

The Verdict of five senior Bosnian Serb Officials upheld by the Appeals Chamber for crimes committed in Srebrenica and Žepa

On 30 January 2015 the Appeals Chamber of the United Nations International Criminal Tribunal for the Former (ICTY) upholds the sentence of five military Bosnian Serbs who had all been sentenced for more than 10 years each for their role in the crimes that were committed in Srebrenica and Žepa during the uprising in the Podrinje Region, Eastern Bosnia and Herzegovina sometimes in July 2005 in the Popović *et al* Case. This case is so far the longest completed case on record in the Tribunal's archives. The trial proceedings that included a total of seven accused commences on 21 August 2006 and concluded on 15 September 2009 with the Trial Chamber Judgment handed down on 10 June 2010.

It is interesting to note that of the seven men sentenced, one in the person of Mr. Ljubomir Borovčanin who was the former Deputy Commander of the Republika Srpska Ministry of Internal Affairs Special Police Brigade, did not appeal his 17 years sentence which he is currently serving in Denmark while the other Mr. Milan Gvero Assistant Commander for Morale, Legal and Religious Affairs of the VRS Main Staff died in the course of the proceedings. The remaining five appealed their sentences and the final conviction is as follows:

Mr. Vujadin Popović and Mr. Ljubiša Beara were both found guilty of genocide, conspiracy to commit genocide, violations of the laws or customs of war, and crimes against humanity, through their participation in a Joint Criminal Enterprise (JCE) in this regard their life sentence was upheld; Drago Nikolić's sentence of 35 years imprisonment was reaffirmed for his participation in a JCE, aiding and abetting genocide and crimes against humanity and violations of the laws or customs of war; Radivoje Miletić JCE was forcible removal, murder, persecution and crimes against humanity; His 19 years imprisonment was reduce to 18 years; and finally Mr. Vinko Pandurevic was slam 13 years of imprisonment for aiding and abetting murder, persecution, and forcible transfer as crimes against humanity.¹

The five military officials (Vujadin Popović, Ljubiša Beara, Drago Nikolic, Radivoje Miletic, and Vinko Pandurevic) as indicated above all appealed their sentence which was handed down by the Trial Chamber on June 10, 2010. On appeal, they argue that the Trial Chamber erred in its judgment with regards to the indictment; the admissibility and weight of evidence; witness credibility; the number of deceased persons; and other evidentiary matters. However, the Appeals Chamber dismissed all of their submissions on grounds that it lacks standing.²

¹ Appeal Judgment, *The Prosecutor v. Popovic et al*, Case No. IT-05-88-A, Delivered on 30 January 2014, para. 1959.

² Appeal Judgment, para. 9 – 412.

Judge Pocar and Judge Patrick Robinson appended a partially dissenting opinion. Judge Robinson distanced himself with regards to inference by the Trial Chamber that the “lieutenant colonel” was in fact Popović who on July 16, 1995 coordinated the mass execution at the Branjevo Military Farm and in Pilica.

Judge Mandiaye Niang dissenting; he proceeded that this case is of a mixed nature and the evidence adduced is weighty in that there was reliance on witnesses with credibility issues, untested statements as per Rule 92 *bis* and *quarter* and transcripts from other cases through judicial notice. He proceeded similarly that there was repetition in the arguments presented by the parties which made the process unnecessarily lengthy. He therefore holds the view that he will settle for a position wherein only arguments which are qualified for appeal should be considered and the rest of the arguments dismissed.

It is important to note that this case is one of the most celebrated cases in the Tribunal’s Jurisprudence after the *Tadić* Case. One of its significance is that it is the first Case in the history of the Tribunal wherein two accused have been found guilty of genocide as main perpetrators at first instance, while the acquittal of a third accused on the count of genocide is challenged.

On record so far the Tribunal since its inception has indicted 161 persons for horrendous violations of humanitarian law committed in the territory of the former Yugoslavia between 1991 and 2001. As the Tribunal winds up with its constitutional mandate, she still has in her files on going proceedings against 15 Accused with four at the trial stage and 11 before the Appeals Chamber while 146 individuals have already been tried.