



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-AR73.9
Date: 1 August 2002
Original: English
French

**IN THE APPEALS CHAMBER OF
THE INTERNATIONAL TRIBUNAL**

Before: Judge Jorda, presiding
Judge Shahabuddeen
Judge Güney
Judge Gunawardana
Judge Meron

Registrar: Mr Hans Holthuis

Decision of: 1 August 2002

THE PROSECUTOR

v.

**RADOSLAV BRĐANIN
AND
MOMIR TALIĆ**

**DECISION ON THE REQUEST FOR EXTENSION OF TIME LIMIT
AND AUTHORISING APPEARANCE AS *AMICI CURIAE***

The Office of the Prosecutor:

Mrs Joanna Korner
Mr Andrew Cayley

Counsel for Jonathan Randal:

Mr Geoffrey Robertson and Mr Steven Powles

Defence Counsel:

Mr John Ackerman and Mr Milan Trbojević for the accused Radoslav Brđanin
Mr Slobodan Zečević and Ms Natacha Fauveau-Ivanović for the accused Momir Talić

Counsel for *Amici Curiae*:

Mr Floyd Abrams and Mr Joel Kutzberg

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 (hereinafter “the Appeals Chamber” and the “Tribunal”),

NOTING the “Decision on Motion to Set Aside Confidential Subpoena to Give Evidence” rendered by Trial Chamber II in English on 7 June 2002;

NOTING the “Decision to Grant Certification to Appeal the Trial Chamber's "Decision on Motion to Set Aside Confidential Subpoena to Give Evidence"” rendered in English on 19 June 2002;

NOTING the “Motion to Appeal the Trial Chamber's "Decision on Motion on Behalf of Jonathan Randal to Set Aside Confidential Subpoena to Give Evidence"” filed in English by Counsel for Jonathan Randal on 26 June 2002 and the “Written Submissions in Support of the "Motion to Appeal the Trial Chamber's Decision on Motion on Behalf of Jonathan Randal to Set Aside Confidential Subpoena to Give Evidence"” filed in English by Counsel for Jonathan Randal on 4 July 2002;

NOTING the Prosecutor’s partly confidential “Response to the "Written Submissions in Support of the Motion to Appeal the Trial Chamber's Decision on Motion on Behalf of Jonathan Randal to Set Aside Confidential Subpoena to Give Evidence" filed on 4 July 2002” filed in English on 15 July 2002 (hereinafter “the Prosecutor’s Response”);

BEING SEIZED of a request that the time limit in which to file a reply to the Prosecutor’s Response be extended until 7 August 2002 filed in English by Counsel for Jonathan Randal on 26 July 2002 (hereinafter “the Appellants’ Request”);

NOTING that the Office of the Prosecutor stated orally that it would not object to the Appellants’ Request;

CONSIDERING that the “Practice Direction on the Procedure for the Filing of Written Submissions in Appeal Proceedings before the International Tribunal” (IT/155 Rev. 1)

provides that a reply may be filed within four days of the filing of the response and that, in the case in point, the reply should have been filed by no later than 19 July 2002;

CONSIDERING that, pursuant to Rule 127(B) of the Rules of Procedure and Evidence of the Tribunal (hereinafter “the Rules”), the Appeals Chamber may enlarge any time prescribed by or under these Rules on good cause being shown by motion;

CONSIDERING that the specific circumstances in this instance warrant the Appeals Chamber’s granting an enlargement of the time in this case;

BEING FURTHER SEIZED of the “Motion for Leave of Court to File Brief *Amici Curiae* on Behalf of Various Media Entities and in Support of Jonathan Randal’s Appeal of Trial Chamber’s Decision on Motion to Set Aside Confidential Subpoena to Give Evidence” filed on 18 July 2002 (hereinafter “the Motion for Leave to File an *Amici Curiae* Brief”) in which a number of publishing companies and organisations that defend the interests of journalists¹ (hereinafter “the Movants”) request leave to set out their position in an *amici curiae* brief on the issue of whether journalists subpoenaed to appear by the Tribunal should be covered by a qualified privilege and to participate in any hearing on Jonathan Randal’s interlocutory appeal;

NOTING that the parties did not object to the Motion for Leave to File an *Amici Curiae* Brief;

CONSIDERING that the Appeals Chamber considers it desirable for the proper administration of the case to authorise the Movants to make a presentation as *amici curiae* in this case;

CONSIDERING Rules 74 and 107 of the Rules;

¹ Including the *New York Times Company*, the *Dow Jones Company*, the *Tribune Company*, the *Washington Post Company*, the *Committee to Protect Journalists*, the *Reporters Committee for Freedom of the Press* and the *Society of Professional Journalists*.

FOR THE FOREGOING REASONS,

GRANTS the Appellants' Request and **ORDERS** the Appellants to file their reply by no later than 7 August 2002;

GRANTS the Motion for Leave to File an *Amici Curiae* Brief regarding the issue of the qualified privilege of journalists and **ORDERS** the Movants to file by no later than 17 August 2002 their single *amici curiae* brief which must under no circumstances exceed 30 pages or 9,000 words;

ORDERS the parties, should they so wish, to file a response to the *amici curiae* brief by no later than 27 August 2002;

STATES that a decision will be issued in due course setting out whether a hearing on Jonathan Randal's appeal will be held and, if so, which parties will be authorised to take part.

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

Done this first day of August 2002
At The Hague
The Netherlands

(signed)

Claude Jorda
Presiding Judge

[Seal of the Tribunal]