

HlcKos-out 01-01-03/21  
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### **A Kosovo Serb sentenced to 12 of imprisonment for a war crime in Pejë/Peć**

On February 11, 2021, a Trial Panel of the Special Department of the Basic Court of Prishtinë/Priština (presided over by Judge Arben Hoti<sup>1</sup>), rendered a judgment in *The Prosecutor v. Zoran Đokić* case, wherein the Defendant Đokić was found guilty of having committed the criminal offence of *War Crimes against the Civilian Population* on several counts during the armed conflict in Kosovo in 1999 in the Pejë/Peć settlements of *Kristal* and *Kod solitera*, and was sentenced to twelve (12) years of imprisonment. The time spent in detention on remand since February 1, 2019 shall be credited towards the sentence imposed on the Defendant.

The Defendant Đokić was found guilty of participating in the ill-treatment, looting, expulsion and wounding of the Albanian civilian population in the Peć settlements of *Kristal* and *Kod solitera* as a reserve police officer of the Serbian forces on March 28/29, 1999 in Pejë/Peć when four civilians had been killed.

The judgment was rendered following the main trial opened in accordance with the indictment of the SPRK Office dated May 31, 2019 (KTS. No. 23/2018). The indictment charged the Defendant with committing the following criminal offences in complicity with unknown persons: *War Crimes against the Civilian Population*<sup>2</sup>, *War Crimes in serious violation of Article 3 of the Geneva Conventions*<sup>3</sup> and *War Crimes in serious violation of the laws and customs applicable in non-international armed conflicts*<sup>4</sup>.

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<sup>1</sup> Members of the Trial Panel: Judges Albina Shabani Rama and Shadije Gërguri.

<sup>2</sup> Provided for and punishable by Article 142 of the CC SFRY applicable according to the UNMIK Regulation 24/1999 of 12 December 1999

<sup>3</sup> Provided for and punishable by Article 152, paragraph 1 of the CCRK (2012).

<sup>4</sup> Provided for and punishable by Article 153, Paragraph 1, items 2.1, 2.2, 2.5, 2.8, 2.13 and 2.15 and Article 3 of the CCRK (2012).

After the Defendant had been found guilty according to the amended indictment, while announcing the decision, the Court stated in a short reasoning that it had analysed each piece of evidence separately, and that it had established the factual situation based on the testimony of witnesses and the material evidence. In this manner, the Court came to the conclusion that the evidence was decisive in this case.

In a separate ruling of the Trial Panel, detention on remand has been extended until the judgment becomes final, pursuant to Article 367, Paragraph 2 of the CPCRK, which provides for detention on remand to be extended when a sentence of imprisonment of five (5) or more years has been imposed.

When announcing the judgment, the Court did not specify clearly the specific actions the Defendant had taken on the critical days for which he had been found guilty of. According to the enacting clause of the judgment read during the announcement, it can be concluded that the Court assessed that the Defendant had acted in a group. This enacting clause does not specify whether and for which murders the Defendant has been found guilty of. Given that the written judgment in this case has yet to be processed, the Humanitarian Law Center Kosovo (HLCK) cannot engage in an analysis of these dilemmas, as well as of the evidence on which the judgment is based and the justification of the sentence.

However, on the basis of regular monitoring of the criminal proceedings against the Defendant Đokić since the moment of his apprehension in early February 2019, as well as on the basis of the analysis of publicly available documentation in *The Prosecutor v. Zoran Đokić* case, the HLCK finds that the criminal proceedings against the Defendant during the main trial were conducted in accordance with legal provisions. However, what the Trial Panel can be criticised for is that the main trial against the Defendant, who had been in detention on remand, lasted for a long time (from December 4, 2019 to February 11, 2021). The provisions of the Criminal Procedure Code (Article 314, paragraph 1, item 1.2) decisively provide for that proceedings before a Trial Panel may last up to one hundred and twenty (120) days. According to the law, this deadline can be extended only with a reasoned request and in case of a large number of witnesses or the existence of circumstances that are necessary to establish the factual situation. The HLCK has no information on whether requests for an extension of the main trial were filed, i.e. whether the trial was extended due to the legally prescribed conditions or by inertia, which, if this is the case, would constitute a violation of the law. What can be noted is that during the fourteen (14 or 11 if the three-month adjournment of the court is taken into account) months, the Trial Panel was in session for fourteen (14) days when seventeen (17) witnesses were heard proposed by the parties to the proceedings. The Covid-19 pandemic cannot be an excuse for such a long duration of the main trial in the case where the Defendant was in detention on remand.



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The HLCK also finds that the Trial Panel announced the judgment in this case contrary to legal provisions. Article 366, paragraph 1 of the CPCCK explicitly foresees that, after the end of the trial, the announcement of the judgment may be postponed for a maximum of three (3) days. In this case, the main trial ended on February 4, while the judgment was announced on February 11, 2021.

The HLC also finds that the Prosecution amended (or in this case extended) the indictment after the end of the evidentiary proceedings contrary to the provisions of the Criminal Procedure Code (Article 241, Paragraph 1, item 1.7), because this amended indictment was submitted to the Court without a reasoning, i.e. without elaborating on the reasons and evidence that influenced the extension of the indictment.

The indictment against Đokić was filed by the SPRK Office (State Prosecutor Habibe Salihu) on May 31, 2019 for the aforementioned criminal offences. In the indictment, the Defendant was charged with the following: during March and April 1999, more precisely on March 29, 1999, in the Pejë/Peć settlement of *Kristal* in, acting within an organized Serb criminal group consisting of uniformed and armed members of the army, police and paramilitary units (still inaccessible to Kosovo's law enforcement authorities), by intimidating, robbing, killing and expelling, he violated the bodily integrity or health of an unprotected Albanian civilian population not directly involved in the conflict. The population of the settlement was expelled from their houses, significant amounts of money were confiscated from some individuals, and four people were killed.

In the amended indictment, in addition to the mentioned actions under Count 1, the Prosecution charged the Defendant that on the same day, in the same settlement and capacity, in co-perpetration with other persons, in addition to expelling the civilian population from their family homes, he inflicted bodily injuries on two boys aged three (3) and nine (9) who were leaving the settlement with some members of their families.

As a separate criminal offence, the SPRK Office charged the Defendant that in the period from March to April 1999 in Pejë/Peć, more precisely on March 28, 1999, in the settlement of *Kod solitera*, now called *Rrokaqielli*, acting as a member of an organized criminal Serbian group wearing police and military uniforms, by intimidating an unprotected civilian population, killing, looting, ordering the eviction of civilians, entering Albanian houses, demanding money, firing weapons (Kalashnikovs) into the air and addressing them with the words "All Albanians should be killed, go to Albania", he caused great suffering or endangered the bodily integrity and health of people. In this way, he forced these citizens to leave their homes and head in different directions, some for Albania, others for Montenegro.