

Oric Acquitted in Appeals Hearing

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Mixed reactions to court ruling in Bosnia and Serbia.

The appeals chamber of the Hague tribunal this week acquitted former Bosnian commander Naser Oric of crimes committed against Serbs in the Srebrenica area during the 1992-95 conflict.

The ruling reversed a judgement delivered by the trial chamber in June 2006, sentencing Oric to two years in prison for failure to prevent murder and cruel treatment of Serb prisoners in Srebrenica between late 1992 and early 1993.

He was convicted on the grounds that he failed to prevent crimes committed by individuals believed to belong to the military police, which was technically subordinate to him as local commander of Bosnian government forces.

At the June 2006 sentencing hearing, Oric was released immediately, as he had already spent three years in custody.

Now the appeals judges have ruled that the trial chamber erred in finding Oric guilty without first establishing who actually committed crimes, whether they were his subordinates at the time, and whether he even knew about the acts in question.

They found that the trial chamber “failed to make all of the findings necessary to convict a person for command responsibility under the Article 7(3) of the tribunal’s Statute”.

“Naser Oric’s entire conviction rested on that mode of liability”, said presiding judge Wolfgang Schomburg, as he read out the judgement on July 3. “These errors therefore invalidate the trial chamber’s decision to convict Naser Oric for his failure to prevent his subordinates’ alleged criminal conduct.”

The appeals chamber emphasised that it had no doubt that grave crimes were committed against Serbs detained at two detention facilities in Srebrenica between September 1992 and March 1993.

“However, a proof that crimes have occurred is not sufficient to sustain a conviction of an individual for these crimes”, said Judge Schomburg. “Criminal proceedings require evidence establishing beyond reasonable doubt that the accused is individually responsible for a crime, before a conviction can be entered.”

Since neither party wanted another trial and the prosecution admitted it had no new evidence to prove Oric’s subordinates bore criminal responsibility or that he had knowledge of crimes against Serb detainees, the appeals chamber concluded that a retrial would serve no purpose.

Oric was visibly emotional when the verdict was read out, as was his whole defence team.

“I am happy,” he told reporters when the hearing was over. “I would like to stand in front of the tribunal’s gates and cry out loud that I’m an innocent man, so that the whole world could hear me,” the Sarajevo daily Avaz reported him as saying.

Oric spent three years in detention, without ever being allowed to leave The Hague on provisional release. Many tribunal detainees are given the opportunity to spend time in their home countries, if the court has no reason to believe that they will run away while on temporary release.

Oric’s lead counsel, Vasvija Vidovic, told IWPR she was not surprised at the outcome of this case.

“My colleague [co-counsel] John Jones and I expected the acquittal, because there was really no evidence that would prove the basic elements of the crimes Oric was charged with”, she said.

Vidovic added that this ruling was very important for setting standards for other tribunal cases where the accused is said to have had command responsibility for the criminal actions of subordinates.

“The appeals chamber pointed out that it’s not enough to prove that a crime was committed, but the link of the accused with that crime has to be shown as well. In other words, the prosecutors had to prove that Oric had effective control over the perpetrators of those crimes and that he knew about those crimes. But no such evidence was presented during the trial”, she concluded.

In Bosnia and Serbia, reactions to Oric’s acquittal were divided along fairly predictable lines.

Bosniaks welcomed the ruling and said it proved that the tribunal was able to make fair decisions in the face of political pressure.

Serbs both in Bosnia and in Serbia were hugely disappointed with the verdict.

In Serbia, President Boris Tadic said the acquittal was “scandalous”, and former justice minister Vladan Batic told local media that the appeals chamber’s decision represented “a collapse of justice and of the tribunal”.

“This verdict leaves a bitter aftertaste and confirms the claims of all those who say the tribunal’s approach to justice is selective,” he said.

Dragan Markovic, who leads the United Serbia party, said Oric’s acquittal was shameful, adding that the tribunal should be closed down.

“This court applies double-standards; it’s been created only to process Serbs, and nothing good for Serbia ever came out of it,” he said.

Markovic concluded that the Serbian prosecutor's office should freeze its cooperation with the Hague tribunal until this "shameful decision is reassessed".

Bosniaks, on the other hand, were thrilled with the ruling.

"If he were guilty, the Hague tribunal would have convicted him. But the judges acquitted him, which means he's an innocent man," said Suhra Sinanovic of the Association of Women from Podrinje.

In the Bosnian entity Republika Srpska, the view was different. Prime Minister Milorad Dodik described the ruling as "a mockery of justice", while the head of the nationalist Serbian Radical Party in Republika Srpska, Milanko Mihajlica, said the verdict was "shocking" and demonstrated that the Hague tribunal is "a political court established to try Serbs for the events of the past war".

"After this, and some other verdicts at this court, it is evident that the Serbs' lack of trust in the tribunal is entirely justified," concluded Mihajlica.

Only a handful of commentators in Serbia and Republika Srpska viewed the decision calmly.

The head of the Belgrade-based Fund for Humanitarian Law, Natasa Kandic, pointed out that the appeals chamber's decision was in line with the evidence presented during the trial.

"The evidence brought by the prosecution at this trial did not show that Oric knew about the crimes committed against Serbs or that he was indeed responsible for failing to prevent these crimes," she said.

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