HAGUE CASE LAW – LATEST DEVELOPMENTS[1]

International Court of Justice

(1) *Application of the International Convention on the Elimination of All Forms of Racial Discrimination (Georgia* v. *Russian Federation)*

On 1 April 2011, the International Court of Justice delivered its judgment on the preliminary objections raised by the Russian Federation (Russia) in relation to the jurisdiction of the Court. The Court had been seized by Georgia on the basis of Article 22 of the Convention on the Elimination of All Forms of Racial Discrimination (CERD). The Court ruled that it had no jurisdiction to hear Georgia's complaint since there was no dispute between Georgia and Russia about Russia's compliance with its obligations under CERD, as required by Article 22 of the Convention, and since Georgia had failed to satisfy two procedural preconditions contained in Article 22 CERD (negotiations and referral to procedures expressly provided for in CERD).

International Criminal Tribunal for the Former Yugoslavia

(1) *The Prosecutor* v. *Gotovina, Markač, and Čermak (Trial Chamber)*

On 15 April 2011, Trial Chamber I of the International Criminal Tribunal for the Former Yugoslavia (ICTY) rendered judgment in a case which involved three high-ranking Croatian officers and officials for crimes committed during Operation Storm in the Krajina region in Croatia in the summer of 1995. Gotovina, a former Colonel General in the Croatian Army and Commander of the Split Military District, and Markač, a former Assistant Minister of the Interior and in charge of Special Police Matters, were both convicted of crimes against humanity (persecution, deportation, murder and inhumane acts) and war crimes (the plundering of public and private property, wanton destruction, murder and cruel treatment) committed during an international armed conflict. They were sentenced to 24 years' and 18 years' imprisonment respectively. Čermak, a former Colonel General in the Croatian Army and Commander of the Knin Garrison, was acquitted of all charges. According to the Trial Chamber, Gotovina and Markač had significantly contributed to a joint criminal enterprise the object of which was the

1. See: <www.icj-cij.org/>; <www.icty.org>; <www.unictr.org>; <www.pca-cpa.org/>; and <www.haguejusticeportal.net/>.

Netherlands International Law Review, LVIII: 291-292, 2011
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doi:10.1017/S0165070X1120007X

https://doi.org/10.1017/S0165070X1120007X Published online by Cambridge University Press

permanent removal of the Serb population from Krajina by force or threat of force. This joint criminal enterprise came into existence at the end of July 1995 and involved high-ranking Croatian military staff and politicians, including the former President Tuđman. Gotovina and Markač had ordered attacks on civilians and civilian objects and had failed to prevent and follow up on crimes committed by their subordinates. According to the Trial Chamber, it had not been established that Čermak was a member of or had made any significant contribution to the joint criminal enterprise.

International Criminal Tribunal for Rwanda

(1) *The Prosecutor* v. *Muvunyi (Appeals Chamber)*

On 1 April 2011, the Appeals Chamber of the International Criminal Tribunal for Rwanda (ICTR) affirmed Muvunyi's conviction for direct and public incitement to commit genocide (Judge Meron and Judge Liu dissenting) and upheld his sentence of 15 years' imprisonment. Muvunyi is a former Lieutenant Colonel in the Rwandan army. He was found guilty by the Trial Chamber on 11 February 2010 for direct and public incitement to commit genocide as a result of a speech he gave at the Gikore Trade Centre in Nyaruhengeri Commune, Butare Prefecture in Rwanda. This trial constituted a retrial for this particular count as ordered by the Appeals Chamber on 29 August 2008. In its judgment of 29 August 2008, the Appeals Chamber quashed Muvunyi's original conviction for genocide and crimes against humanity for which he was sentenced to 25 years' imprisonment.

(2) *The Prosecutor* v. *Renzaho (Appeals Chamber)*

On 1 April 2011, the Appeals Chamber of the ICTR affirmed Renzaho's conviction for genocide, crimes against humanity (murder), and war crimes (murder) and upheld his sentence of life imprisonment. Renzaho is a former Colonel in the Rwandan army and the highest authority in Kigali-Ville Prefecture as the former Prefect. He was found guilty by the Trial Chamber on 14 July 2009 for aiding and abetting the killing of Tutsis at roadblocks in Kigali and for ordering and aiding and abetting killings at and in relation to the African Language Centre (CELA) in April 1994 and killing hundreds of Tutsi refugees and Tutsi men at Sainte Famille in June 1994. The Appeals Chamber reversed Renzaho's conviction for genocide, crimes against humanity and war crimes in relation to the rape of two witnesses and one witness' sister and his conviction for genocide for ordering the killing of Tutsis at roadblocks in Kigali.

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https://doi.org/10.1017/S0165070X1120007X Published online by Cambridge University Press