

Wrongly-Arrested Kosovar Seeks Compensation

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Agim Murtezi was brought to The Hague to face war crimes charges because he shared a nickname with the alleged criminal.

A Kosovo Albanian wrongfully arrested on a Hague tribunal war crimes warrant earlier this year is seeking compensation from the United Nations.

Agim Murtezi is about to file the claim with the UN Secretary General.

Murtezi was one of four men named on an indictment concerning the Lapushnik prison earlier this year - they are accused of abusing and murdering Serb prisoners during the Kosovo war.

On February 18, he was arrested by British and Italian troops of the Kosovo Protection Force, and despite protesting his innocence, was flown to The Hague.

He then underwent a three-day interrogation - which ended with prosecutors realising that he did not fit the description of the man they had wanted to arrest.

"He was not the person referred to on the indictment. It was the right name but the wrong person, it's not a case of mistaken identity," said Murtezi's lawyer, Stephane Bourgon.

It turned out that prosecutors had simply gone after the wrong man. Bourgon said the mistake stemmed from the fact that Murtezi was also known as Murrizi - just like the person alleged to have committed the crimes. But Murrizi is a common nickname in Kosovo.

Prosecutors have yet to say why they decided the man referred to by the victim was Agim Murtezi, a man with no connection to the events. "He had never been to Lapushnik," said Bourgon.

"A mistaken identity case is one thing, and it's bad enough, but to bring the wrong person to the Hague is an exceptional situation, to say the least," said Bourgon.

At the hearing to release Murtezi, the prosecutor wanted to drop the indictment without prejudice - a legal term that means the charge can be re-activated. Bourgon argued that it should be dropped with prejudice, which means the prosecutor acknowledges that the charge was incorrect and cannot be reapplied. The judge made no ruling on this matter at the time of Murtezi's release.

Several months later, Bourgon succeeded in getting the case reopened so as to resolve Murtezi's legal position. This resulted in the prosecutor filing a letter stating that Murtezi was not involved in the Lapushnik events, and that she would not continue to investigate him for these events.

"They did not want to reopen the case," said Bourgon. "I had all kinds of trouble to do just that."

The judge apologised to Murtezi on his release, but the prosecutor has not done so.

Murtezi says he wants a public apology. He works as a jailer in a Kosovo detention centre, and Bourgon said he gets complaints from prisoners, who say he should be in jail himself.

Now Murtezi is seeking full compensation, and a public apology from the United Nations for the mistake.

"Trauma is still present today," said Bourgon. "He has suffered. For him, his life was totally changed. His wife went into a depression."

The prosecution said it had not apologised, but that it is following correct procedure in full. "I don't believe we did [apologise], for different reasons," said prosecution spokeswoman Florence Hartmann. "The rules regarding his case were fulfilled. The prosecution has done everything in the course of Murtezi's stay in order to solve the problem.

"We have done everything we could in order to respect his rights."

Murtezi's problem is to find a mechanism for redress. There is nothing in the Hague rules that allows compensation for people arrested in this way. The United Nations is also a difficult body to sue - since no national or European court would find it easy to claim jurisdiction.

"We believe we have convincing arguments," said Bourgon. "Should the UN deny Murtezi's claim, we will have to find a way to continue pursuing the matter."

Chris Stephen is IWPR's tribunal project manager in The Hague.

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