

Press Release

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APPEALS CHAMBER

The Hague, 21 July 2010
AC/MOW/1358e

Haradinaj, Balaj, and Brahimaj Appeal Judgement

The Appeals Chamber today partially quashed the acquittals of Ramush Haradinaj, a former commander of the Kosovo Liberation Army (KLA) in the Dukagjin area of Kosovo; Idriz Balaj, a former member of the KLA and commander of a special unit known as the Black Eagles, and Lahi Brahimaj, who served as deputy commander of the KLA Dukagjin Operative Staff. The Appeals Chamber ordered a partial re-trial of the case.



Ramush Haradinaj

Idriz Balaj

Lahi Brahimaj

The indictment alleged that the KLA persecuted and abducted civilians who were perceived to be collaborating with Serbian forces in the Dukagjin area in 1998 and that Mr. Haradinaj, Mr. Balaj, and Mr. Brahimaj were responsible for crimes through a joint criminal enterprise, the common purpose of which was to consolidate total KLA control of the Dukagjin area through the unlawful removal and mistreatment of these civilians. On 3 April 2008, the Trial Chamber found that there was insufficient evidence to establish the existence of a joint criminal enterprise in relation to the commission of crimes against humanity and violations of the laws or customs of war and acquitted the three accused of any criminal liability through such an enterprise. Mr. Haradinaj and Mr. Balaj were also acquitted of all alternative charges in the indictment. Mr. Brahimaj was found guilty of one count of torture as a violation of the laws or customs of war and another count of torture and cruel treatment as violations of the laws or customs of war and sentenced to six years of imprisonment.

The Prosecution and Mr. Brahimaj both filed appeals against the Trial Judgement.

In the Prosecution's first ground of appeal, it argued that the Trial Chamber erred when it refused the Prosecution's requests for additional time to exhaust all reasonable steps to secure the testimony of two crucial witnesses and ordered the close of the Prosecution case before such reasonable steps could be taken. The Appeals Chamber—by majority and with Judge Robinson dissenting—granted this ground of appeal and ordered a partial re-trial. It held that, taken individually and outside the context of the trial, each of the Trial Chamber's decisions concerning the testimony of the relevant witnesses could be considered as falling within the scope of the Trial Chamber's discretion, but that, when these decisions were evaluated together—and particularly in the context of the serious witness intimidation that formed the context of the Trial—it was clear that the Trial Chamber seriously erred in failing to take adequate measures to secure the testimony of certain witnesses.

With respect to the Prosecution's second ground of appeal, the Appeals Chamber dismissed the Prosecution's assertion that the Trial Chamber erred in acquitting Idriz Balaj for aiding and abetting the commission of the murders of three women.

With respect to the Prosecution's third ground of appeal, the Appeals Chamber was not satisfied that the Trial Chamber had erred in finding that Idriz Balaj was not guilty of the rape, cruel treatment, and torture of a female victim after finding that Idriz Balaj was the man known as "Toger". The Appeals Chamber also reversed the finding of the Trial Chamber that the treatment of a protected witness did not constitute cruel treatment, but upheld the acquittal of Idriz Balaj on this count.

The Appeals Chamber dismissed Lahi Brahimaj's grounds of appeal 1 and 2, in which he alleged that the Trial Chamber committed numerous errors relating to its findings that he was responsible for the torture of Witness 6.

The Appeals Chamber dismissed Lahi Brahimaj's grounds of appeal 3 through 8, in which he lodged a multitude of challenges to the Trial Chamber's findings that he was responsible for the torture and cruel

treatment of Witness 3.

In ground of appeal 9, the Appeals Chamber held that the Prosecution failed to plead the material facts for one of the motives that underlay the torture conviction and that the Trial Chamber therefore erred because Mr. Brahimaj was not given proper notice of this basis for his torture conviction. However, because the Trial Chamber based Mr. Brahimaj's conviction for torture upon more than one motive, his conviction for the torture of Witness 3 was upheld.

The Appeals Chamber dismissed Lahi Brahimaj's grounds of appeal 10 through 19, in which he submitted that the Trial Chamber made numerous errors in determining his sentence of six years of imprisonment.

The Appeals Chamber ordered the detention of Ramush Haradinaj, Idriz Balaj, and Lahi Brahimaj at the United Nations Detention Unit in the Hague, where they will remain pending further orders.

The initial indictment against Ramush Haradinaj, Idriz Balaj, and Lahi Brahimaj was confirmed on 4 March 2005. Ramush Haradinaj, who was the Prime Minister of Kosovo within the provisional democratic self-governing institutions under Security Council Resolution 1244 (1999), stepped down and surrendered to the Tribunal upon service of the indictment. Lahi Brahimaj also voluntarily surrendered to the Tribunal upon notification of the indictment. Idriz Balaj was serving a thirteen-year sentence in Kosovo based upon the conviction of a local court when the indictment was confirmed. The three accused were transferred to The Hague on 9 March 2005. The trial started on 5 March 2007, and closing arguments were heard from 21 to 23 January 2008.

Since its inception 17 years ago, the Tribunal has indicted 161 persons for war crimes committed on the territory of the former Yugoslavia. The proceedings against 124 individuals have been completed.

Proceedings are currently open in relation to 37 persons with 21 at trial stage and 14 pending before the Appeals Chamber. Two accused, Ratko Mladić and Goran Hadžić, are at large awaiting arrest and transfer to The Hague for trial.

The full text of the summary of the Appeals Chamber Judgement can be found in English at the following link:

http://www.icty.org/x/cases/haradinaj/acjug/en/100721_summary.pdf

An information sheet on the case can be found at

http://www.icty.org/x/cases/haradinaj/cis/en/cis_haradinaj_al_en.pdf

The Trial Chamber judgement is available at:

<http://www.icty.org/case/haradinaj/#tjug>

International Criminal Tribunal for the former Yugoslavia

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