

Aleksovski case: The Judgement

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In a majority decision however, the Trial Chamber (Judge Almiro Simes Rodrigues, Presiding; Judge Lal Chand Vohrah and Judge Rafael Nieto Navia) found him not guilty on the two counts of grave breaches of the 1949 Geneva Conventions (Article 2 of the Statute of the Tribunal).

The court ruled that it had not been proved the victims ascribed to the accused were protected persons within the meaning of the 1949 Geneva Conventions.

The verdict was announced in great haste before the full text of the Trial Chamber's factual and legal findings was published. This is because Aleksovski was arrested in Croatia on June 8, 1996 and has already spent more time in custody than the sentence imposed.

The judges therefore ordered his immediate release despite the objections of Prosecutor Brenda Hollis. Hollis has announced her intention to appeal against the sentence. Presiding Judge Rodrigues told the court that he believed Croatia would ensure Aleksovski would be returned to The Hague should it be deemed necessary.

The former warden of the prison in Kaonik in Central Bosnia was found guilty both as an individual participant and as commander of "outrages upon personal dignity" against the Muslim prisoners.

Pointing out that Muslim civilians were exposed to cruel interrogations and beatings in Kaonik, and that they were used as human shields and taken to dig frontline trenches - where some were killed or wounded, Judge Rodrigues stressed the acts "represent serious crimes according to the international law." In imposing such a sentence, he said, the court wished to "send a clear signal that we all have to respect our obligations in order to belong to the civilised world and live in peace."

Prosecutor Hollis had demanded Aleksovski be given a minimum sentence of 10 years and so announced her decision to appeal against the length of the sentence as well as the not guilty verdicts.

"Never have I hated anyone", Aleksovski said after hearing the verdict. "Never have I wanted to play a part in inflicting anything bad on anyone. I was, I am and I wish to remain a citizen of mankind." He also said that "madness reigned" in Central Bosnia

in 1993, and that he is not able to explain "what was happening there." But, he added, "I was not the chief of the hospital, but of the prison, and if I had acted as one acts in prisons...two and a half years (the sentence meted out to him) would be too little."

The full text of the verdict to Zlatko Aleksovski will be published later, and only then it will be seen how a majority (2:1) of the Trial Chamber concluded that the Muslim inmates of Kaonik were not protected persons under the Geneva Conventions, i.e. that the conflict between the Bosnian Croats and Bosnian Muslims in 1993 was not an international armed conflict.

That decision may complicate other cases before the Tribunal that deal with the Croat-Muslim conflict from

1991-1993 in Central Bosnia where the accused (Tihomir Blaskic, Dario Kordic and Mario Cerkez) are also charged with grave breaches of the Geneva Conventions.

That said, the character of the conflict - international or internal - has to be proved in each individual case in which the accused are charged with grave breaches, and the judges' decision in one case is not automatically applicable to all "similar" cases. As far as the character of the Croat-Muslim conflict in Central Bosnia is concerned, there exists already one Trial Chamber ruling whereby it is undoubtedly assessed as an international conflict namely, in the ruling of 13 September 1996 in the case

of Ivica Rajic (the Bosnian Croat commander accused of a massacre against Muslim civilians of the village of Stupni Do in the Lashva River Valley, Central Bosnia). The then Trial Chamber II (Judge Gabrielle Kirk McDonald, Presiding; Judge Rustam S. Sidhwa and Judge Lal C. Vohrah) unanimously concluded that there were reasonable grounds for believing that the attack on the village of Stupni Do took place during the course of an international armed conflict and that the victims and property were thus protected.

This decision was itself only made after a public hearing to review the indictment, pursuant to Rule 61 of the Rules of Procedure and Evidence. The judges only reached their decision after sifting through 500 pages of new evidence. Having done so, they concluded that there there was prima facie evidence on the international character of the conflict, in which local Croat forces (HVO) were fighting as agents of Croatia in clashes with the Bosnian Government in the central and southern Bosnia 1992 and 1993.

Location: Croatia
Bosnia and
Herzegovina

Focus: International Criminal Tribunal for the former
Yugoslavia

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