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Kosovo: If they are not guilty, who committed the war crimes?

The acquittal of three high-ranking members of the Kosovo Liberation Army (KLA) by the International Criminal Tribunal for the former Yugoslavia (ICTY) after a retrial on war crimes charges has prompted Amnesty International to reiterate its call for justice for all of the victims in the 1998-9 Kosovo war, and their relatives.

Ex-prime minister and former KLA commander Ramush Haradinaj, Lahi Brahimaj, his uncle, and a fellow KLA commander, and deputy commander Idriz Balaj, were found not guilty of a joint criminal enterprise to mistreat Kosovo Serbs, Roma and Egyptians, and Albanians perceived to be collaborators with the Serbian authorities, or otherwise not supporters of the KLA.

They were also acquitted on all counts relating to individual criminal responsibility for the murder, cruel treatment and torture, as war crimes, of members of minority communities, and Albanians perceived to be collaborators, at a KLA compound at Jablanica/Jablanicë.

“Today’s verdict raises the question of if, as the court has established today, the three former high-ranking KLA members are not guilty, who then committed those crimes? Is anybody ever going to be brought to justice? These are the questions that the victims and their families ask, and will continue to ask, until they see justice,” said John Dalhuisen, Director of Amnesty International’s Europe and Central Asia programme.

An estimated 800 members of minority communities in Kosovo, were allegedly abducted and murdered by members of the KLA. Only a small number of their bodies have been found, exhumed and returned to their families for burial.

According to the indictment victims of the alleged crimes included Kosovo Serbs, Kosovo Roma/Egyptians, and a Catholic Albanian, as well as Kosovo Albanians. The bodies of only some of those individuals have been subsequently found and identified. Although the court was able to conclude that some of these individuals had been tortured and ill-treated, it only established that one individual, had been killed in the KLA compound.

In 2009, the Appeals Chamber at the Tribunal had ordered the retrial on the basis that the Trial Chamber had “failed to appreciate the gravity of the threat that witness intimidation posed to the trial’s integrity..... and had “failed to take sufficient steps to counter the witness intimidation that permeated the trial”. Only two witnesses appeared in the retrial.

“The abductions of members of minority communities, and of Albanians considered to be traitors to the KLA, are war crimes and, sometimes, crimes against humanity. They have to be investigated as such and EULEX and the Kosovo authorities must do everything in their power to ensure that those responsible are brought to justice,” said John Dalhuisen.

To date few of those suspected of criminal responsibility for these abductions have been brought to

justice in Kosovo.

EULEX, the EU-led Police and Justice mission in Kosovo, is charged with the investigation and prosecution of crimes under international law, including war crimes and crimes against humanity.

Yet in 2009, EULEX transferred all 62 cases of abduction of members of minority communities to local prosecution offices, where they remain, without any further investigation or prosecution.

”The Kosovo authorities have demonstrated a total lack of political will to support the investigation and prosecution of such abductions. This was made evident yet again earlier this week, when Prime Minister Hashim Thaçi challenged EULEX’s right to arrest former KLA commander and ex-Minister of Transport Fatmir Limaj, on charges of the abduction, detention and murder of Albanians and Serbs,” said Dalhuisen.

“In the face of such blatant political interference in the course of justice on the part of the Kosovo government, it is imperative that EULEX takes these 62 cases back under their jurisdiction in order to ensure that justice can be done in Kosovo.”