

Appeals Chamber Terminates Proceedings Against Rasim Delić, Confirms Trial Chamber Judgement as Binding

Press Release

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APPEALS CHAMBER

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Appeals Chamber Terminates Proceedings Against Rasim Delić, Confirms Trial Chamber Judgement as Binding

The Appeals Chamber terminated the appellate proceedings in the case of Rasim Delić, the former Commander of the Main Staff of the Army of Bosnia and Herzegovina (ABiH), who died on 16 April 2010 while on provisional release in Sarajevo.

In the same decision, the Chamber ruled that the Trial Chamber's Judgement convicting Delić, on the basis of superior responsibility, for the crimes committed by the El Mujahed Detachment of the ABiH against captive Bosnian Serb soldiers in central Bosnia, shall be considered final.

On 15 September 2008, the Trial Chamber sentenced Delić to three years' imprisonment for failing to take necessary and reasonable measures to prevent or punish the crimes committed by his subordinates in July and August 1995 in Livade and the Kamenica Camp near Zavidovići. Both the Defence and the Prosecution appealed this Judgement, and their oral arguments were heard by the Appeals Chamber in January 2010.

Delić was granted provisional release in May 2009 pending the resolution of the appeals in this case. On 21 April, the Defence filed a request on behalf of Delić's son that the appellate proceedings continue.

This is the first time in the history of this Tribunal and the International Criminal Tribunal for Rwanda where an appellant has died before the rendering of the appeal judgement.

The Appeals Chamber ruled that the Tribunal's Statute and Rules of Procedure exclude the possibility of the continuation of the appellate proceedings in circumstances where an appellant has died before the rendering of the appeal judgement.

First, the personal jurisdiction of the Tribunal is limited to 'natural' living persons; second, the Statute sets out that the Appeals Chamber shall hear appeals from persons convicted by the Trial Chamber or from the Prosecutor, therefore excluding other persons interested in the outcome of the appeal; and third, the Tribunal's jurisdiction does not extend to any procedures initiated by the convicted person's heirs or victims.

In determining the effect that the termination of the appeal proceedings would have on the finality of the Trial Judgement, the Appeals Chamber turned to the relevant provisions and legal precedents in other jurisdictions. As the result of this overview, the Appeals Chamber found that "there is no general principle that is consistently followed in the majority of jurisdictions".

"For this reason, as well as bearing in mind the specific realities of, and the particular procedures before, this Tribunal, the Appeals Chamber cannot discern any prevalent approach, let alone identify any rules of customary international law that would be directly applicable to the situation at hand," the decision reads.

The Appeals Chamber further clarified that Rule 102(A) of the Rules, according to which the enforcement of the trial judgement shall be stayed as soon as notice of appeal is given and until the



decision on the appeal has been delivered, is not applicable in the circumstances of this case. As a consequence the Chamber found that “nothing can undermine the finality of the Trial Judgement” and ruled that the Trial Judgement shall be considered final, with the record of the case remaining intact.

In a separate decision, the Appeals Chamber denied the Defence motion for the continuation of appellate proceedings filed on behalf of Delić’s son as his heir. The Chamber ruled that Delić’s son “is not and cannot qualify as a party to any existing proceedings before the Tribunal” and therefore dismissed the motion for lack of standing.

Since its establishment, the Tribunal has indicted 161 persons for serious violations of humanitarian law committed on the territory of the former Yugoslavia between 1991 and 2001. Proceedings against 124 have been concluded. Proceedings are currently open for 37 Accused with 18 at trial stage and 17 before the Appeals Chamber and two at large, Ratko Mladić and Goran Hadžić.

[The Appeals Chamber’s Decision on the Outcome of the Proceedings](#)

[The Appeals Chamber’s Decision on Motion for Continuation of the Appellate Proceedings](#)

[An information sheet regarding the case](#)

International Criminal Tribunal for the former Yugoslavia

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