



General Secretariat

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The Higher Appeals Chamber convicts Alieu KOSIAH for crimes against humanity and war crimes (CA.2022.8)

The Federal Criminal Court's Higher Appeals Chamber found Alieu KOSIAH guilty of war crimes and crimes against humanity and confirmed the maximum sentence of 20 years in prison pronounced at first instance by the Criminal Chamber. This is the first time that a conviction for crimes against humanity has been issued in Switzerland.

Alieu KOSIAH lodged an appeal with the Federal Criminal Court's Higher Appeals Chamber against his conviction at first instance for violations of the laws of war. The appellant sought an acquittal. Following the defendant's appeal, the Office of the Attorney General of Switzerland and the Liberian victims filed cross-appeals. They requested the conviction of Alieu KOSIAH for facts that the Criminal Chamber had not considered as established at the end of the first instance hearing. Moreover, the victims requested that the charges against the accused be qualified not only as violations of the laws of war, but also as crimes against humanity.

The appeal hearing lasted for twelve days from the 11th of January until the 3rd of February 2023. The Higher Appeals Chamber heard the seven victims and one witness, who all traveled from Liberia. The accused was extensively questioned and had the opportunity to express himself regarding the acts he was accused of — after each hearing of the private claimants — and regarding the general situation in Liberia at the time of the first civil war.

In his defense, the defendant submitted that the accusations made by the victims were part of a conspiracy against him, which was organized by the NGO Civitas Maxima. The defense's second major argument was to deny Alieu KOSIAH's presence in Lofa county at the time of the alleged offences.

Based on the documents of the case, the Court dismisses the hypothesis of the conspiracy against the accused Alieu KOSIAH. The second allegation is equally inconsistent with the elements of the case and is therefore also dismissed by the Court.

Although long time has passed since the facts under consideration took place, the testimonies of the victims appear credible to the Court. The Court recalls the particular context of the hearing of these persons, who had to travel to Switzerland for the third time during the proceedings to testify before a Swiss judicial authority. Therefore, the Higher Appeals Chamber considers that almost all facts of which Alieu KOSIAH has been accused have been established. The Court thus finds Alieu KOSIAH guilty of killing civilians and having civilians executed; complicity in the execution of a civilian; complicity in the attempted execution of a civilian; being responsible for cruel acts; the rape of a civilian; having violated the dignity of a deceased civilian; having ordered lootings and, in that same context, having ordered or directed several forced transports by civilians carried out in inhumane conditions; and having used a child soldier. For all these facts, Alieu KOSIAH is convicted for war crimes. He is given the benefit of the doubt only regarding one forced transport, and is therefore acquitted.

With regard to the applicable law, the Higher Appeals Chamber finds that the charged murders were part of a generalized attack against the civilian population and have to be qualified as crimes against humanity. According to the Court, this offence, which was introduced in Swiss law in 2011, is fully applicable, although the facts go back to the early 90's, since the charged murders were not time-barred in 2011. This is the first time that this legal provision is applied in a Swiss judgment. As for the other charges (apart from the murders) that could have been examined under the offence of crimes against humanity, they have been abandoned because they became time-barred before the offence of crimes against humanity came into force in Swiss law.

For procedural reasons, the aggravated offence of crimes against humanity, which foresees life imprisonment, could not be examined by the Court. Thus, the statutory maximum remains limited to a custodial sentence of 20 years. When determining the sentence, it appeared that the cumulation of the convictions would have theoretically led to a sentence corresponding to its multiple.

The Court combines the 20-year custodial sentence with a 10-year expulsion from Switzerland and awards satisfaction to the plaintiffs.

An appeal may be lodged with the Federal Supreme Court within 30 days of notification of the written grounds for the judgment.

For the detailed content of the Higher Appeals Chamber's judgment, please refer to the operative part of the judgment.

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About the Federal Criminal Court:

The Federal Criminal Court, based in Bellinzona, consists of the Criminal Chamber, the Lower Appeals Chamber and the Higher Appeals Chamber.

The Criminal Chamber decides (as a single judge or with three judges) at first instance on the offences listed in articles 23 and 24 of the Swiss Criminal Procedure Code (CPC). In addition, it has jurisdiction over certain general criminal law and administrative law matters based on other federal laws.

The Lower Appeals Chamber rules (always in a three-judge composition) on appeals against the procedural acts of the Criminal Chamber, the Federal Criminal Police and the Office of the Attorney General of Switzerland, as well as against certain decisions of the Compulsory Measures Court. In addition, it rules on matters of international mutual assistance in criminal matters and administrative criminal law pursuant to Art. 37 para. 2 of the Federal Act on the Organization of Federal Criminal Justice Authorities.

The Higher Appeals Chamber decides (always in a three-judge composition) at second instance on appeals against judgments on the merits rendered by the Criminal Chamber. It also decides on applications for review of judgments and decisions of the three courts that have become effective, as well as summary penalty orders of the Office of the Attorney General of Switzerland that have become effective.

<p>Note: The press release is for public and media information. The expressions used may differ from the wording of the judgment. For case law purposes, only the written version of the judgment is authoritative.</p>
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