

Main Cerkez Charges Overturned

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Former Bosnian Croat military chief has sentenced slashed on appeal.

The appeals chamber announced its decision this week to overturn the bulk of charges against former Bosnian Croat commander Mario Cerkez and dramatically reduce his sentence.

At the same time, judges upheld all counts against his co-defendant, politician Dario Kordic.

Kordic and Cerkez were sentenced in February 2001 to 25 and 15 years in prison respectively for their roles in the persecution of Muslim civilians in central Bosnia mainly in 1993.

Outlining the appeals judges' decision on December 17, Presiding Judge Wolfgang Schomburg confirmed the trial chamber's finding that as a senior Croat politician in Bosnia, Kordic planned and instigated military attacks designed to drive Muslims from their homes.

But the chamber overturned the finding that Cerkez, who was in charge of ethnic Croat forces in the area, had been involved in commanding this kind of military persecution and ruled that he can in fact only be held responsible for illegally imprisoning Muslims civilians.

Although the judges decided that this illegal detention alone amounted to a form of persecution, they slashed his sentence to six years.

Having already spent seven years in detention in The Hague, Cerkez was released early this month and was not present at this week's hearing.

Kordic had entered his appeal on several grounds, including the argument that the fighting in central Bosnia in 1993 didn't constitute a one-sided persecution of Muslim citizens by ethnic Croat forces.

But judges upheld the finding that Kordic had in fact been present at a meeting on April 15 in the Hotel Vitez, where an order was approved to kill all Muslim men of military age, expel citizens and set houses on fire.

This meeting was followed by a series of military attacks in the Lasva Valley region, which Judge Schomburg said were planned partly by Kordic and were "aimed at 'cleansing' these areas of Muslims". There were also further attacks in the municipality of Kiseljak.

The judges ruled that Kordic had "direct intent" for those crimes which had been explicitly discussed during the meeting at the Hotel Vitez - murders of military-age males, expulsions and destruction. And they also said he was responsible for acts such as plunder and unlawful detention of civilians, insofar as he was aware that it was very likely such crimes would be committed during the persecutory military attacks.

In response to a specific submission in Kordic's appeal, Judge Schomburg confirmed that the trial chamber was right to find him responsible for one of the most serious incidents listed in the indictment, an attack on

the village of Ahmici which left more than 100 Muslim civilians dead.

Judges also threw out Kordic's argument that fighting in central Bosnia did not amount to an international conflict, a necessary condition for him to be found guilty of violations of the Geneva conventions. Judge Schomburg said the trial chamber had been right to rule that the fact that Croatia had control over Croat forces in Bosnia meant the conflict was international.

Judges also rejected his arguments that he had not received a fair trial, that the trial chamber relied on uncorroborated hearsay as evidence and that his sentence was excessive.

The appeals chamber did overturn Kordic's convictions for a few specific crimes. In most instances, they said this was because it had not been sufficiently established that certain kinds of acts - for instance plunder, or wanton destruction - had occurred at certain locations listed in the indictment.

But the limited number of convictions against Kordic that were reversed were too restricted in scope to affect the individual criminal charges against him, or the length of his prison sentence.

Cerkez was more successful with his appeal.

Judges upheld the trial chamber's finding that Cerkez had been present at a separate meeting in the Hotel Vitez on April 15, 1993 - a fact which they said played a significant role in the original ruling on his case.

But they said the evidence about what was actually discussed at this particular meeting didn't suggest that those present were planning persecutory military attacks and concluded that - unlike with Kordic - it wasn't clear that Cerkez's presence there was enough to establish that he had intended to commit any crimes afterwards.

They then went on to overturn all of the charges against Cerkez relating to military assaults on civilian centres, ruling that the crimes in question had not been sufficiently proven, or that it had not been shown that troops under his control were the perpetrators.

They rejected a prosecution submission that Cerkez should be found guilty for crimes committed in Ahmici, which had been entered in response to the trial chamber's finding that his own brigade had not been involved in the initial assault but had arrived only later in the day.

Judges threw out the prosecution's argument that Cerkez should anyway be held responsible for planning the Ahmici attack as part of the wider campaign of ethnic cleansing, saying there wasn't enough evidence that he was in fact responsible for this wider campaign.

And they also rejected the prosecution argument that he should be convicted on the grounds that he provided support for the attack by preventing UN forces from entering the area. Judges said it had not been established whether a road block set up by his brigade at the time might in fact, as Cerkez himself claimed, only have been intended to block the direction of a possible assault by government troops.

In the end, the appeals chamber concluded that the only crime for which Cerkez could be held responsible was the imprisonment of civilians in two locations in the town of Vitez. At the same time, judges ruled that this was still enough to count as persecution, since he knew that all the detainees were being held specifically because they were Muslims.

Cerkez was therefore found guilty on three of the 22 counts listed against him in the original indictment - imprisonment, unlawful confinement of civilians and persecutions.

Cerkez flew to Croatia on December 3, after being released from the Hague detention unit.

Kordic, who blew a kiss to the public gallery as he left the courtroom, has a further 18 years of his 25-year sentence to go.

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Location: Croatia
Bosnia and
Herzegovina

Focus: International Criminal Tribunal for the former
Yugoslavia

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