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PRESS RELEASE

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APPEALS CHAMBER

The Hague, 27 September 2007
CVO/MOW/1184e

APPEALS CHAMBER CONFIRMS CONVICTION OF HARADIN BALA AND ACQUITTALS OF FATMIR LIMAJ AND ISAK MUSLIU

The Tribunal's Appeals Chamber today upheld the Trial Chamber judgement in the case against former Kosovo Liberation Army (KLA) members Fatmir Limaj, Isak Musliu and Haradin Bala. The three were indicted for the crimes committed against both Serb and Kosovo Albanian civilians in the KLA-run Llapushnik/Lapušnik prison camp between May and July 1998.

It dismissed all the appeals lodged by parties, confirming acquittals of Limaj and Musliu while affirming Bala's convictions for torture, cruel treatment and murder and his sentence of 13 years.

Haradin Bala, a guard at the Llapushnik/Lapušnik prison camp was sentenced to 13 years' imprisonment on 30 November 2005. The Trial Chamber convicted Haradin Bala for his personal role in the *"maintenance and enforcement of the inhumane conditions"* of the camp; aiding the torture of one prisoner; and participation in the murder of nine prisoners from the camp who were marched to the Berishe/Beriša Mountains on 25 or 26 July 1998 and murdered.

In its decision, the Appeals Chamber rejected all five grounds of Bala's appeal including his claim of mistaken identity and alibi. The Appeals Chamber rejected the two grounds of Prosecution's appeal, including the argument that a systemic joint criminal enterprise existed in which *"the prison camp was run by the KLA, the conditions in the camp amounted to a system of ill-treatment and the KLA soldiers in the camp intended to further this system of ill-treatment."*

The Appeals Chamber found that *"while the Trial Chamber's factual findings show that KLA soldiers systematically committed cruel treatment and torture in the camp, the Trial Chamber was not satisfied that these KLA soldiers were participants in a systemic joint criminal enterprise to commit these crimes. The Trial Chamber did not err in this respect, because it reasonably held that it could not be ruled out that rogue KLA soldiers or so-called outsiders to the camp for personal reasons, such as revenge, mistreated or killed civilian detainees, and not in furtherance of any common plan."*

This finding was also applied in the Prosecution's appeals against Limaj's and Musliu's acquittals in relation to the alleged existence of a joint criminal enterprise.

In addition, the Appeals Chamber stated that *"the Trial Chamber reasonably found that Fatmir Limaj does not incur criminal responsibility for any of the offences charged in the Indictment"* in the context of command responsibility.

The Appeals Chamber was satisfied, Judge Schomburg dissenting, the Trial Chamber reasonably assessed the totality of the evidence when it found *"that Isak Musliu was not present inside the prison camp and did not participate in the operation of the Lapušnik prison camp."*

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The Trial against Fatmir Limaj, Isak Musliu and Haradin Bala commenced on 15 November 2004 and it lasted for 88 days. The Prosecution called 30 witnesses and tendered 260 exhibits and the Defence called 16 witnesses and tendered 44 exhibits.

Haradin Bala is to remain in the ICTY's Detention Unit pending his transfer to the country in which he will serve his sentence, he will be given credit for his time served in the tribunal's custody.

The full text of the summary of the judgement can be found at the following link:
http://www.un.org/icty/pressreal/2007/pr1184e-summary.htm

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