

Mehinovic v. Vuckovic - HIGHLIGHTS OF U.S. COURT'S DECISION

Judge Marvin Shoob's April 29, 2002, Order in the case against Bosnian Serb soldier Nikola Vuckovic details the abuses Vuckovic committed against four Bosnian Muslim civilians, finds Vuckovic responsible for grave human rights violations, and orders that Vuckovic pay \$35 million in damages to each of the four victims who brought the lawsuit (plaintiffs). The court's judgment against Vuckovic totals \$140 million. Highlights from the court's decision are below.

OVERVIEW

The court found that: "[D]efendant repeatedly tortured and humiliated each plaintiff on a variety of different occasions and committed these abuses in furtherance of a deliberate campaign to destroy, terrorize, and displace the Muslim population of large sections of Bosnia. These abuses were carried out wantonly and maliciously and violated the most fundamental international norms of human rights."

Specifically, the court found that Vuckovic committed and is liable for:

- · Torture
- · Cruel, Inhuman, or Degrading Treatment
- · Arbitration Detention
- · War Crimes
- · Crimes Against Humanity
- · Assault & Battery, False Imprisonment, Intentional Infliction of Emotional Distress, and Civil Conspiracy.

FACTUAL FINDINGS

The Plaintiffs' Ordeals: In a section entitled "The Plaintiffs' Ordeals" the court found that defendant Vuckovic subjected each plaintiff to repeated brutal beatings and other humiliations in 1992 while they were held in makeshift detention facilities in schools and warehouses in their home town of Bosanski Samac, Bosnia. The court found that these abuses were committed against plaintiffs solely because of their Muslim ethnicity.

The court's findings with respect to each plaintiff include the following:

- Kemal Mehinovic: The court found that Vuckovic beat and kicked plaintiff Mehinovic in the face, genitals, and other areas on numerous occasions. The court also found that Vuckovic participated and laughed during a torture session led by Bosnian Serb police chief Stevan Todorovic, who has pleaded guilty to crimes against humanity before the U.N. International Criminal Tribunal for the Former Yugoslavia.
- Safet Hadzialijagic: The court found that Vuckovic subjected plaintiff Hadzialijagic to a "long and nightmarish beating" that included being hit while hanging upside down from a rope until he almost lost consciousness, being kicked in the face and torso while lying on

the ground, having a Muslim symbol carved on his forehead with a knife and after having his head dunked into a bucket used as a toilet. Vuckovic forced Hadzialijagic during this incident to lick his own blood off Vuckovic's boots.

- Muhamed Bicic: The court found that Vuckovic repeatedly beat plaintiff Bicic on "numerous occasions" using revolvers, rifles, batons, and other instruments, and rode on his back in a game of "horse."

- Hasan Subasic: The court found that Vuckovic hit and kicked Subasic while Subasic was detained at an elementary school.

Furthering "Ethnic Cleansing": The court found that Vuckovic intentionally committed these actions against plaintiffs "in furtherance of the Bosnian Serb government's policy 'ethnic cleansing.'" The court described that policy as a "campaign by Bosnian Serb and Serbian military and political forces to 'cleanse' broad areas of Bosnia of its Muslim and Croat population through terror, mass displacement, detention, and murder."

LEGAL FINDINGS

The court specifically held plaintiff liable for the following violations of established human rights law:

- Torture: The court found Vuckovic, in his official capacity as a Bosnian Serb paramilitary soldier, "perpetrated, or was complicit in, severe beatings of each plaintiff, which caused each plaintiff severe physical pain" and prolonged emotional suffering.

- Cruel, Inhuman or Degrading Treatment: The court found that many of Vuckovic's actions were "intended specifically to degrade and humiliate plaintiffs."

- Arbitrary Detention: The court found that plaintiffs were detained without charge for "prolonged periods," and that Vuckovic "directly and indirectly participated in plaintiffs' continued unlawful detention by keeping them forcibly restrained during torture sessions . . . , and . . . aiding and abetting others who kept plaintiffs in detention."

- War Crimes: The court found that Vuckovic committed acts of torture and other abuses against civilians in the context of an armed conflict, and that he accordingly violated the international laws of war set out in the Geneva Conventions.

- Crimes Against Humanity: The court noted that Vuckovic's actions "were consistent with the pattern and practice of abuses against Bosnian Muslims and demonstrate that he was well aware of being part of a campaign of ethnic cleansing that was both widespread and systematic."

- Genocide: The court stated that: "The evidence before the Court . . . appears to support a finding that the defendant committed genocide." However, the court declined to decide whether

Vuckovic was liable for genocide in light of its conclusion that Vuckovic committed crimes against humanity and other grave abuses.

· State Tort Law: The court also found that Vuckovic's actions constituted torts under Georgia state law, including assault and battery, false imprisonment, intentional infliction of emotional distress, and civil conspiracy.

DAMAGES

The court concluded: "In light of defendant's egregious conduct . . . , plaintiffs are entitled to an award of damages as compensation for their injuries and suffering and to punish defendant and deter others from committing similar abuses." The court awarded each plaintiff \$10 million in compensatory damages for their physical and emotional suffering, and \$25 million each in punitive damages against defendant. The court cited the landmark case of *Filartiga v. Peña-Irala* in noting that "[T]he objective of the international law making torture punishable as a crime can only be vindicated by imposing punitive damages."