

Aleksovski Judgement

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The Appeals Chamber criticizes Aleksovski sentence as "manifestly" inadequate.

Former Bosnian Croat prison commander, Zlatko Aleksovski, is to serve seven years in prison after the Appeals Chambers ruled his original sentence of two and half years "manifestly inadequate."

Aleksovski, 40, was sentenced by the Trial Chamber in May 1999 and released from the United Nations Detention Unit because he had already been in custody for almost three years.

In its judgement on March 24, the Appeals Chamber found there was a "discernible error" in the original sentencing decision. Insufficient weight had been given to the gravity of Aleksovski's conduct or to his position as a commander.

Aleksovski was convicted in May 1999 on one count of violating the laws and customs of war: committing outrages upon personal dignity at the Kaonik prison facility in central Bosnia in 1993. Aleksovski had been the commander at the prison and was convicted both as an individual and as a commanding officer.

In February, Aleksovski lost his appeal against his conviction and, due to the prosecution appeal against the length of sentence, was promptly sent back to prison pending that appeal.

The Appeals Chamber found Aleksovski not only failed to prevent violence but "as a superior (officer) involved himself in violence." He also failed to punish those responsible. Most seriously, Aleksovski must have known, in selecting detainees to use as human shields and to dig front-line trenches, that he was putting at risk the lives of those entrusted to his custody.

The Appeals judgement also upheld the prosecution's claim that the Geneva Convention were applicable in the Aleksovski case.

The Appeals Chamber accepted the prosecution submission that if the conflict in this case was characterised as international, it follows that the victims were protected persons under Article 4 of the Geneva Convention. The Appeals Chamber also ruled Article 4 might be given a wider interpretation affording protected status to captives of the same nationality as their captors.

The Appeals Chamber, however, declined to reverse Aleksovski's acquittals on charges relating to breaches of the Geneva Convention because any additional sentences would run concurrently and would not lead to an increase in the overall length of the sentence.

Likewise the overturning of Aleksovski's acquittal on charges of mistreating prisoners outside the prison compound failed to add to the length of his sentence. The Appeals Chamber found Aleksovski responsible for Croatian Defence Force mistreatment and guilty of "aiding and abetting" that mistreatment.

Aleksovski's four grounds for appeal against his conviction were rejected. His contention that the Trial Chamber failed to establish his "discriminatory intent" was rejected on the grounds that such intent was not a factor in offences under Article 3 of the Tribunal Statute, violations of the laws or customs of war, nor in the offence of outrages upon personal dignity.

Aleksovski's argument that an "extreme necessity" might have existed for detaining Bosniaks was also dismissed. The Appeals Chamber also rejected his argument that the Trial Chamber erred in evaluating the credibility of the various witness testimonies. Finally the Appeals Chamber dismissed claims that the Trial Chamber drew "unreasonable conclusions" in respect to Aleksovski's role as a superior officer.

Location: Bosnia and Herzegovina

Focus: International Criminal Tribunal for the former Yugoslavia

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