



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: IT-99-36-PT
Date: 9 December 1999
Original: English

IN TRIAL CHAMBER II

Before: Judge David Hunt, Pre-Trial Judge

Registrar: Dorothee de Sampayo Garrido-Nijgh

Decision of: 9 December 1999

PROSECUTOR

v

Radoslav BRĐANIN

**FURTHER DECISION ON PETITION FOR A WRIT OF HABEAS CORPUS
ON BEHALF OF RADOSLAV BRĐANIN**

The Office of the Prosecutor:

**Ms Joanna Korner
Mr Michael Keegan
Ms Ann Sutherland**

Counsel for the Accused:

Mr John Ackerman

1. On 8 December 1999, the Registry of the Tribunal received from Counsel for the accused Radoslav Brđanin a document entitled "Reply to Prosecution's Response to Petition for a Writ of Habeas Corpus on Behalf of Radoslav Brđanin". The Decision of the Trial Chamber upon that petition had already been signed and lodged with the Registry for filing when it was notified that the document had been received. The Decision was nevertheless filed, and it necessarily makes no reference to that document.
2. No leave had been sought by Counsel for the accused to file such a document, as required by the Order for Filing Motions.¹ Counsel is aware of that requirement, having been obliged to seek such leave when the prosecution objected to a reply filed by him without leave in relation to an earlier motion filed by him, the Motion to Dismiss Indictment.²
3. The purpose of requiring leave to file a reply is to prevent the waste of time involved when documents are filed in the guise of being a reply but which merely repeat (and sometimes elaborate) the submissions made in the motion. A reply is permitted only to permit the moving party to answer issues raised by the respondent to the motion which go beyond the issues raised by the motion itself.
4. The document in question here does no more than repeat and elaborate the submissions made in the original motion. It adds absolutely nothing to the matters raised for determination by the Trial Chamber. Had leave been sought to file the document, it would have been refused.

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

Dated this 9th day of December 1999,
At The Hague,
The Netherlands.



Judge David Hunt
Pre-Trial Judge

[Seal of the Tribunal]

¹ 12 July 1999, p 2.

² Reply to Prosecution's Opposition to Filing of Pleading Entitled "Reply of Radoslav Brđanin to Prosecution's Response to Motion to Dismiss Indictment", 17 Sep 1999.