

16 November 2006

IN THE APPEALS CHAMBER

Before:

Judge Fausto Pocar, Presiding

Judge Mohamed Shahabuddeen

Judge Mehmet Güney

Judge Andrézia Vaz

Judge Theodor Meron

Registrar: Mr. Hans Holthuis

Decision of: 16 November 2006

PROSECUTOR

v.

MILOMIR STAKIC

**CORRIGENDUM TO JUDGEMENTS OF 31 JULY 2003 AND
22 MARCH 2006**

The Office of the Prosecutor:

Ms. Helen Brady

Counsel for Milomir Stakic:

Mr. Branko Lukic Mr. John Ostojic

I, FAUSTO POCAR, a Judge of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991 ("International Tribunal"),

NOTING the Judgement of 31 July 2003 ("Trial Judgement") and the Judgement of 22 March 2006 ("Appeal Judgement") in this case;¹

BEING SEISED OF the "Prosecution's Notice under Rule 119 to Correct the Trial and Appeal Judgements" filed on 5 October 2006 ("Prosecution Notice"),² in which the Office of the Prosecutor requests that the Trial and Appeal Judgements be corrected such that Kemal Cerić is no longer erroneously listed as a victim of the crimes committed in Prijedor in 1992 for which Milomir Stakić [has been] held responsible;³

NOTING that Milomir Stakić has not filed a response to the Prosecution Notice;

NOTING that the Trial Judgement includes Kemal Cerić in its list of victims known by name for which Milomir Stakić was held criminally responsible at trial;⁴

NOTING that the Appeal Judgement affirms that Milomir Stakić bears criminal responsibility for numerous acts related to the victims identified at trial;⁵

CONSIDERING that

[the Prosecution has recently been informed by the son of Kemal Cerić that his father was abducted in 1995, and thus could not have gone missing or have been killed as a result of the crimes committed in Prijedor municipality in 1992, for which Milomir Stakić has been held responsible.

[After having received this information, the Prosecution has now had the opportunity to look into this matter and can verify the son's claim that Kemal Cerić was apparently abducted in 1995. Accordingly, he could not have gone missing or been killed in 1992.⁶

CONSIDERING the witness statement of Hajra Cerić, the wife of Kemal Cerić, and a court ruling of the Sanski Most Municipal Court, both confirming that Kemal Cerić disappeared in 1995;⁷

CONSIDERING that a review pursuant to Rule 119 of the Rules of Procedure and Evidence would not be an appropriate avenue in the instant case as the fact here at issue could not have been a decisive factor in reaching the Trial Judgement, given the large number of other victims cited by the Trial Chamber;⁸

CONSIDERING however that it is nonetheless appropriate to rectify the record in this respect;

ON THE BASIS OF THE FOREGOING,

HEREBY ORDER, with the consent of the Bench in this case, that the Trial Judgement and the Appeal Judgement be amended accordingly to remove Kemal Cerić from the list of victims for whom Milomir Stakić bears criminal responsibility.

Done in English and French, the English text being authoritative.

Dated this 16th day of November 2006,
At The Hague,
The Netherlands.

**Judge Fausto
Pocar**

Presiding Judge

[Seal of the International Tribunal]

¹ Prosecutor v. Milomir Stakić, Case No. IT-97-24-T, Judgement, 31 July 2003; Prosecutor v. Milomir Stakić, Case No. IT-97-24-A, Judgement, 22 March 2006.

² Case No. IT-97-24-R.

³ Prosecution Notice, para. 13.

⁴ Trial Judgement, p. 258.

⁵ Appeal Judgement, pp. 141-142

⁶ Prosecution Notice, paras. 2-3.

⁷ Id., Annex.

⁸ A party seeking review must satisfy four criteria, including that the new fact could have been a decisive factor in reaching the original decision: Prosecutor v. Barayagwiza, ICTR-97-19-AR72, Decision (Prosecutor's Request for Review or Reconsideration), 31 March 2000, para. 41.
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