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General acquittal in appeal Kouwenhoven case

The Hague, March 10, 2008 - The Court of Appeal in The Hague acquitted the Dutch businessman Kouwenhoven of all charges. According to the court of appeal, the only direct evidence about transports of weapons and war crimes and Kouwenhoven's involvement, consists of the statements made by a number of witnesses. The court of appeal has not sufficiently been able to establish the reliability of those statements. The remaining part of the evidence is not strong enough that a judicial finding of the facts of the serious crimes may be based upon this remaining evidence. All in all, the court is faced with so many doubts about the evidentiary material submitted by the public prosecution service, that in their opinion a sentence would not be well-founded. The court of appeal is furthermore critical about the way in which the investigation was made by the National Criminal Investigation Department under the direction of the public prosecution service.

The public prosecution service accused Kouwenhoven of two kinds of serious offenses. On the one hand, it concerned being a co-perpetrator in illegal supplies of weapons to the regime of Charles Taylor in Liberia from 2001 through 2003. This had been prohibited in view of sanctions pronounced by the United Nations. On the other hand, it concerned participation in war crimes committed by Liberian troops and/or militias during the years 2000 through 2002 during armed conflicts in Guinee and Liberia. Suspect was also accused of these offenses as a 'superior', therefore as the person responsible for the misconduct of his subordinates.

Sentence of the court

In first instance, the court had sentenced Kouwenhoven in June 2006 to a term of imprisonment of eight years for four illegal transports of weapons. The court acquitted him of involvement in war crimes. The public prosecutor had demanded 20 years of imprisonment and a fine of €450,000.- for all charges.

Both Kouwenhoven and the public prosecutor appealed against this sentence. The National Criminal Investigation Department still continued their investigations during the appeal. The examining magistrate also questioned various witnesses.

Demand Public Prosecution Service in appeal

During the session of the court of appeal, the public prosecution service demanded acquittal of allowing war crimes as a superior officer. A conviction was again demanded to a term of imprisonment of 20 years as well as the earlier mentioned fine for all other offenses.

The defense demanded acquittal of all charges.

Opinion court of appeal

The court of appeal has come to the conclusion that Kouwenhoven should be acquitted of all charges. This judgment is based - stated succinctly - on the following considerations.

The court of appeal has by itself little doubt that parties fighting on both sides have committed war crimes during the second Liberian civil war and that weapons have illegally been imported in connection with this conflict.

However, there is no hard evidence at all in the form of documents, that those weapons have been imported through the port of Buchanan, as charged. Neither has it been established that those weapons had been bought in the Far East.

The only direct evidence of transports of weapons and war crimes consists of the statements made by a number of witnesses about such serious offenses and about suspect's involvement in those offenses. The court has however not been able to sufficiently establish the reliability of those witness statements. For instance, witnesses make statements about facts of which it has been established that it has never been possible that these could have taken place and the statements made by various witnesses contradict each other. Some witnesses change important parts of their statements and many statements are otherwise not credible. The remaining evidence is not strong enough to come to a judicial finding of the facts. All in all, the court of appeal has so many doubts about the evidentiary material submitted by the public prosecution service that in their opinion a sentence would not be well founded.

In the ruling, the court of appeal express their concern about the little critical way in which the investigation was made by the National Criminal Investigation Department under the direction of the public prosecution service. The witness statements have practically not been verified and compared to the actual situation, even not when the defense pointed out a number of inaccuracies and inconsistencies. Moreover, all exculpatory information submitted by the defense, was ignored to a high degree. The court of appeal is of the opinion that in this way there has been a serious failure in trying to find the truth in this case.