



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-99-36-AR73.2

Date: 1 March 2000

Original: English

BEFORE A BENCH OF THE APPEALS CHAMBER

Before: Judge Lal Chand Vohrah, Presiding
Judge Wang Tieya
Judge Rafael Nieto-Navia

Registrar: Mrs. Dorothee de Sampayo Garrido-Nijgh

Decision of: 1 March 2000

PROSECUTOR

v.

**RADOSLAV BRĐANIN
MOMIR TALIĆ**

DECISION ON REQUEST TO APPEAL

The Office of the Prosecutor:

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

Counsel for the Appellant Momir Talić:

**Mr. Xavier de Roux
Mr. Michel Pitron**

THIS BENCH of the Appeals Chamber of the 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 (“the International Tribunal” and “the Bench”, respectively),

BEING SEIZED OF a “Request to Appeal Against the Decision of 1 February 2000”, filed by the accused Momir Talić (“the Appellant”) on 4 February 2000 in French and on 7 February 2000 in English (“the Request”);

NOTING the “Prosecution’s Response to ‘Request to Appeal Against the Decision of 1 February 2000’ filed by Counsel for the Accused Momir Talić”, filed on 10 February 2000;

NOTING the “Memorandum on the Response of the Prosecutor of 10 February 2000”, filed by the Appellant on 14 February 2000 in French, and on 16 February 2000 in English;

NOTING that the Request was filed against “point 2” of a decision issued on 1 February 2000 by the pre-trial Judge of Trial Chamber II pursuant to sub-Rule 65*ter* (D) and Rule 73 of the Rules of Procedure and Evidence of the International Tribunal (“the Decision” and “the Rules”, respectively), wherein the Appellant’s Motion for Release, filed on 19 January 2000 in French, was dismissed as a motion based on Rule 73 (“the Release Motion”);

CONSIDERING “point 2” of the Decision to be point 2 of the Disposition which relates specifically to the Release Motion;

CONSIDERING that sub-Rule 73 (B) provides that decisions on motions filed under sub-Rule 73 (A) “are without interlocutory appeal save with the leave of a bench of three Judges of the Appeals Chamber which may grant such leave

- (i) if the decision impugned would cause such prejudice to the case of the party seeking leave as could not be cured by the final disposal of the trial including post-judgement appeal;
- (ii) if the issue in the proposed appeal is of general importance to proceedings before the Tribunal or in international law generally.”

NOTING that the Request is filed pursuant to sub-Rule 73(B)(ii);


CONSIDERING that the Request arose from a misunderstanding by the Appellant of the terms of the Rules regarding arrest, detention, and the amendment of indictments, as has been noted in the Decision;

CONSIDERING, therefore, that the Appellant has failed to establish the existence of an issue of general importance to proceedings before the Tribunal or in international law generally;

PURSUANT to Rule 73 of the Rules,

HEREBY REJECTS the Request.

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



Lal Chând Vohrah
Presiding Judge

Dated this first day of March 2000
At The Hague,
The Netherlands.

[Seal of the Tribunal]