

VIEW FROM THE HAGUE

SIEGE OF SARAJEVO ENDANGERED CIVILIANS

On 5 December this year, the International Criminal Tribunal for the former Yugoslavia sentenced General Stanislav Galić to 20 years in prison for spreading terror among the civilian population during the siege of Sarajevo.

The city of Sarajevo was under siege for about three and a half years. For almost two years of that time, from September 1992 to August 1994, General Galić was the commander of a branch of the Army of Republika Srpska (VRS), called the Sarajevo Romanija Corps, or SRK, which had virtually encircled Sarajevo. Parts of the city were controlled by the Army of Bosnia and Herzegovina. The Prosecution alleged that the SRK under General Galić's command conducted a campaign of sniping and shelling attacks on civilians in Sarajevo.

Under international humanitarian law war as such is not considered unlawful. However, certain principles of warfare apply that military commanders must respect. One such principle obliges military commanders to distinguish between military objectives, on the one hand, and civilians, on the other, and not to attack civilians under any circumstances. And yet, the SRK's campaign resulted in a large number of deaths and injuries to civilians. The Tribunal Prosecution alleged that the SRK, under General Galić's command deliberately killed and injured civilians in order to terrorize them.

Terrorising civilians

Terrorising civilians during armed conflict is specifically prohibited by Article 51 of Additional Protocol I to the Geneva Conventions of 1949. The former Yugoslavia ratified this protocol in 1978. All former commanders of the Yugoslav National Army, including General Galić, were trained in international law and the basic duty to protect civilian life and property. Additionally, on 22 May 1992, the warring sides around Sarajevo signed an agreement in which they accepted the prohibitions contained in the Additional Protocol I. General Galić was thus also treaty-bound to respect the law on the conduct of hostilities.

For anyone to be convicted of the crime of terror, the Prosecution must prove that the attacks on civilians for which the accused has been shown to be responsible were carried out with the primary purpose of spreading terror among the civilian population. In reaching its decision, the Trial Chamber examined a large amount of evidence, testimonial and documentary. A total of 171 witnesses were heard. The number of exhibits, including written reports, film, photographs, maps, and sound-recordings, amounted to 1,268 items, in addition to which there were 15 experts' reports. After 223 days of trial, and seven months of deliberations, the Trial Chamber found General Galić guilty of conducting a campaign of terror against the civilian population of Sarajevo.

Dissenting Opinion

As in every trial in the first instance before the Tribunal, The Trial Chamber in the Galić case sat on a bench of three judges. In accordance with the ICTY Statute, the Judgements are rendered by the majority and separate and dissenting opinions can be appended. These opinions, however, do not effect the disposition of the Judgement itself, which includes the verdict and the sentence.

In the Galić case, one of the Judges on the bench availed himself of the opportunity to append a separate and partially dissenting opinion. He concluded that in a number of instances, the SRK either deliberately or recklessly fired upon civilians in Sarajevo, thereby committing the crimes of

attacks on civilians, murders and inhumane acts. Though he was not convinced that Galić ordered these attacks, the dissenting Judge found that General Galić, as the commander of the SRK, knew or had reason to know of these crimes, but did not take all the necessary and reasonable measures to prevent their commission or to punish the perpetrators. Therefore, this judge concluded that General Galić was guilty of unlawfully attacking civilians, murdering them and other inhumane acts because he failed to exercise his duty as a military commander to do everything within his means to protect civilian life.

The entire Judgement in the Galić case consists of over 350 pages of text. It provides a thorough analysis of both the facts and the applicable law of this case. It is the first ICTY Judgement that addresses the siege of Sarajevo. It can be boiled down to the simple fact that the gravity of the crime for which the Trial Chamber found General Galić responsible is determined by the scale, pattern, and repetition of the attacks. During the siege, the civilian population of Sarajevo - men and women of all ages, including children - were killed in their hundreds and wounded in their thousands, on an almost daily basis, over many months, with the intent to terrorize the entirety of the population.

Outreach Programme

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