Justice - belatedly. "The Dutch State is liable for the deaths of three Muslim men from Srebrenica ."

State liable for death three Muslim men of Srebrenica

The Hague, 6-9-2013

The Dutch State is liable for the deaths of three Muslim men from Srebrenica . That the Supreme Court ruled today.

The men had sought refuge in the compound of Dutchbat . Dutchbat them decided not to evacuate the battalion and sent them on July 13, 1995 away from the compound. Outside the compound , they were killed by the Bosnian Serb army and allied paramilitary groups .

In two judgments of the Supreme Court confirms previous rulings of the court in The Hague in 2011 ( ECLI : NL : GHSGR : 2011 : BR0132 and ECLI : NL : GHSGR : 2011 : BR0133 ) and 2012 ( ECLI : NL : GHSGR : 2012: BW9015 and ECLI : NL : GHSGR : 2012: BW9014 ) and he rejects the appeal by the State against these statements instituted background

In both cases concern events that took place shortly after the fall of the Srebrenica enclave on July 11, 1995.

Hasan Nuhanovic was employed by the United Nations . He was working as an interpreter at the compound in Potocari where Dutchbat was stationed. He had a UN-pass and was on the list of local personnel with Dutchbat should evacuate . His father Ibro , his mother and his brother Muhamed Nasiha had after the fall of the enclave sought refuge in the compound.

They were not on the list of local staff and were told that they had to leave the compound. On July 13, 1995 Shortly after they are killed by the Bosnian Serb army and allied paramilitary groups . Hasan is the plaintiff in one case.

Rizo Mustafic was employed by the municipality of Srebrenica and seconded by the council at Dutchbat , to be as an electrician at the compound . Working After the fall of the enclave had Rizo with his wife and children sought refuge in the compound. The family was on July 13,

1995 to hear that it had to leave the compound. Shortly thereafter Rizo was killed by the Bosnian Serb army and allied paramilitary groups . His wife and children survived. They are the plaintiffs in the other case .

Two central questions

In the proceedings before the Supreme Court focuses on two questions :

1. The occurrence of Dutchbat be attributed ? To the State 2. Was the occurrence of Dutchbat unlawful.

Attribution ?

The Supreme Court answered the question whether the conduct of Dutchbat can be allocated on the basis of international law to the State. The Supreme Court up along two schemes drawn up by the International Law Commission of the United Nations .

The Supreme Court held that international law permits that conduct is not only attributable to the United Nations , who were in charge of the peacekeeping mission , but also to the State , because the State had effective control over the alleged conduct of Dutchbat . The court may therefore consider that the actions of Dutchbat is attributed to the State.

Unlawful?

The court decided that the actions of Dutchbat was unlawful under the national law of Bosnia and Herzegovina , which is in this case. This is contested in cassation without success . The Supreme Court adds that a cautious assessment of the conduct of Dutchbat as advocated by the State would mean virtually no room existed for judicial review of the action of a force in the context of a peace mission . That's according to the Supreme unacceptable. However, the court subsequently the behavior of a force assessment , taking into account that these are decisions under pressure in a war situation .

This is a news following the judgments of the Supreme Council of 6 September 2013. The full statements ( 12 / 03324 and 12 / 03329 ) are published on [www.hogeraad.nl](http://www.hogeraad.nl) , ECLI : NL : HR : 2013: BZ9225 and ECLI :

NL : HR : 2013: BZ9228

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