said something about inciting violence or encouraging unrest. The reliance on how someone might be perceived sets an impossible standard for that person to meet.'  
<https://www.ladbible.com/news/latest-novak-djokovic-australia-20220113>

Migration law experts have noted that the Djokovic case demonstrates the laws could be used to exclude a person who has previously expressed political views the government did not

agree with. Michael Stanton has stated, ‘Deportation of a person because of a purported risk as to how others might perceive them and then act sets a terrible precedent.

It can and will be used in the future to justify the suppression of legitimate political expression because others might engage in unrest.

One danger of largely unfettered discretions, or “God powers”, is that decision making just becomes political and populist ... eroding the integrity of the executive and the rule of law.’

<https://www.theguardian.com/sport/2022/jan/17/djokovic-case-exposes-dysfunctional-and-dangerous-australian-visa-rules-experts-say>

Greg Barns has further claimed, ‘The federal government’s attitude could see other high-profile visitors to Australia refused entry to suppress alternate views. If, for example, a high-profile visitor to Australia expressed negative views about the Australia-US alliance, would the government ban this person because this view may encourage people to protest at Pine Gap?’ <https://www.theguardian.com/sport/2022/jan/17/djokovic-case-exposes-dysfunctional-and-dangerous-australian-visa-rules-experts-say>

5. Djokovic was deported for political reasons

Supporters of Djokovic being allowed to remain in Australia to play in the Open argue that his deportation was largely politically motivated, that is, that the federal government was seeking to increase its popularity with voters by having the tennis player removed from the country.

Some opponents of Djokovic’s removal argue that the federal government was seeking to show its strong position on Australian border protection and on maintaining public health. Border protection, in particular, is a politically sensitive issue in Australia and one on which some former governments have succeeded in winning elections. Saskia Peachey, writing for the Australian magazine *Jacobin*, in January 2022, began by outlining what she claims is the Australian government’s current mishandling of the pandemic and then suggested that the deportation of Novak Djokovic was an attempt to gain some political advantage by appearing to be taking strong action.

Peachey states, ‘Over the last week, the COVID caseload in Australia has skyrocketed... The health system is overwhelmed, the economy is reeling, and gaps are beginning to appear on supermarket shelves. Much of the blame should be directed at Scott Morrison’s federal Liberal government.’ She then suggests that the government’s action against Djokovic is a political distraction, claiming, ‘Seen in this context, rescinding Djokovic’s visa is a shallow political stunt. It’s an attempt by the Morrison government to regain a degree of credibility and authority in the face of a looming election and a health crisis for which it bears overwhelming responsibility.’ <https://www.jacobinmag.com/2022/01/australian-open-morrison-hawke-novak-djokovic-deportation-visa>

Herald Sun and Weekly Times commentator, Andrew Bolt, has similarly stated, ‘Why have politicians been so keen to abuse Djokovic and ban him, when he poses virtually zero risk of infection and has followed the law to the satisfaction of a judge? I suspect it’s because they are cheap populists who reckon there are more votes in this election year in pleasing an irrational hate-baying mob than in defending sweet reason.’

<https://www.heraldsun.com.au/news/opinion/andrew-bolt/andrew-bolt-overriding-djokovic-court-decision-would-be-a-dangerous/news-story/c20630ed1bf4a3eaa446d2c932e45bc>

This view has also been put by many overseas commentators. Vasek Pospisil, a Canadian who won the 2014 Wimbledon men's doubles title and has worked with Djokovic to form an association to represent players, has stated, 'There was a political agenda at play here with the (Australian) elections coming up which couldn't be more obvious. This is not his [Djokovic's] fault. He did not force his way into the country and did not "make his own rules"; he was ready to stay home.' <https://abcnews.go.com/Sports/novak-djokovic-leaves-australia-disappointed-court-dismisses-deportation/story?id=82293908> No 1 British tennis player, Andrew Castle, a British broadcaster, and former no. 1 tennis player, has also concluded, 'I think we'd be pretty naive not to think there were some politics at play here with the decision of the immigration minister in Australia to bring this to bear in the first place.' <https://tinyurl.com/2p97jtyk> The same point has been made by Djokovic's father, Srdjan Djokovic, who has stated, 'This has nothing to do with sports, this is a political agenda.' <https://www.abc.net.au/news/2022-01-07/novak-djokovic-dad-says-deportation-is-politically-motivated/100743158> The Serbian President Aleksandar Vucic has similarly accused the Australian government of 'harassing' and 'maltreating' Djokovic for political purposes to gain popularity before the 2022 elections. <https://www.skysports.com/tennis/news/12110/12516804/novak-djokovic-set-to-be-deported-from-australia-after-losing-second-visa-appeal-hearing>

The Serbian Tennis Association (TSS) has claimed that Djokovic was being exploited by Australian politicians for their own political purposes and that this had implications for all international sporting competitions held in Australia. The TSS stated, 'It begs the question whether athletes will from now on be incarcerated like criminals and deported when it suits the political interests of powerful individuals.' <https://www.swissinfo.ch/eng/serbia-says-australia-s-decision-to-deport-djokovic--scandalous-/47265916>

## **Arguments supporting Novak Djokovic playing in the Australian Open**

1. Djokovic was ineligible to enter Australia

Those who argue that Novak Djokovic should not have been granted a visa to play at the Australian Open note that he did not meet the regulations set by the Australian Technical Advisory Group on Immunisation (ATAGI)

Tennis Australia justified granting Djokovic a medical exemption to enter Australia without being fully vaccinated based on his having contracted COVID within the preceding six months. However, critics of Djokovic's initial exemption argue that it was not in line with federal regulations. People must be fully vaccinated as defined by the Australian Technical Advisory Group on Immunisation (ATAGI) to be allowed enter the country without having to quarantine. Fully vaccinated, according to this body means having had two doses of a Covid-19 vaccine. <https://www.irishtimes.com/life-and-style/health-family/novak-djokovic-what-are-the-grounds-for-a-medical-exemption-from-covid-19-vaccination-1.4770379>

In November 2021, Health Minister Greg Hunt wrote to Tennis Australia's chief executive officer Craig Tiley warning that players who sought to enter the country would not be granted vaccine exemptions if they had recently contracted COVID-19. Hunt's letter, dated November 29, 2021, stated, 'The Australian Border Force has advised that people must be fully vaccinated, as defined by the ATAGI, to gain quarantine-free entry into Australia... I can confirm that people who contracted COVID-19 within the past six months and seek to enter Australia from overseas and have not received two doses of a Therapeutic Goods

Administration (TGA)-approved or TGA-recognised vaccine (or one dose of the Johnson and Johnson COVID-19 vaccine), are not considered fully vaccinated.’

<https://www.abc.net.au/news/2022-01-06/border-force-investigate-more-medical-exemptions-novak-djokovic/100742868> Recent prior infection can be a ground for vaccine exemption within Australia; it specifically does not act as a basis for internal travellers to be allowed into the country. <https://www.irishtimes.com/life-and-style/health-family/novak-djokovic-what-are-the-grounds-for-a-medical-exemption-from-covid-19-vaccination-1.4770379>

The Federal government has indicated that Tennis Australia had exceeded its authority in granting Djokovic a medical exemption as control of entry to Australia rests with federal authorities. The Victorian government has acknowledged that the granting of visas is a federal concern. Then acting Victorian premier, Jacinta Allan, has stated that the state government only sought to assess whether players could be granted a vaccine exemption for events held in Victoria. Ms Allen added, ‘It’s the Commonwealth government that is responsible for issuing visas and how they engage in that dialogue with bodies like Tennis Australia is a matter for them.’ <https://www.abc.net.au/news/2022-01-07/novak-djokovic-tennis-australian-open-detention-melbourne/100742036> Federal Home Affairs Minister Karen Andrews stated that Djokovic had had a visa issued to him in error, but that Border Force had determined he did not meet entry requirements because he was not fully vaccinated. <https://www.abc.net.au/news/2022-01-07/novak-djokovic-tennis-australian-open-detention-melbourne/100742036>

Criticism has been levelled at Tennis Australia’s head Craig Tiley for ignoring Health Minister Hunt’s directive of November 2021. In an opinion piece published in the Los Angeles Times on January 16, 2022, it was argued, ‘Tiley either misunderstood or wilfully disobeyed a notice from a federal health minister in late November that said previously having been infected with COVID-19 wasn’t a valid reason to exempt a player from the vaccine requirement. Tiley has said he was told otherwise by officials in the state of Victoria, where Melbourne is located, and he proceeded on that basis. He said the problem was poor communication between state and federal officials, but that’s not good enough. He should have demanded clarity, if that was lacking, and should have realized flouting the rules wouldn’t go over well among Aussies.’ <https://www.latimes.com/sports/story/2022-01-16/australian-open-novak-djokovic-covid-visa-deportation>

2. Djokovic’s opposition to vaccinations could encourage Australian antivaxxers  
Opponents of Novak Djokovic being allowed to enter Australia to play in the Australian Open argue that his known opposition to COVID vaccinations could have encouraged the antivaccination movement in Australia.

Djokovic had not publicly stated his vaccination status or stated his position on COVID vaccinations; however, once the publicity surrounding his entry into Australia had made his unvaccinated status known there were fears he would become a symbol for the anti-vaccination movement. In an opinion piece published in The Interpreter on January 14, 2022, it was stated, ‘He is probably already seen as the most famous anti-vaxxer in the world. The declarations of “freedom” by his family will resonate with those agitating against vaccine mandates.’ <https://www.lowyinstitute.org/the-interpreter/novak-djokovic-symbol-anti-vaxxers>

Immigration Minister Alex Hawke withdrew Djokovic's visa on several grounds, one of which was the danger he believes Djokovic poses to public health in Australia. The minister stated, 'I consider that Mr Djokovic's ongoing presence in Australia may lead to an increase in anti-vaccination sentiment generated in the Australian community.' In his written justification of his decision, the minister gave further details, stating that his presence may lead to 'a) other unvaccinated persons refusing to become vaccinated, b) other unvaccinated persons being reinforced in their existing view not to become vaccinated, and/or c) a reduction in the uptake of booster vaccines.' Hawke explained that a reduction in vaccinations would result in an increase in disease and deaths in Australia.

<https://www.dailymail.co.uk/news/article-10404927/Key-reasons-Novak-Djokovics-visa-cancelled-Australias-Immigration-Minister-revealed.html>

Immigration Minister Hawke also argued that Djokovic's failure to isolate after being diagnosed with COVID could provoke similar behaviour in Australia. The Minister stated, 'Given Mr Djokovic's high-profile status and position as a role model in the sporting and broader community, his ongoing presence in Australia may foster similar disregard for the precautionary requirements following receipt of a positive COVID-19 test in Australia.' The Minister added, 'In particular, his behaviour may encourage or influence others to emulate his prior conduct and fail to comply with appropriate health measures following a positive COVID-19 test, which itself could lead to the transmission of the disease and serious risk to their health and others.' <https://www.theage.com.au/sport/australia-declares-djokovic-a-risk-to-civil-order-and-public-health-20220114-p59oex.html>

Three Federal Court judges upheld the decision made by Hawke to cancel Djokovic's visa on public interest grounds. The court ruled it was reasonable to be concerned that Novak Djokovic might have inspired anti-vaccine sentiment. Laying out its reasons for backing that decision, the court said Djokovic's opposition to vaccines was well-known. It stated, 'An iconic world tennis star may influence people of all ages.' In its formal written decision, it found that Djokovic could encourage 'especially the young and the impressionable, to emulate him... This is not fanciful; it does not need evidence. It is the recognition of human behaviour.' It further explained, '[Djokovic] had for over a year chosen not to be vaccinated since vaccines became available.' They also noted that the minister was concerned by reports that anti-vaccination groups 'had portrayed Mr Djokovic as a hero and an icon of freedom of choice'. The court also referred to prior published statements made by Djokovic which indicated his opposition to vaccination. A BBC article titled "'What has Novak Djokovic actually said about vaccines?'" was cited as a record of the star's historic comments, including that he had, before Covid vaccines were available, said he was 'opposed to vaccination'.

<https://www.bbc.com/news/world-australia-60066404>

Djokovic's opposition to vaccinations has become clearer over time. In his home country of Serbia, his comments regarding vaccinations have been criticised by government epidemiologist Predrag Kon, who accused him of 'creating misconceptions'.

<https://www.bbc.com/news/world-59897918> Since being required to leave Australia, Djokovic has stated, 'I was never against vaccination, but I've always supported the freedom to choose what you put in your body.' Critics have noted that this is a contradictory position and that his actual attitude toward vaccinations is demonstrated by his refusal to be vaccinated. In a BBC interview after leaving Australia, Djokovic when asked about the possibility of being excluded from competitions such as the French Open because of his vaccination status, Djokovic stated, that this was 'the price that I'm willing to pay.'

<https://www.bbc.com/news/world-60354068>

3. Djokovic's continued presence in Australia could provoke public disorder  
Opponents of Novak Djokovic being allowed to remain in Australia have argued that his continued presence is likely to create public disorder.

The Minister for Immigration, Alex Hawke, stated that one of the reasons why he had revoked Novak Djokovic's visa was that he believes that the tennis champion's continued stay in Australia would provoke 'civil unrest'. The Minister referred to the protests that Djokovic's presence in Australia had caused and the disorder that could result from these. He stated, 'I consider that Mr Djokovic's ongoing presence in Australia may lead to an increase in anti-vaccination sentiment...potentially leading to an increase in civil unrest of the kind previously experienced in Australia with rallies and protests which may themselves be a source of community transmission.' <https://www.theage.com.au/sport/australia-declares-djokovic-a-risk-to-civil-order-and-public-health-20220114-p59oex.html>

Djokovic's presence in Australia followed by the first cancellation of his visa has resulted in several protests. On January 7, 2022, Forbes reported, 'A large group of protesters gathered Friday outside the Melbourne hotel where Novak Djokovic is being detained, including supporters demanding his release, anti-vaxxers and activists calling attention to refugees detained at the hotel, as the saga surrounding world's top-ranked men's tennis player put a spotlight on Australia's stringent immigration and vaccination policies.'

<https://www.forbes.com/sites/siladityaray/2022/01/07/free-novak-djokovic-supporters-gather-outside-melbourne-hotel-where-he-is-being-detained/?sh=39f64a5184c8> On the same day,

The Age reported, 'Novak Djokovic supporters say they will keep gathering outside the Melbourne hotel where he is being detained until the tennis champion is released...One woman who did not want her name published said she would return daily. "He is more than a tennis player," she said. "He is our idol." Earlier a man using a megaphone outside the hotel urged people to "hold the line" and defend freedom and liberty.'

<https://www.theage.com.au/national/victoria/djokovic-supporters-and-refugee-advocates-rally-outside-carlton-hotel-20220107-p59mjw.html>

Critics of Djokovic remaining in Australia have noted that his capacity to provoke violent protests remained even after the initial ban on his visa was overturned. ABC News reported on January 10, 2022, 'A man has been arrested and dozens of people pepper sprayed by police after a crowd of Novak Djokovic fans swarmed outside his lawyers' office after a court ordered his release from immigration detention...Officers used pepper spray to disperse the group of people...Police said the use of pepper spray was necessary due to the "aggressive behaviour of the crowd".' <https://www.abc.net.au/news/2022-01-10/police-pepper-spray-novak-djokovic-supporters/100748684>

Prior to the Novak Djokovic controversy, antivaxxers had already been identified as a source of public disorder in Australia. In an article published in The Washington Post on December 1, 2021, it is noted, 'One state leader was threatened with beheading over his vaccine mandate. Another was hanged in effigy...A small but highly visible anti-vaccine movement routinely shuts down city centers with protests, some of which have turned violent, and has trained its anger on politicians who have supported vaccine mandates.'

[https://www.washingtonpost.com/world/asia\\_pacific/vaccine-mandates-australia-protests-threats/2021/12/01/e4bd7b40-4ce9-11ec-a7b8-9ed28bf23929\\_story.html](https://www.washingtonpost.com/world/asia_pacific/vaccine-mandates-australia-protests-threats/2021/12/01/e4bd7b40-4ce9-11ec-a7b8-9ed28bf23929_story.html) The Washington

Post reported on September 21, 2021, that 'Angry mobs swarmed Australia's second-most-populous city, Melbourne, for a second straight day... after officials halted all nonessential building work in the city following a violent demonstration against vaccine mandates for the

construction industry a day earlier...The latest protests follow a string of recent demonstrations across the country, including one where construction workers blocked streets across Melbourne in a sit-down against the closure of construction site break rooms.’  
<https://www.washingtonpost.com/world/2021/09/21/australia-melbourne-vaccine-protests-construction-lockdown/>

4. Djokovic has a history of irresponsible behaviour regarding public health regulations Those who oppose Djokovic being granted a visa to play in Australia claim that not only is his unvaccinated status potentially a hazard, but they also claim that his reckless behaviour regarding disease transmission increases the risk he poses.

Djokovic has claimed that he was diagnosed with COVID on December 16, 2021. His behaviour before and immediately after this diagnosis have been criticised as seriously irresponsible. On the same day he purportedly tested positive, he received a commemorative stamp in his honour at an event hosted by the Serbian National Postal Service on December 16. He shared photos of the event to social media the next day. He was not isolating or wearing a mask. Djokovic also attended an award ceremony at the Novak Tennis Centre in Belgrade on December 17. Multiple photos on social media show him posing for photos with children without wearing a mask. <https://www.foxsports.com.au/tennis/australian-open/fresh-twist-as-photos-expose-unbelievably-irresponsible-djoker-behaviour/news-story/2bdfd7b4d7092ac9acdc57d096c5193d>

This behaviour has been criticised by many commentators. News Corp’s sports editor Todd Balym has stated on Twitter, ‘So either Djokovic is lying and the positive covid test is fraudulent, or this “hero” has such a blatant disregard for anyone & everyone else he was happy to risk exposing covid to children. His reputation is in utter ruins, no coming back from this.’ <https://twitter.com/balymt/status/1479740280593010690> The Economist’s Stanley Pignal also added on Twitter ‘A problem for Djokovic: if he claims he had Covid recently, his (and others’) social media should include a period where he isn’t indoors, maskless, with lots of people. And for now, that seems hard to find.’  
<https://www.foxsports.com.au/tennis/australian-open/fresh-twist-as-photos-expose-unbelievably-irresponsible-djoker-behaviour/news-story/2bdfd7b4d7092ac9acdc57d096c5193d>

Then, on December 18, 2021, Djokovic was interviewed and photographed without a mask by L’Equipe. Djokovic has claimed he was unaware of his COVID positive status before December 18; however, he admits to knowing he was COVID positive when he gave the L’Equipe interview. Djokovic has said of that interview, ‘While I went home after the interview to isolate for the required period, on reflection, this was an error of judgement and I accept that I should have rescheduled this commitment.’  
<https://www.sportingnews.com/au/tennis/news/novak-djokovic-covid-19-positive-australian-open-visa-cancel/18cr5pfbct5f1a9vjd9cs0cam> L’Equipe journalist, Franck Ramella, has since noted that he had been told not to ask Djokovic about his vaccination status or the forthcoming Australian Open so ‘therefore did not ask if he had considered doing a test’. Simon Chambers, co-president of the International Tennis Writers Association has described this incident as ‘deeply concerning’. Chambers has stated, ‘As journalists, we take great care to adhere to all Covid-19 rules in place and we expect all players to do the same.’  
<https://www.bbc.com/news/world-australia-59935127>



Djokovic's conduct was in violation of Serbian laws regarding COVID control. It has since been announced Djokovic could face a fine or imprisonment in Serbia after his admission that he broke isolation while he had Covid in December. The Serbian prime minister warned Djokovic's behaviour appeared to be 'a clear breach' of the rules. Lawyers in Serbia told local reporters that breaking the country's strict isolation rules was an offence under article 248 of the criminal code, and subject to a fine or prison sentence of up to three years – although community service was more likely. <https://www.irishtimes.com/sport/other-sports/novak-djokovic-could-face-a-fine-or-even-prison-in-serbia-1.4774957>

Some critics have questioned Djokovic's willingness to follow regulations and protect public safety. Former Australian Labor senator Steven Conroy has claimed that Novak Djokovic is a 'pampered, entitled' athlete who thinks he can 'game the system'. Mr Conroy added, 'I have zero sympathy for Djokovic. This is a bloke that does not take the rules seriously.'  
<https://www.theaustralian.com.au/news/djokovic-a-pampered-entitled-athlete/video/98d79b2241f5a6f396ed8e1bd5250abd>

5. It is unjust that Djokovic's status as a tennis champion should exempt him from public health regulations

Critics have claimed that making special provisions for high-profile athletes, allowing them to avoid the regulations that apply to ordinary citizens, is unjust.

Critics claim there is a fundamental injustice in making special COVID provisions for a privileged few. Stephen Parnis, a former vice-president of the Australian Medical Association, has stated, 'I don't care how good a tennis player he is. If he's refusing to get vaccinated, he shouldn't be allowed in. If this exemption is true, it sends an appalling message to millions seeking to reduce COVID19 risk to themselves and others.'  
<https://tinyurl.com/2rnv7m65> ' The same point has been made at length by James Buckley in an opinion piece published in The Canberra Times on January 5, 2022. Buckley stated, 'Hands up if you were genuinely surprised to hear Novak Djokovic had been granted a medical exemption to play in the Australian Open. Horrified, perhaps. Angry, yes. Frustrated, let down, disgusted, feeling like we've all just been given a massive slap in the face. Sadness for the residents of this country who have time and again been denied international and interstate travel during this pandemic to see dying loved ones. For those who have been separated from their children, or unable to attend the funeral of a close friend or family member. Unfortunately, the rules are different if you're a global sporting superstar, even if you've exhibited zero respect for a virus that has infected almost 300 million people across the world over the past two years.'  
<https://www.canberratimes.com.au/story/7571048/youve-got-to-be-djoking-why-tennis-australia-has-dropped-the-ball/>

This perception of injustice has been supported by Eugene Robinson writing for the Boulder Daily Camera (a United States paper published out of Colorado.) Robinson has stated, 'If I were an Australian citizen, I'd be livid at the idea that Djokovic could waltz into the country — defiantly unvaccinated — and blithely go about staking his claim as tennis's greatest of all time. I'd remember the early phase of the pandemic, when thousands of Aussies were stranded abroad for weeks or even months, barred from coming home. I'd remember the repeated lockdowns that were among the strictest and most punishing in the world.'  
Djokovic being able to remain in Australia and compete in the Australian Open has been perceived as unjust by a clear majority of Australians. A poll released on January 16, 2022, showed most Australians were opposed to him remaining. A survey shows 71 percent of Australians wanted Novak Djokovic to be deported ahead of the Australian Open. Asked

their view during several days of national debate, 78 percent of Coalition voters said the tennis star should not be allowed to stay and play, 75 percent of Labor voters said the same and 64 percent of uncommitted voters concurred.

<https://www.theage.com.au/politics/federal/send-him-home-poll-reveals-overwhelming-support-for-decision-to-deport-novak-djokovic-20220115-p59oh9.html>

The same position has been put in numerous letters published in Australian papers. In a letter published in The Age on January 16, 2022, Jim Killacky wrote, ‘I wish that Novak Djokovic would simply accept the ruling of the Immigration Minister Alex Hawke and go home. From everything I have read here, he now seems to be trying to use his considerable sporting prestige to get around the rules. I hope the Australian government position will be upheld. Anything else will reek of the powerful and wealthy getting their way – while the real suffering and hardship around the world continues to be insufficiently addressed.’

<https://www.theage.com.au/national/victoria/accept-the-call-go-home-djokovic-20220115-p59ogz.html>

It has further been claimed that not only have athletes been able to ignore COVID restrictions, but they have also been given preferential access to tests and treatments. In an article published in Sportscasting on March 31, 2020, it was stated, ‘Since the COVID-19 outbreak started in the United States, daily sports headlines have reported one athlete after another getting tested while many in hard-hit areas have no such access to testing. In recent days, there have been reports of MLB players getting elective surgeries when it has been recommended all operations be postponed or cancelled.’ The author of the piece, Kyle Dalton, highlighted the inequality of this preferential treatment and asked, ‘Why are these athletes getting access to medical testing and surgeries not available to the general public in such a moment of crisis?’ <https://www.sportscasting.com/why-are-athletes-getting-preferential-treatment-in-the-middle-of-a-pandemic/>

## **Further implications**

The debate surrounding whether Novak Djokovic should have been allowed to remain in Australia is a shifting one, with positions depending on the perspective from which the question is viewed.

Djokovic entered Australia with what he believed was a valid vaccination exemption given him by Tennis Australia after his low-risk status resulting from him recently having contracted COVID. This exemption had been overseen by two medical panels. The chief executive officer of Tennis Australia, Craig Tilley, claims that it was supported by Victorian government health officials. His exemption was initially accepted by the Department of Home Affairs and Djokovic was granted an entry visa.

Djokovic’s acceptance into Australia immediately became contentious as it had repeatedly been stated by the government and the Australian Technical Advisory Group on Immunisation that entry from overseas required double vaccination or a medical exemption. Speculation was rife as to what medical condition could possibly justify a supremely fit international athlete not being vaccinated. Djokovic initially refused to explain the basis on which his exemption had been given and so the controversy over his being allowed to enter the country continued.

Two government ministers indicated that the federal government, as the ultimate determiner of who was legally able to enter the country, would investigate the matter further and the Prime Minister indicated that no special provisions would be made for elite athletes. Eight hours after he had arrived in Australia, Australian Border Force revoked Djokovic's visa on the basis that he had failed to supply sufficient evidence to justify it having been granted. <https://www.theguardian.com/sport/2022/jan/06/novak-djokovic-visa-cancelled-why-is-the-tennis-star-being-kicked-out-of-australia> The dispute seemed to lie between Tennis Australia and the federal authorities. It was later revealed that in November 2021 the Federal Health Minister, Greg Hunt, had informed Tennis Australia that though in some circumstances having recently contracted COVID could act as grounds for a vaccination exemption, in the case of players at the forthcoming Australian Open these grounds were not sufficient. <https://www.abc.net.au/news/2022-01-06/border-force-investigate-more-medical-exemptions-novak-djokovic/100742868> Tennis Australia has made no comment regarding the Minister's advice and the Victorian government has claimed it was never referred to them. Djokovic, in the meantime, was taken into Immigration Detention as an illegal immigrant.

Djokovic seems to have acted on the assurance he was given by Tennis Australia and the medical exemption they had supplied him with, ratified by two medical panels. Djokovic appealed against the cancellation of his visa and Federal Circuit Court judge, Anthony Kelly, upheld his appeal, noting that Djokovic had not been given sufficient time to respond to Border Force's challenge to his visa.

[https://www.espn.com/tennis/story/\\_/id/33033162/australian-judge-reinstates-novak-djokovic-visa-orders-release-hotel-quarantine](https://www.espn.com/tennis/story/_/id/33033162/australian-judge-reinstates-novak-djokovic-visa-orders-release-hotel-quarantine) What followed was a media investigation of Djokovic's claim to have previously contracted COVID, with concerns being voiced that while apparently COVID positive in December 2021 Djokovic had not immediately gone into isolation. <https://www.sportingnews.com/au/tennis/news/novak-djokovic-covid-19-positive-australian-open-visa-cancel/18cr5pfbvct5f1a9vjd9cs0cam>

The entire course of this controversy had been marked by public protest with groups taking to the street to support Djokovic, to oppose him, to oppose compulsory vaccination and to oppose the government's treatment of illegal immigrants. Ultimately, Djokovic's visa was revoked a second time, this time by the Minister for Immigration, Alex Hawke. Now, however, the grounds on which the visa was removed were not that Djokovic posed a health risk because he was not vaccinated. The Minister explained that Djokovic's visa had been withdrawn because his presence would encourage antivaxxers and others simply reluctant to be vaccinated not to be immunised. <https://www.dailymail.co.uk/news/article-10404927/Key-reasons-Novak-Djokovics-visa-cancelled-Australias-Immigration-Minister-revealed.html> Therefore, the threat he presented came to be seen as one of setting a negative example, rather than being a direct health risk. He was also seen to be a threat to public order as his presence could lead to street protests. On January 17, 2022, three federal court judges endorsed the Immigration Minister's decision.

The issue raises concerns on numerous levels. Firstly, it is a dramatic instance of a failure of federation. It is possible that Tennis Australia deliberately ignored Health Minister Hunt's warning that having recently contracted COVID would not provide a vaccination exemption for Australian Open players. However, it is remarkable that federal and state governments have not collaboratively clarified the position of athletes entering the country. It should not have been left to Tennis Australia to tell Djokovic or any other player that they were medically exempt.

Also concerning is the way the basis for the decision to revoke Djokovic's visa appears to have shifted over time. If the primary reason he was to be denied entry became that his presence would encourage antivaxxers then that reason existed back in November of 2022 and before. The case seems to be being made that high profile public figures need to be held to a higher standard regarding public health issues. This is something that could presumably have been made apparent to all sporting bodies and state governments at least at the end of last year.