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Court Overturns War Crimes Conviction of Former Chief of Yugoslav Army

By **MARLISE SIMONS**

PARIS — A United Nations appeals court on Thursday unexpectedly overturned the war crimes conviction of the former Yugoslav Army chief who had been sentenced to 27 years for aiding and abetting atrocities in Bosnia and Croatia, including attacks on Sarajevo and Srebrenica.

The judges, voting 4 to 1, acquitted the former chief, Gen. Momcilo Perisic, of all charges of war crimes and crimes against humanity, including murder, and ordered him released.

General Perisic, who surrendered to the court in 2005, was expected to return Friday to Serbia, where officials welcomed the decision. Reports from Bosnia said victims' groups were stunned.

The ruling, following other recent acquittals by appeals court judges, was seen as one more decision that is changing the story line of the war. The reversals narrowed the definition of crimes for which military commanders can be held responsible.

General Perisic was the most senior officer to be tried, and as the army's chief of staff and as an aide to Slobodan Milosevic, then the Serbian president, he played a crucial role during the 1992-95 war that broke up Yugoslavia.

Records showed he regularly attended meetings of the Supreme Defense Council where Mr. Milosevic and other leaders approved sending weapons, fuel, police officers and military personnel to proxy armies fighting for the Serb cause in Bosnia and Croatia.

General Perisic carried out those orders, the court said.

But the appeals judges said that even if he had known about crimes committed by Serb or pro-Serb fighters in Bosnia and Croatia, he had not directed or knowingly assisted in atrocities by sending aid, but was carrying out decisions to support the war effort.

They said that the lower court had committed an error by not showing that he was "physically present when criminal acts were planned or committed."

Some lawyers in The Hague, where this and other international courts are based, said they were baffled by the ruling, which they said contained several internal contradictions. They said it also produced new and narrow definitions of international crimes long considered precedents at the tribunal.

In past rulings, the crime of aiding and abetting required only knowledge that assistance was being used to commit serious crimes. But the appeals court for the first time said that the intention to commit crimes would be required for a conviction.

“I think this is a step backwards in the law; it contradicts all jurisprudence of this tribunal, even back to the findings of trials at Nuremberg after World War II,” said Nicholas Koumjian, a lawyer who has worked at several international courts.

Others thought that the appeals court had drawn a line between wartime military officers and political leaders.

The decision on Thursday follows the recent acquittal on appeal of Ante Gotovina, the Croatian general who led the operation that took back the Croatian region of Krajina after it was occupied by Serb forces. That acquittal caused outrage in Serbia.

“Both Gotovina and Perisic were professional soldiers,” said William Schabas, who teaches international law at Leiden University. “One message that is emerging is that at least some professional soldiers did not behave as badly as was commonly thought.”



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