

Appeals Chamber Upholds Zelenovic Judgment

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Tribunal judges dismiss appeal of Bosnian Serb convicted of wartime rapes in Foca.

The Hague tribunal's appeals chamber this week upheld Dragan Zelenovic's 15-year prison sentence for rape and torture committed in the eastern Bosnian town of Foca during the country's 1992-95 war.

Zelenovic, a former Bosnian Serb soldier and prison guard at a temporary detention facility set up in the town, was sentenced on April 4, after pleading guilty to multiple counts of rape and torture.

The tribunal was considering referring his case to Bosnia for trial when the suspect decided to enter a guilty plea in January.

Prosecutors had asked for a sentence of ten to 15 years, while his defence team called for seven to ten, arguing that his guilty plea was an important mitigating factor.

They argued that their client wanted to spare his victims the trauma of testifying about their ordeal and that his plea would help the reconciliation process in Bosnia.

While judges acknowledged that the defendant's guilty plea was very important, they emphasised that it did not, in any way, "diminish the gravity of the crime".

In his appeal, which was launched soon after the verdict, Zelenovic argued that he should receive a lesser sentence because the trial chamber had not given sufficient weight to the fact that he was the first to plead guilty to charges relating to rapes and torture that occurred in Foca - and that he had gone beyond the requirements of his plea agreement to help prosecutors.

In his appeal, Zelenovic also argued that the trial chamber should have taken into account the appeal judgment in the case of his former co-accused Radovan Stankovic before the Bosnian War Crimes Chamber.

Stankovic, who has been on the run since escaping from a prison in Foca on May 25, was initially indicted by the Hague tribunal along with Zelenovic for rapes, torture and enslavement of Bosnian Muslim women in Foca in 1992, before his case was transferred to the Bosnian court.

Unlike Zelenovic, Stankovic pleaded not guilty to all charges. His sentence was increased from 16 to 20 years on appeal.

The appeals chamber in Zelenovic case, led by Judge Liu Daqun, was unanimous in finding that the defendant had failed to make the case that the trial chamber erred in its sentencing.

"The appeals chamber considers that the trial chamber reasonably assessed the importance of the guilty

plea, especially when finding that it constituted one of the main mitigating circumstances,” said Liu, reading from a summary of the judgment.

Judges rejected Zelenovic’s claim that he had gone out of his way to help the prosecution, saying that the requirement of cooperation in his plea bargain was not as limited as he tried to show.

“Thus, the appellant did not show that his cooperation went beyond the scope of his obligations,” said Liu.

They also pointed out that the Stankovic appeal judgment was only made public on April 17, after Zelenovic was sentenced on April 4.

Zelenovic therefore “failed to substantiate his allegation that the trial chamber could have learned about the Stankovic appeal judgment prior to rendering the sentencing judgement [in his case]”.

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