

FINAL JUDGMENTS FOR WAR CRIMES IN KOSOVO IN 2023

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The Humanitarian Law Center Kosovo (HLCCK) has been monitoring war crime trials before the Kosovo courts since the end of the armed conflict in Kosovo. The HLCCK has and will continue to publish relevant case analysis and newsletters, providing information of general public interest related to these court proceedings.

This newsletter presents insights into three (3) cases of war crimes in Kosovo that concluded with final judgments during 2023.

Throughout this period, the courts of Kosovo concluded three (3) cases with final judgments: Prosecutor v. Svetomir Bačević, Prosecutor v. Zoran Vukotić (Vukotić IV), Prosecutor v. Remzi Shala.

PROSECUTOR V. SVETOMIR BAČEVIĆ

On January 19, 2023, the Panel of the Special Department of the Court of Appeal, presided over by Judge Burim Ademi, issued a judgment rejecting the appeals of the parties and affirming the judgment of the Basic Court of Prishtina/Priština. In this judgment, defendant Bačević was sentenced to five (5) years of imprisonment for war crimes against the civilian population.

The special prosecutor of the SPRK, Ilir Morina, filed the indictment against Svetomir Bačević on November 9, 2021, based on a well-founded suspicion that Bačević, during July-August 1998 in the village of Bellopojë/Belo Polje of the Municipality of Peja/Peć, took as hostage T.K., a sixty-year-old woman, who was subsequently released by another Serbian neighbor.

Prior to the indictments filed on June 18 and July 16, 2021, Special Investigative Opportunities sessions were conducted, during which the testimony of the injured T.K. was heard.

Additionally, six (6) other witnesses proposed by the prosecution were heard during the main hearing.

On September 8, 2022, the Trial Panel of the Special Department of the Basic Court in Prishtina/Priština, presided over by Judge Musa Konxheli, found defendant Bačević guilty and sentenced him to five (5) years of imprisonment. This decision was upheld by the second instance court.

PROSECUTOR V. ZORAN VUKOTIĆ – VUKOTIĆ IV

On February 15, 2023, the Panel of the Special Department of the Court of Appeal, presided over by Judge Afërdita Bytyçi, issued a judgment partially upholding the prosecution's appeal. In this judgment, defendant Vukotić was confirmed with a first-degree conviction for war crimes against the civilian population.

The Court of Appeal sentenced him to thirteen (13) years of imprisonment, finding him guilty of participating in the expulsion of the Albanian civilian population and committing sexual assault against a woman of Albanian nationality.

The indictment against Zoran Vukotić was filed by the special prosecutor of the SPRK, Drita Hajdari, on March 6, 2020.

Vukotić was accused of participating in the expulsion, physical and psychological violence against the Albanian civilian population, and sexually assaulting an Albanian woman in Vushtrri/Vučitrn in May 1999, while serving as a member of the police forces of the reserve unit of the Ministry of Internal Affairs of Serbia.

The main hearing commenced on January 21, 2021, with opening statements from the parties. During the main hearing, testimony was provided by the injured party (referred to as D.1) and six (6) witnesses proposed by the prosecution.

On July 5, 2021, the Trial Panel of the Special Department of the Basic Court of Prishtina/Priština, presided over by Judge Valbona Musliu Selimaj, found the defendant guilty and initially sentenced him to ten (10) years of imprisonment.

However, on December 21, 2021, the Court of Appeal returned the case for retrial.

The retrial commenced on October 25, 2022, with the testimony of the victim/witness D.1, while the statements of other witnesses were considered as read, as proposed by the parties.

On November 11, 2022, the first-instance judge announced the judgment, once again sentencing the defendant to ten (10) years of imprisonment.

Ultimately, with a final judgment, the Court of Appeal declared defendant Vukotić guilty and increased the sentence to thirteen (13) years of imprisonment.

Notably, this marks the first final guilty judgment by local courts for sexual violence as a war crime against the civilian population since the end of the war in Kosovo.

PROSECUTOR V. REMZI SHALA

On December 5, 2023, the panel of the Special Department of the Court of Appeal, presided over by Judge Kreshnik Radoniqi, issued a judgment rejecting the appeals of the parties as unfounded, while dismissing the appeals of the injured party as inadmissible. With this judgment, the first-instance judgment of the Basic Court of Prizren was confirmed, finding the defendant Remzi Shala guilty of the criminal offense of war crimes against the civilian population and sentencing him to nine (9) years and six (6) months of imprisonment.

The indictment against Remzi Shala was filed by the special prosecutor of the SPRK, Haki Gecaj, on October 19, 2016.

Shala was accused of forcibly taking Haxhi Perteshi from his house at the end of June 1998 in the village of Duhël/Dulje of the Suhareka/Suva Reka municipality, acting as a member of the KLA in collaboration with others, whose body was found lifeless after a few days.

The main hearing commenced on May 12, 2017, during which thirty (30) witnesses were heard.

On July 3, 2019, the Trial Panel of the Basic Court of Prizren announced a guilty judgment and sentenced the defendant to fourteen (14) years of imprisonment.

However, on November 26, 2019, the Court of Appeal reduced the sentence to ten (10) years of imprisonment.

On March 2, 2020, the Supreme Court approved the defense's application for the protection of legality, and the case was returned for a retrial at the first instance.

The retrial began on June 24, 2020, at the Basic Court of Prizren, during which thirty-five (35) witnesses were heard.

On June 27, 2023, the panel of the Serious Crimes Department of the Basic Court of Prizren announced a guilty judgment, sentencing the defendant to nine (9) years and six (6) months of imprisonment.

The incriminating evidence against defendant Shala primarily relied on the testimony of the witness/injured party Agron Përteshi, who identified Shala as the individual who forcibly took his father from their house.

On December 5, 2023, the panel of the Court of Appeals issued the final judgment in the case upholding the first instance judgment.

FINDINGS OF THE HLCK:

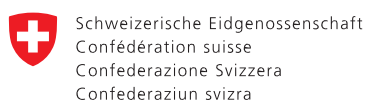
-HLCK monitors have noted a commendable performance in the handling of trials for war crimes by judges of the Special Department of the Basic Court of Prishtina/Priština and the Special Department of the Court of Appeal. These judicial proceedings are conducted within a reasonable timeframe.

-In the historical context of judicial processes for war crimes in Kosovo, the judgment against Zoran Vukotić for sexual violence as a war crime against the civilian population stands as a significant precedent. It marks the first final guilty judgment by the local judiciary in such a case.

-The Department for Serious Crimes of the Basic Court of Prizren tried the case Prosecutor v. Remzi Shala as the final case for war crimes against the civilian population handled by the Serious Crimes Departments of the regional courts. This is due to the entry into force of the Law on Courts in January 2019, which mandated that war crimes cases are exclusively handled by the Special Department of the Basic Court of Prishtina/Priština.

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