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EUROPE

Netherlands Held Liable for 300 Deaths in Srebrenica Massacre

By DAN BILEFSKY and MARLISE SIMONS JULY 16, 2014

PARIS — A Dutch court ruled on Wednesday that the government was liable for the deaths of about 300 victims of the 1995 Srebrenica massacre in Bosnia, Europe’s worst ethnically motivated mass murder since World War II, saying that a United Nations team of Dutch peacekeepers had failed to prevent those deaths.

The ruling indicated that the Netherlands was responsible because the Dutch peacekeeping force, outnumbered by raiding Bosnian Serb forces, had handed over nearly 300 Bosnian Muslim men and boys of fighting age after Gen. Ratko Mladic, commander of the forces, ordered that they be “screened for war crimes” against Serbs. The ruling, by the District Court in The Hague, said the peacekeeping force should have known that the Muslims were likely to be killed by the Serbs.

For relatives of the 300 victims, who were among the roughly 8,000 Muslim men and boys massacred at Srebrenica, the ruling, which said the government was liable for any compensation, may bring a sense of relief and justice. They have sought for nearly two decades to bring to account the Dutch peacekeepers, who were stationed near Srebrenica under a United Nations mandate. The relatives of thousands of other victims have not been compensated.

The court’s decision may also pose legal risks for countries involved in international peacekeeping operations, as it holds the Dutch forces liable for

events that the Netherlands has long argued were the responsibility of the killers, not of United Nations peacekeepers.

The case concerns the events of July 1995, when Bosnian Serb forces overwhelmed fewer than 400 lightly armed Dutch peacekeepers before taking control of a safe area around Srebrenica. Men and boys were rounded up and led to fields, where their hands were bound and they were shot. Their bodies were later buried in mass graves.

After Srebrenica fell on July 11, about 30,000 people sought refuge in the area around the peacekeepers' base, and 5,000 within the United Nations compound. But the Dutch peacekeepers were told that all 5,000 had to leave; mostly women and children, but also the 300 men and boys, who were at risk of execution.

The court ruled that the peacekeeping team, known as Dutchbat, shared in the responsibility for the deaths of the 300 men and boys. The force "should have taken into account the possibility that these men would be the victim of genocide," it said. "Had the Dutchbat allowed them to stay at the compound, these men would have remained alive."

But the ruling cleared the Dutch peacekeepers of being liable for the massacre of thousands of Bosnian Muslims who had fled to an area near the compound and were later found by the Serbs and killed.

Klaas Meijer, a spokesman for the Dutch Ministry of Defense, said by phone that the Dutch deeply regretted what had happened at Srebrenica. He said the Netherlands would study the verdict before determining compensation for the victims' families.

"It is important to remember that it was the Bosnian Serb forces who are responsible for the killings," he added.

A team of seven lawyers had worked on the case since 2007. A lawsuit filed on behalf of the relatives initially held both the United Nations and the Netherlands liable for most of the deaths, but the Dutch High Court ruled that the United Nations enjoyed "absolute immunity." It then sent the suit back to the District Court.

Simon van der Sluijs, one of the Dutch lawyers on the team, said he was pleased with the ruling, but would appeal it because it did not hold the Netherlands responsible for the deaths of uncounted other men who had sought refuge near the compound.

The decision on Wednesday follows a seminal ruling last year by the Dutch Supreme Court that found the Netherlands responsible for the deaths of three Bosnian Muslim men because Dutch peacekeepers had wrongfully ordered them to leave the compound during the massacre. It was the first time a government had been held liable for the actions of peacekeepers operating with a United Nations mandate.

In that case, the court dismissed arguments that holding forces accountable for events during peacekeeping activities could undermine future United Nations operations and make countries more reluctant to supply troops.

The Dutch Supreme Court, which was upholding a 2011 decision by an appellate court, said that even though United Nations commanders were in charge of the peace mission at Srebrenica, in the days after the Bosnian Serb takeover, Dutch authorities had “effective control” over the troops and therefore shared liability.

Srecko Latal, a political analyst who until recently worked with the nonprofit International Crisis Group in Sarajevo, Bosnia, said by phone that the verdict was important for showing that peacekeepers had both a moral and a legal responsibility to protect civilians. But he said it was unlikely to heal the wounds in Bosnia, an ethnically divided country still reeling from the war.

“This verdict is a symbolic gesture that will bring comfort to some victims’ relatives, but it is only a small number who are being compensated,” he said.

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