

[US] News Organizations Protest at Hague Court's Subpoena

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A retired Washington Post journalist, John Randal, refused to give evidence to the UN International Criminal Tribunal for the former Yugoslavia in the trial of Radoslav Brdjanin, a Bosnian Serb charged with genocide in Bosnia. Supported by media organizations such as CNN, the BBC, the Associated Press and the New York Times, the Washington Post challenged plans by the Tribunal to subpoena Randal. He was the first journalist to refuse to give evidence to the United Nations Court. This was the first time that news organizations have intervened in hearings.

The Washington Post has submitted a brief to the Court in the Hague on behalf of 34 international organizations to protect journalists reporting from war zones from subpoenas, arguing that journalists have limited privilege and should be allowed to protect their sources.

In their brief, the media organizations urged the Tribunal "to recognize a qualified privilege for journalists not to be compelled to testify about their news gathering before this Court unless certain conditions are met-namely that the information is absolutely essential to this case and that it cannot be obtained by any other means".

The organizations are appealing a three-member panel lower court decision which stated that Randal had no grounds on which to refuse to testify and that his case did not involve freedom of the press. Further, the ruling stated that the reporter had insufficient grounds to refuse to testify against Brdjanin, because he was not in any danger and Randal had already revealed his source.

The Washington Post attorneys' leave to appeal has been granted and the parties are awaiting oral arguments on this issue.

The journalism community is split on this issue, as a BBC journalist recently testified at the war tribunals in the trial of former Yugoslav President Slobodan Milosevic.

International Criminal Tribunal for the former Yugoslavia, in Trial Chamber II, Prosecutor v. Radoslav Brdjanin and Momir Talic, Decision on Motion to Set Aside Confidential Subpoena to Give Evidence, 7 June

2002

<http://www.un.org/icty/brdjanin/trialc/decision-e/t020612.htm>

