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ICTY CASES

Cases at Trial

Hadžić (IT-04-75)

Karadžić (IT-95-5/18-I)

Mladić (IT-09-92)

Šešelj (IT-03-67)

Cases on Appeal

Prlić *et al.* (IT-04-74)

Stanišić & Simatović (IT-03-69)

Stanišić & Župljanin (IT-08-91)

ICTY NEWS

Prosecutor v. Mladić (IT-09-92)

On 22 June, the protected witness RM383 was called by the Prosecution at the beginning of the reopening of its case. RM383 gave evidence in closed session, both during direct- and cross-examination.

Prosecution witness RM 382 appeared a day later, on 23 June. The witness testified almost exclusively in private session and with protective measures, including voice and face distortion.

On 24 and 25 June, Ian Hanson, the Deputy Director of Forensics at the International Commission for Missing Persons (ICMP) and Prosecution forensic expert, gave evidence. Having supervised the exhumation at the Tomašica mine between September and November 2013, Hanson was requested by the Prosecution to review an ICMP report on the burial site.

Hanson described the exhumation process and testified that 371 sets of mortal remains were exhumed from the grave. He explained that the positioning of the deposits and the bodies indicated that the grave had been disturbed at least four times. Further, he pointed out that the decomposition stage of the bodies when exhumed was consistent with a timely burial after death.

During cross-examination, the Defence emphasised the unsuitability of Hanson for presenting the ICMP expert report, the witness having only worked on parts of the report and therefore not being able to discuss most of the content. Similarly, the Defence highlighted the lack of expertise of Hanson to determine the timing of the death of the victims on the basis of entomological evidence. The Defence also advanced that procedural er-

ICTY AND MICT NEWS

- Mladić: Defence Case Continues
- M. Lukić: [Decision on Request for Review](#)
- S. Lukić: Decision on Request for Review and Decision on Determination of Time Served
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Ian Hanson

rors were committed during the exhumations, a possibility with which Hanson agreed. Lastly, the Defence contested the authority of the organisation and relied on journal articles authored by Hanson to demonstrate his bias against the Defence.

Doctor Thomas Parsons, Director of Forensic Science at the ICMP, gave testimony regarding the Tomašica grave site on 26 June. Parsons has previously testified regarding Srebrenica in the Mladić trial and in three other cases at the ICTY.

According to the witness, 385 bodies from the Tomašica grave were identified. The witness stated that DNA is a very powerful scientific tool, but that there are many factors that have to be present in order to successfully extract DNA. Parsons argued that in some cases the bones do not have enough surviving DNA and the anthropologists are not able to recover a profile at all. Factors such as the environmental context, the age and the type of skeleton element involved affect the success rate. The witness argued that overall, the ICMP has a success rate of about 70% on DNA extraction.

During cross-examination by the Defence the flaws of DNA analysis and the work of the ICMP were addressed. The Defence emphasised the lack of supervision of the ICMP's work. The witness admitted there is no formal monitoring body or a supervisory body that observes ICMP's work. Another focal point of the Defence was the reliance on information from family members with regard to the date and place of disappearance. Parsons stated that the ICMP does not conduct any independent investigations into the same but merely records information received from the families of the missing persons.

From 26 to 30 June, Bruno Franjić, a Prosecution ballistics expert, testified before the Court. His evidence primarily concerned the rounds and cartridges found in the Tomašica mass grave. Legal Consultant Dragan Ivetić conducted the cross-examination. Franjić was initially questioned on how he came to acquire his expertise. This was followed by continuing questions on the methodology utilised by Franjić in his report, particularly why his methodology differed from the Code of Ethics of the Association of the Arms and Tool Marks Examiners (AFTE).

The cross-examination concentrated on two things in particular. Firstly, why Franjić had not taken microphotographs of the analysed rounds; which, if taken, would allow another expert to review his work for accuracy. This was a notable absence from any ballistic or mechanoscopic analysis, which later led onto the second significant issue, that being the potential for the rounds in dispute to be compatible with a range of firearms. This was important because these firearms were widely available not only to the military but also to the police and civilians at the time, thereby running contrary to the underlying narrative of Franjić's report. Franjić conceded it could not be established that the weapons that led to the deaths of individuals found at Tomašica were the result of military firearms.

Elmira Karahasanović, an expert biologist and Chief of the Department for Biological Analysis in the Bosnia-Herzegovina federal police, testified on 30 June. She testified relating to an expert report she authored with two colleagues and testified about the analysis of DNA samples taken from bodies found in the Tomašica grave site. The report pertained to the biological and chemical analysis and fingerprinting of the artefacts recovered near the bodies in the Tomašica grave.

The Defence objected to the report being admitted into evidence as Karahasanović was not the sole author and did not have the relevant expertise for the parts of the report that were written by the other co-authors. The Court ruled that it would admit the whole report but would only refer to parts of the report that Karahasanović had authored in their deliberations.

Karahasanović gave evidence that gloves, gas masks and fire extinguishers were found next to the bodies in the Tomašica mass grave. Her report also stated that gas masks were used in the Yugoslavian People's Army. Counsel for the Defence responded that similar gas masks had been manufactured for civilian use.

On 1 and 2 July, John Clark, a forensic pathologist, appeared for the Prosecution during the reopening of their case in respect of the Tomašica mass grave. Clark testified in relation to his report on the autopsies carried out on bodies exhumed from Tomašica. Clark stated that most of the bodies had died of high velocity gunshot wounds and could not rule out that all of the bodies had been killed in combat. He could also not rule out that the individuals had been lying

on the ground at the time they were shot as an explanation for the low number of gunshot wounds to their legs which may suggest active participation in combat. He also testified that the bodies had been particularly well preserved and that a number of identity documents were found near bodies which may suggest they had not been searched.

Ewa Tabeau, demography expert, also testified in July and was the last witness called for the Prosecution. Tabeau provided an expert report in which she stated

that 712 bodies were exhumed and identified between 2001 and 2013 from the Tomašica grave site. She stated that 95% of those bodies were identified as Muslim men from the Prijedor region.

Tabeau referred to her report in which she stated that 268 bodies exhumed in 2013 from the Tomašica site, 16 exhumed in 2004 and 2006 and 94 exhumed from the Jakarina Kosa grave site had been successfully identified. The re-associated remains of 334 victims were also exhumed and identified.

MICT NEWS

Prosecutor v. Milan Lukić (MICT-13-52-R.1)

On 4 December 2012, the Appeals Chamber sentenced Milan Lukić (Lukić & Lukić, IT-98-32/1) to life imprisonment for committing crimes against humanity contrary to Article 5 of the ICTY Statute and for violating laws or customs of war as enshrined in Article 3 of the ICTY Statute. Milan Lukić, as a member of the reserve police force of Višegrad, participated in several incidents taking place in June 1992 in eastern Bosnia.



Milan Lukić

Following the decision, Lukić lodged a request submitting the decision to be reassessed. The request was a consequence of fresh evidence having arisen after the conclusion of the appeal.

In his Request, Lukić provided the statements of several witnesses along with other evidence according to which he was not present at the concerned incidents. He further submitted that the new findings comply with the conditions required for reviewing a final Judgement.

Concerning the new evidence, the Appeals Chamber drew a distinction between material supporting a fact not considered in the original proceedings and material reflecting new evidence already considered in the original proceedings. The importance of defining the concerned issue is reflected in the fact that

the latter's review would not be possible. For this reason, Lukić's evidence regarding his presence at the incidents was rejected on the ground that it failed to show new facts not previously reviewed in during the original proceedings.

In the Drina River incident, the Trial Chamber found that Lukić along with three other members of his group, captured and attempted to execute seven men. Both the Appeals Chamber and the Trial Chamber rejected the statements according to which Lukić was not present at the incident as he was accompanying his mother to the hospital in Belgrade.

Regarding the Pionirska Street incident, the Trial Chamber found that Lukić committed murder as violation of the laws and customs of war for setting fire to a house where a number of Muslim civilians were locked. The Defence invoked several witness statements which constituted 'new facts' not available in the original proceedings. It was argued that their absence in the previous proceedings was not a result of a lack of due diligence and that they were decisive. The Appeals Chamber also rejected this argument.

The same pattern was followed for facts regarding the Bikavac incident where the Trial Chamber found Lukić guilty of murdering 60 Muslim civilians by setting fire to the house. The Appeals Chamber subsequently upheld this finding and rejected the new evidence.

Prosecutor v. Sreten Lukić (MICT-14-67-ES.4) and (MICT-14-67-R.1)

Judge Meron in his capacity as President of the Mechanism for International Criminal Tribunals handed down a decision on 29 May 2015, denying the request by Sreten Lukić (*Šainović et al.*, IT-05-87), a senior official from the Serbian Ministry of the Interior, for determination of the time he has served to date.

Lukić originally filed a confidential request earlier this year asking that the Mechanism confirm that the Trial and Appeals Chamber credited the accumulation of his custody in the ICTY to his sentence.

Meron gave his reason for deciding as an absence of jurisdiction to reconsider final judgements. He considered that the decision handed down by the Trial Chamber, which acknowledged that the prisoner 'has been in custody since 4 April 2005' and that 'he is entitled to credit for time spent in detention thus far', was final as it had not been the source of challenge on appeal.

Lukić also submitted a Request for Review asserting that his convictions and sentence be reconsidered. Several grounds were invoked in support of his request, namely, the deterioration of his health, the discovery of new evidence displaying that he had not

been involved in the adoption of a plan for the purposes of Joint Criminal Enterprise and the setting up of a new precedent.

According to the MICT's Rules of Procedure and Evidence, a review of a final judgement can only exceptionally be conducted where new information or evidence, which has not been considered during the trial or the appeals stage, arises. The second exception occurs when the review is necessary in order to avoid a miscarriage of justice.

Lukić's Request was rejected as the Appeals Chamber considered that the new information could not be regarded as amounting to 'new facts' for the purpose of the review criteria.

MICT RPE

Rule 146 (A)

Where a new fact has been discovered which was not known to the moving Party at the time of the trial or appeal proceedings of the ICTY, the ICTR, or the Mechanism; which could not have been discovered through the exercise of due diligence; and which could have been a decisive factor in reaching the decision, the convicted person or, within one year after the final judgement has been pronounced, the Prosecutor, may make a motion to the President for review of the judgement.

Prosecutor v. Stanislav Galić (MICT-14-83-ES)

On 23 June, Meron issued the public version of his confidential decision of 5 December 2014 denying a request for early release submitted by Stanislav Galić, former Commander of the Sarajevo Corps of the Bosnian Serb Army. Galić received a sentence of life imprisonment on 30 November 2006 for his involvement in the crimes perpetrated in Sarajevo between September 1992 and August 1994. He was transferred to Germany to serve the remainder of his sentence on 15 January 2009.

Under the domestic laws of Germany, prisoners serving life sentences are entitled to be considered for early release after having served 15 years. Galić became eligible for this on 15 October 2014 and filed a submission for early release on 21 November 2014.

Meron posited that convicts sentenced to life at the ICTY and ICTR are eligible to apply for early release. He further held that eligibility for early release is

contingent on having served greater than two-thirds of the highest fixed-term sentence imposed by either Tribunal or the Mechanism. Meron proceeded to hold that Galić will thereby be considered eligible for early release by the Mechanism upon having served more than two-thirds of his sentence which amounts to more than 30 years, making him ineligible for early release.

Meron noted, however, that whether or not a prisoner has served two-thirds of his or her sentence is not singularly determinative of the possibility of review for early release or the outcome of the review itself. The decision constitutes important administrative legal precedent as it is the first decision handed down by the President of the Mechanism relating to early release from a life sentence.



Stanislav Galić

LOOKING BACK...

International Criminal Court

Five years ago...

On 15 July 2010, Chamber I of the ICC ordered that Thomas Lubanga Dyilo be released due to a stay of proceedings. Despite the lack of an immediate effect of the decision, the Judges asserted that holding the Accused in preventative custody would breach his rights to a fair trial and particularly the refusal of the Prosecution to disclose to the Defence the identity of intermediary 143. The Defence had alleged that some of the Prosecution intermediaries had coached

Prosecution witnesses and fabricated evidence. The delayed enforcement of the decision was due to an expected Prosecution appeal. Lubanga's release was subsequently reversed by the Appeals Chambers on the ground that even though the Prosecution had not complied with the Trial Chambers orders, sanctions should have first been applied before imposing the drastic measure of a stay of proceedings.

International Criminal Tribunal for the Former Yugoslavia

Ten years ago...

On 19 July 2005 at the ICTY, Miroslav Bralo pleaded guilty to eight counts listed in the amended indictment, including counts of torture, murder and persecutions on political, racial and religious grounds.

Bralo was a member of the anti-terrorist platoon of the 4th Military Police Battalion of the Croatian Defence Council (HVO). It was alleged that between January 1993 and mid-July 1993 the HVO was engaged in an armed conflict against the armed forces of Bosnia-Herzegovina. From the beginning of the hostilities, it is alleged that the HVO attacked villages with mainly Bosnian Muslim populations and wounded and killed many civilians. Allegedly, hundreds of Bosnian Muslims were arrested by the HVO and sub-

jected to displacement, forced manual labour, torture, sexual assaults and physical and mental abuse.

Bralo was charged with participating in a surprise attack on the village of Ahmici. He was alleged to have participated in the murder of civilians, the destruction of the lower mosque and the destruction by fire of civilians' houses with the objective of ethnically cleansing the village and killing all males of military age.

The Trial Chamber accepted the proposed amended indictment and was satisfied that the Plea Agreement met the requirements of the Rules of Procedure and Evidence.

International Criminal Tribunal for Rwanda

Fifteen years ago...

On 28 June 2000, the Appeals Chamber of the ICTR completed the hearing of Jean Kambanda's appeal against his conviction for genocide and crimes against humanity.

Kambanda, the former Prime Minister of Rwanda, pleaded guilty to genocide and crimes against humanity and was sentenced to life imprisonment in September 1998 for his role in the Rwandan Genocide. He was the first Head of Government to plead guilty to genocide but he later appealed the decision and sought to have the sentence quashed and to stand trial.

Kambanda argued that the process leading to his guilty plea was not fair, as he had not had his first choice of lawyer. When he finally received legal representation, the assignment of the lawyer was unfairly influenced by the Prosecution. He also claimed that he was kept isolated from other prisoners, which he found to be oppressive.

The Court eventually upheld Kambanda's guilty verdict on 19 October 2000. He is currently in prison in Mali.

NEWS FROM THE REGION



Bosnia and Herzegovina

Extradition of Wartime Muslim Bosnian Commander

The Swiss Federal Office of Justice has announced the extradition of wartime Muslim Bosnian Commander Naser Orić to Bosnia and Herzegovina from Switzerland.

Orić was detained last week following the issuing of an international arrest warrant requested both by Bosnia and Herzegovina and Serbia. The decision for him to be extradited to Bosnia and Herzegovina has angered some Serbian politicians as Serbia had requested his extradition and trial to be in Serbia. Orić has been accused of crimes against Bosnian Serbs in Srebrenica during the war.

In 2006, the ICTY sentenced Orić to a two year imprisonment on grounds of superior criminal responsibility for failing to prevent the deaths and mistreatment of several Serbs which had been detained during 1992-1993. However, in 2008, the Appeals Chamber had been successful in reversing the conviction and acquitted Orić of all charges brought against him.



Jasmin Coloman Acquitted by Sarajevo-based Court

Former Bosnian Army Serviceman Jasmin Coloman who was allegedly involved in the killings of Croat civilian detainees in Vitez in 1993 was acquitted by a Sarajevo-based court. Presiding Judge Halil Lagumdžija noted that the Prosecution had not presented sufficient evidence for a conviction. While it could be proven that civilians were killed and injured during the incident in 1993, Coloman's participation remains disputable. The testimonies of two witnesses claiming that Coloman had participated in the act proved to be flawed and lacked sufficient description of the Accused. The verdict can be appealed.



Croatia

Captain Dragan Extradited from Australia to Croatia

On 8 July, Dragan Vasiljković was extradited by Australia to Croatia after a decade long battle against extradition and losing a series of appeals. Vasiljković is nicknamed Captain Dragan and faces charges of torture and murder as war crimes committed during the period 1991 and 1995. He was a paramilitary commander of a Serbian rebel group opposing the independence of Croatia in the early 1990s. He is now to be questioned by Prosecutors in the town of Split.

In Australia, he went by the name Daniel Snedden and was a golf instructor. He has successfully evaded extradition for the past years, even after Canberra had approved his extradition three years ago. He was initially arrested in Australia in 2006 and has since been appealing the decisions deeming him eligible for extradition to Croatia, which the High Court finally rejected in May this year. This is the first successful extradition of an alleged war criminal by Australia. Vasiljković also testified in the trial of Slobodan Milošević at the ICTY in 2005.

NEWS FROM OTHER INTERNATIONAL COURTS



Extraordinary Chambers in the Courts of Cambodia

Nawin Santikan, Legal Intern Defence Team.

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Judicial Update

In June, the Defence teams for Nuon Chea and Khieu Samphan continued to attend hearings before the Trial Chamber in Case 002/02. At the same time, both teams have been preparing to attend the first hearings of the appeal of Case 002/01 which will begin in the Supreme Court Chamber in July. In addition, the Nuon Chea Defence have filed a request to admit additional evidence on appeal in Case 002/01. In preparation for the hearings of three new witnesses on appeal in Case 002/01, the Nuon Chea Defence filed an objection to the use of several documents proposed by the Prosecution, Co-Lawyers for Civil Parties, and the Khieu Samphan Defence. The Supreme Court Chamber upheld the bulk of these objections.

In preparation for the first hearings on an appeal in Case 002/01, the Khieu Samphan Defence also filed objections to the use of documents by other parties in the questioning of witnesses on appeal. Having granted additional time to file their objections, the Supreme Court Chamber upheld these objections in part. In Case 002/02 the Trial Chamber handed down its response to two requests by the Khieu Samphan Defence to admit new evidence before the Trial Chamber pursuant to Internal Rule 87(4). These requests were accepted in part.



Meas Muth

In Case 003, the Defence for Meas Muth continued to review material on the case file, having recently been granted access. The Defence has filed five applications to the Office of the Co-Investigating Judges (OCIJ) to seize the Pre-Trial Chamber (PTC) with requests for an annulment pursuant to Internal Rule 76(2), as well as filing several appeals to the PTC related to jurisdictional

and investigative decisions from the OCIJ. These remain confidential. In addition, the Meas Muth Defence filed a request to intervene or, in the alternative, act as *amicus curiae* with the Trial Chamber in Case 002/02 regarding the use of torture-tainted evidence. The Defence made two submissions. First, that a ruling on the use of torture-tainted evidence in Case 002 would significantly impact Meas' interests in Case 003. Second, that the use of torture-tainted evidence in judicial proceedings is prohibited in all circumstances, except where such evidence is used against a person accused of torture as evidence that the statement was made. The Trial Chamber rejected their request to intervene. Upon request by the Defence, several of its submissions were recently reclassified as public, along with other documents related to Case 003. The Meas Muth Defence continues to make submissions to protect Muth's fair trial rights.

In Case 004, on 3 June, the Defence team for Ao An filed an application requesting that the OCIJ seize the PTC with a view to annulment of the judicial investigation. The team also continued to review the information in the case file to protect the client's fundamental fair trial rights.

Also in Case 004, the Im Chaem Defence team continued to assess evidence in the case file and submitted arguments to protect Im's fair trial and procedural rights.

Finally, the Defence team for the final named suspect in Case 004 continued to monitor proceedings in Case 002/02. It continued to assert that the use of documents from Case 004 in proceedings before the Trial Chamber in Case 002/02 constitutes a violation of the named suspect's rights. The Team continued to work to ensure its client's fair trial rights are protected.



Special Tribunal for Lebanon

STL Public Information and Communications Sections.

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The Prosecutor v. Ayyash *et al.* (STL-11-01)

On 2 and 3 June, PRH357, a witness subject to protective measures, testified before the Trial Chamber. The witness was a corporal in the Lebanese Internal Security Forces (ISF) and was part of former Prime Minister (PM) Rafik Hariri's convoy on 14 February 2005. PRH357 had worked since 2002 in the advance team, which is responsible for the protection of the convoy by preventing any vehicles from approaching it. The testimony of PRH357 focused on the security arrangements that surrounded the PM's convoy in the days before his assassination and the events on 14 February 2005.

The Legal Representative of Victims (LRV) cross-examined PRH357 about his family, work and what he witnessed immediately following the attack on 14 February 2005.

Defence Counsel for Ayyash and Badreddine cross-examined witness PRH357 on 2 June. The Defence teams' questioning focused on the aftermath of the blast, the witness's alertness while in the ISF vehicle on the day of the attack, and his evidence regarding threats against former PM Rafik Hariri by the former Head of the Syrian Intelligence services in Lebanon, Brigadier-General Rustom Ghazaleh, in a meeting at the Quraitem palace some 15 days prior to 14 February 2005.

On 3 June, witness PRH357 continued his testimony with the cross-examination by Counsel for Sabra. The Defence's questioning focused on those responsible for the security arrangements of Hariri; the reduction of his security personnel after his resignation from the post of PM; Hariri's schedule on the day of the assassination; as well as General Ali El-Hajj's questioning of the witness after the explosion.[2] The cross-examination also touched upon the witness's recollection of road-works that were carried out near the crime scene on the days leading up to the explosion.

On 3 and 4 June, protected witness PRH149 appeared before the Trial Chamber. The witness was a member of the ISF and a colleague of PRH357. The witness

was one of the eight officers who ensured close protection for Hariri after he resigned from the post of Prime Minister in 2004. His testimony focused on the events that took place on the days prior to the explosion, including the security arrangements; the routes taken by the former PM's convoy, as well as the immediate aftermath of the explosion.

On 4 June, PRH149 was questioned by the LRV. The LRV's questioning was related to the injuries that he sustained as a result of the attack, what he saw when he exited the convoy vehicle, and the people with whom he interacted after the explosion. PRH149 was cross-examined by the Defence Counsel Badreddine and Sabra the same day. The cross-examination mainly focused on what the witness saw when the convoy passed by the St. Georges Hotel area prior to the terrorist attack. Other questions were related to the jamming devices in Hariri's convoy, former PM Hariri's schedule on 14 February 2005, and the choice of the route that was taken after he left the Parliament that day.

On 4 June, protected witness PRH063 appeared before the Trial Chamber via video link. The witness is a businessman based in Tripoli, Lebanon, who in late 2004 and 2005 was dealing in vans and pickup trucks. His testimony focused on the purchase of the Mitsubishi Canter van, which the Prosecution claims was used to conceal and detonate the explosives used in the assassination of Hariri. During his testimony, the witness testified that on a day in early 2005 two men entered his showroom and, after little bargaining, paid USD 11,250 in cash to purchase a Mitsubishi Canter van.

On 5 June, the Prosecution continued to examine PRH063. Prosecution Counsel questioned the witness about calls between him and PRH075 on 25 January 2005, the day the Mitsubishi Canter was sold. The Trial Chamber Judges asked the witness about the practices in place for selling vehicles in the showroom and the paperwork required to that end.

On the same day, Counsel for Sabra cross-examined

PRH063 and questioned the witness about his knowledge of certain individuals and telephone numbers. The cross-examination by the Ayyash Defence, which spanned over 5 and 10 June, focused on the witness's interrogations by the Lebanese authorities in 2006 and 2008, and the investigations conducted by the United Nations International Independent Investigation Commission (UNIIC) or the STL's Office of the Prosecutor (OTP) in 2007, 2009 and 2010. The Ayyash Defence asked the witness about any records or archives that he kept at the material time regarding car sales in the showroom. During the cross-examination by counsel for Ayyash, Counsel asked the witness general questions about sales, his recollection of the specifics of the Mitsubishi Canter displayed in and sold from the showroom, the date and time when the transaction was made and the payment methods on which he relies.

Also on 10 June, the Trial Chamber Judges asked the witness about the contractual arrangements in place with respect to selling vehicles, whether or not he recognised the Mitsubishi Canter believed to be used in the 14 February 2005 attack when he saw it in the media, about the conditions under which he was detained and interrogated by the Lebanese authorities in April 2006, and his health issues. In re-examination by the Prosecution, the witness confirmed that during his questioning by the Lebanese authorities, and later in his witness statement recorded by the UNIIC, it was agreed that the Mitsubishi Canter was likely purchased on 25 January 2005.

On 15 June, protected witness PRH075 testified also via video link before the Trial Chamber. The witness is the person who imported the Mitsubishi Canter allegedly used in the attack from the United Arab Emirates, which was displayed in the lot run by PRH063 in Tripoli. The examination of the witness focused particularly on the procedures of importing, exhibiting and selling the Mitsubishi Canter in the period between 2004 and 2005. In his testimony, the witness recalled the telephone contacts he had with PRH063, before agreeing on the price USD 11,250. On 16 June, the Prosecution questioned the witness about the Mitsubishi Canter he sold and the vehicle appearing in photographs alleged to be the vehicle used in the attack.

On 15 and 16 June, Defence Counsel for Ayyash, Badreddine and Sabra cross-examined the protected

witness. The cross-examination focused on the interviews the witness gave to the Lebanese ISF and his statements to the UNIIC. The witness also testified about the practicalities of the registration of the vehicle.

On 17 June, PRH041, a witness subject to protective measures, presented evidence before the Trial Chamber via video link. The witness was a labourer in the vehicle showroom run by witness PRH063. The OTP read a summary of the statement by witness PRH041 which described the details of the Mitsubishi Canter and the events that took place on the day of the purchase at the showroom. The witness was then cross-examined by Defence Counsel for Ayyash. The cross-examination focused on the questioning of the witness by the ISF.

On 17 June, protected witness PRH459 testified via video link. Witness PRH459 was the person in charge of the company owned by witness PRH075's brother. He was responsible for all the business transactions for one branch of the company and a few transactions for another branch, relating to buying, selling, writing receipts and bills, and handing over documents. The OTP read a summary of the witness's statement made to the Tribunal's investigators in December 2014. The Trial Chamber asked him questions about importing and selling vehicles in Lebanon. The witness was then cross-examined by Defence Counsel for Ayyash, Badreddine and Sabra. The cross-examination focused on the location of the showroom where the witness worked in 2004 and 2005 and the information he gave to the ISF when he was questioned regarding the Mitsubishi Canter. He was also cross-examined about the records and official documents the company kept when a vehicle was sold. He was also questioned about an Islamist organisation of which he had been a member.

On 23 and 24 June, protected witness PRH006 testified before the Trial Chamber via video link. The witness was working for Al-Jazeera TV in Beirut in 2005 and answered two phone calls claiming responsibility for the explosion. PRH006 was asked questions about what happened in the Beirut office of Al-Jazeera on 14 February 2005. She was also questioned about the statement she gave to Judge Elias Eid, Lebanese Investigative Judge, on 12 May 2005, about the phone calls she received from those who called Al-Jazeera TV office in Beirut and claimed responsibility for the

killing of PM Hariri. Afterwards Defence Counsel for Sabra, Badreddine and Oneissi cross-examined the witness. During the cross-examination the Counsel focused on a statement that the witness gave to Judge Eid on 1 September 2006 as well as a statement given by Ghassan Ben-Jeddo, the former Bureau Chief of Al-Jazeera TV in Lebanon, to the UNIIC on 5 and 12 September 2007. Defence Counsel also asked questions related to a meeting the witness had with the Prosecution on 10 March 2015. The questions also focused on the time and order of the events that took place, including the phone calls and text messages.

Protected witness PRH007 also gave his testimony on 24 June from Beirut via video link. The witness worked for Al-Jazeera TV in Beirut in 2005 and was at the Al-Jazeera office in Clemenceau with Ben-

Jeddo when the explosion occurred. Ben-Jeddo informed him that there was a tape to be collected located in a tree in Riad-El-Solh Square in Beirut and asked him to collect it. The Prosecution read a summary of the evidence from PRH007's witness statement given to STL investigators on 27 January 2015 which attaches and confirms an earlier statement to the UNIIC on 12 February 2007. The witness confirmed that these witness statements accurately reflected his evidence. Defence Counsel for Oneissi and Sabra then cross-examined the witness. The cross-examination concentrated on the witness statements, specifically where the witness was during the explosion, where he saw the box that had the tape, and the number of phone calls he received in the days and weeks immediately after the attack.

Contempt Case against AL JADEED [CO.] S.A.L./NEW T.V.S.A.L (N.T.V.) and Karma Mohamed Tahsin Al Khayat (STL-14-05)

The *Amicus Curiae* Prosecutor (*Amicus Curiae*) and the Defence for Al Jadeed S.A.L. and Ms Khayat presented their closing arguments before the Contempt Judge Nicola Lettieri on 18 June. The Contempt Judge heard *Amicus Curiae*'s rebuttal arguments, the Defence's rejoinder arguments, as well as a

final statement by Khayat on 19 June. At the conclusion of the hearing, the Contempt Judge informed the parties that he will issue a scheduling order in due course for the pronouncement of Judgment in the case STL-14-05.

DEFENCE ROSTRUM

ADC-ICTY Intern Field Trip to Eurojust

By Ivana Zečević

On 12 June, ADC-ICTY interns participated in a field trip to Eurojust. Eurojust is the European Union's Judicial Cooperation Unit and was founded in 2002. The intergovernmental organisation is located in The Arc building, in which the International Criminal Court (ICC) has its main offices as well. The interns were welcomed in the Eurojust lobby and escorted to the conference room where Legal Officer Susana Fonte was awaiting them. Fonte previously worked as a Prosecutor in Scotland. After briefly introducing herself, Fonte gave a very informative presentation about Eurojust.

Eurojust is composed of what is known as the College of Eurojust which entails 28 national desks. The national desks are comprised of one national representative from each European Union Member State. The representatives are experienced judges, prosecu-

tors, police officers, or any person of equivalent competence. The size of the national desk depends on the country's population and the amount of money that is granted by the country's authorities. If a country is admitted into the European Union, the country is automatically included into the College of Eurojust. There are also several non-European countries, such as the United States, Norway and Switzerland, that have cooperation agreements with Eurojust. The cooperation agreements allow the respective country and the members of Eurojust to exchange personal data.

The task of Eurojust is to assist national authorities with cross-border and organised crime. Such cases include terrorism, human trafficking, cyber crime, vehicle crime, money laundering and drug trafficking. The organisation analyses the cases and prepares

reports based on experience from other cases. In the report, Eurojust includes guidelines and proposals for the nation's authorities regarding that particular case. Since crime often crosses borders, the purpose of Eurojust is to assist in cooperation and coordination amongst nations in their investigations.

Eurojust is a helpful tool in the sense that representatives of each nation can have direct contact and can communicate in a quicker fashion. For example if there are any legal concerns between countries, a EU nation can contact the country's representative at Eurojust and more easily solve issues in a timely manner. Eurojust also promotes the establishment of Joint Investigation Teams (JITS) amongst countries. JITS allow nations to share information readily between each other. Thus far Eurojust has supported

122 JITS.

With the 2009 Lisbon Treaty, Eurojust was granted more power. Although the organisation's powers have increased over time, one of its limitations is that it can only issue non-binding opinions. This means that a nation is not obligated to follow their proposals. Therefore, one of the ongoing proposals is the establishment of EPPO (European Public Prosecutor's Office). At the moment there is no such thing as the European Union's police or prosecutor. Thus, EPPO would be the competent Prosecutor of the European Union.

Eurojust's new premises, which are near the ICTY, Europol and the World Forum, are expected to open in 2017.

Al Bashir's Visit to South Africa

By Gordon Connor McBain

The most recent development in the case of Omar Al Bashir has cast further doubt on the likelihood of Bashir appearing before the International Criminal Court (ICC). Earlier this month, South Africa's High Court, situated in Pretoria, issued an interim order prohibiting Bashir from leaving South Africa. He was attending an African Union (AU) Summit. The Court issued the order on the basis of the need for conformity with state obligations under the Rome Statute, which form part of South Africa's domestic law.

The issue was heard by urgent application on the part of human rights groups based in South Africa, arguing the Government was obligated to enforce the arrest warrants issued for Bashir. Lawyers for the Government argued against the measure, claiming that the warrants were unenforceable, their basis being that Bashir was entitled to diplomatic immunity for the extent of the summit. It was alleged in one media source that this immunity arose because of a 'loophole' in South African law that allowed such a conferral.

Despite the interim order, Bashir was able to leave by a private jet, arriving in Khartoum. It is alleged he did so with either ignorance or complicity on the part of the South African Government.

The controversy surrounding Bashir's visit to South Africa appears to have had political and legal ramifications for its Government, both inside and outside the country. Another senior judge, also sitting on South Africa's High Court but not on the Bashir application, claimed his country's government had acted contrary to its constitutional obligations and broken the law by defying a court order.

Abroad, South Africa has been greeted largely by criticism. The dominant narrative suggests the country faces competing obligations to the ICC and AU. South Africa argues its legal obligations to the AU prevail over those owed to the ICC; while as defenders of the ICC (though not the ICC itself) allege this to be a political choice to advance South African interests in the AU.

The largest tremour to be felt as a consequence of this latest affair in the Bashir case is the allegation concerning South Africa, but in particular the governing African National Congress which is reconsidering the country's relationship with the ICC. This has sparked fears, it being a major player in Africa, could spark a mass exodus of African nations from the ICC. When this is viewed alongside the controversy surrounding the Prosecution of Uhuru Kenyatta, it appears support for the ICC on the continent lies in a precarious state.

BLOG UPDATES AND ONLINE LECTURES

Blog Updates

Marko Milanovic, “**The Shameful Twenty Years of Srebrenica**”, 13 July 2015, available at: <http://tinyurl.com/p4xeouw>

Rob Currie, “**Is Interpol reliable?**”, 13 July 2015, available at: <http://tinyurl.com/p5h8vay>

Oliver Windridge, “**Guest Post: Two-thirds of 45–Does Life Mean Life at the ICTY?**”, 15 July 2015, available at: <http://tinyurl.com/ptuxf5p>

Online Lectures and Videos

“**Cooperation in the Contemporary World: Unlocking International Politics**”, by Scott Lucas, starts 10 August 2015, available at: <http://tinyurl.com/plj3ljg>

“**The Psychology of Criminal Justice**”, by Blake McKimie, Mark Horswill, Barbara Masser, starts 25 August 2015, available at: <http://tinyurl.com/ocaqkod>

“**Forensic Psychology: Witness Investigation**”, by Graham Pike, starts 14 September 2015, available at: <http://tinyurl.com/pxgow4s>

PUBLICATIONS AND ARTICLES

Books

Christopher N. Warren, (2015). **Literature and the Law of Nations 1580-1680**, Oxford University Press.

Rosolu John Bankole Thompson, (2015). **Universal Jurisdiction: The Sierra Leone Profile**, Asser Press.

Rossana Deplano, (2015). **The Strategic Use of International Law by the United Nations Security Council: An Empirical Study**, Springer.

Thomas Weatherall, (2015). **Jus Cogens: International Law and Social Contract**, Cambridge University Press.

Articles

Zoran, Oklopčić (2015). “**Introduction: The Crisis in Ukraine Between the Law, Power, and Principle**”, Volume 16, Issue 3, German Law Journal.

Michele Tedeschini (2015). “**Complementarity in Practice: the ICC’s Inconsistent Approach in the Gaddafi and Al-Senussi Admissibility Decisions**”, Volume 7, Issue 1, Summer 2015, Amsterdam Law Forum.

Zammit Borda, A. (2015). “**How do International Judges Approach Competing Precedent? An Analysis of the Practice of International Criminal Courts and Tribunals in Relation to Substantive Law**”, Volume 15, Issue 1, International Criminal Law Review.

CALL FOR PAPERS

The University of Antwerp has issued a call for papers for its European Law and Development Research Conference.

Deadline: 15 August 2015

More Info: <http://tinyurl.com/o7uemww>

The Yearbook of International Humanitarian Law (Vol. 18) has issued a call for papers on the general theme: “Contemporary Armed Conflicts and their Implications for International Humanitarian Law”

Deadline: 1 October 2015

More Info: <http://tinyurl.com/nze5kgv>

The European Society of International Law has issued a call for papers for its Research Forum on 21 and 22 April 2016 in Istanbul on a variety of legal topics

Deadline: 1 November 2015

More Info: <http://tinyurl.com/oqfvsvu7>

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EVENTS

Comparing Tort and Crime

Date: 20 July 2015

Location: British Institute of International and Comparative Law, London

More info: <http://tinyurl.com/nl7qy4f>

Conference: Disillusions and Accomplishments: How Transitional Justice Changes Societies

Date: 30-31 July 2015

Location: Utrecht University, Netherlands Institute of Human Rights (SIM)

More Info: <http://tinyurl.com/p52qaaj>

Conference: Defence Exports

Date: 30 September 2015

Location: Amsterdam, Netherlands

More info: <http://tinyurl.com/pd09xh9>

OPPORTUNITIES

Assistant Legal Officer (P-1), Leidschendam

Special Tribunal for Lebanon, Registry

Closing Date: 17 July 2015

Associate Legal Officer (P-2), Leidschendam

Special Tribunal for Lebanon, Registry

Closing Date: 23 July 2015

Junior Policy Research Analyst, Brussels

ISC Intelligence in Science

Closing Date: 31 July 2015

Legal Officer (P3), New York

Office of Legal Affairs

Closing Date: 7 August 2015

GOODBYE

The ADC-ICTY would like to express its sincere appreciation and gratitude to Sarah Mercer and Kandice Ardiel for their contribution to the Newsletter, we wish them all the best for the future!