



ADC-ICTY
NEWSLETTER
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STANIŠIĆ & SIMATOVIĆ

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MICT News

Prosecutor v. Stanišić & Simatović (MICT-15-96)

On 28 September, a Status Conference was held in the Stanišić and Simatović case. The Trial Chamber comprised of Judge Hall Presiding Judge Park and Judge Bossa, appeared as a full bench for the first time in the pre-trial proceedings. Representing the Accused, both of whom are currently on provisional release, were Scott Martin, Co-Counsel for Stanišić and Mihajlo Bakrač and Mr Vladimir Petrović for Simatović. Representing for the Prosecution was Douglas Stringer, Lead Prosecutor on the case. The main points raised during the Status Conference were the proposed

agreed adjudicated facts, Stanišić’s health, and issues concerning the proportionality and size of the Prosecution’s case.

The Prosecution proposed a number of agreed adjudicated facts on 23 May 2016. Neither Defence team has currently agreed to them. Martin explained that since 28 witness are subject to delayed disclosure, it is very difficult for the Defence to agree to any adjudicated facts without having a clear idea of the full case, a position that was shared by Bakrač. The Prosecutor disagreed with this position, claiming that the issue of delayed disclosure is not necessarily connected with the potential agreement on

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adjudicated facts. Moreover, The Prosecutor stated that they remain optimistic that an agreement will eventually be reached.

The physical conditions of Stanišić were also discussed as they relate to the current state of his provisional release, as well as the planning for the beginning of the trial. On the 26 and 27 of September, the reports of two independent medical specialists were released by the Registrar. In relation to this, the Trial Chamber will hold a specific hearing in December 2016, so that all outstanding issues can be resolved before the trial begins in early 2017.

The last major point discussed during the Status Conference was the length of the Prosecution's case. Stringer argued that the duration of the trial is largely in the hands of the Defence, and that it can be reduced by agreeing on evidence and witnesses from the first trial. Bakrač noted in response that the retrial was ordered with the purpose of allowing the new Trial Chamber to acquaint itself with all of the evidence directly. To this end it would be preferable to allow the returning witnesses to be heard by the Trial Chamber in person.

Martin said that the current case is significantly different from the one presented during the first trial. More specifically, he argued that, with at least 63 new witnesses and a significant number of new crime bases, the case will require additional time to prepare for. Stringer replied that the indictment remains the same and the new locations belong to the same municipalities that are contained in

the indictment. Moreover, he argued that the case, while being different from the one presented in the first trial, is not necessarily bigger, and might be further reduced by agreeing on some of the witnesses that already appeared in the first trial.

Prosecutor v. Karadžić (MICT-13-55)

Radovan Karadžić recently submitted an open letter to each Member State of the UN Security Council, to express his views on the establishment, operation and outcomes of the ICTY. He called on the Security Council and its member states to "form a legal experts commission to study the practice of the Tribunal," and to render invalid all decisions reached by the Tribunal which were based on procedural rules and jurisprudence which would not be allowed in a "respected country".

Karadžić outlined a number of his concerns regarding the ICTY. Firstly, he recalled the warnings from Secretary General Peres de Cuellar regarding the effect that "premature recognition of the independence of some of the Yugoslav republics" might have on the remaining republics. In Karadžić's view, although the UN were supposed to be "completely impartial between the various parties to the conflict" and not prejudice the outcome of the political negotiations, this did not turn out to be the case. Karadžić considered there to be "an extreme bias of the mid and low rank [UN] officials" against the Serb side in Bosnia and Herzegovina (BiH), which resulted in "massive misconduct of the UN mission as a whole." Although Karadžić does not blame the UN

leaders for these supposed failings, as he believes they were misinformed by their officials in the region.

Karadžić notes that this perceived bias had a detrimental impact on the Serb position during the conflict, in particular because the ICTY Prosecution invited those mid and low rank UN officials to testify in trials before the Tribunal. On this issue he notes that these officials attended informal events with "the elite of the Serb community in BiH," and were privy to unofficial and informal conversations at these events. According to Karadžić these UN officials then brought the contents of these unofficial conversations before the Tribunal as evidence of the *mens rea* of their Serb hosts, but did so with insufficient knowledge of the local culture, customs and sayings, and in Karadžić's view these opinions should not have been accepted as valid evidence before the Tribunal.

While Karadžić accepts that the UN agencies provided tremendous help to the population in the region, he contends that even these institutions were not immune from political influence. According to him the weaknesses of the UN and other humanitarian organisations in the region have been verified by the Tribunal. Karadžić claims that mid-level officials working in the region at the time were not familiar with the basic elements of the UN mandate, and some testified that they did not have any obligation of impartiality. He argues that these officials were biased against the Serb side of the conflict, and were under the impression that they were there with the

sole aim of protecting Bosnia's government. The knock-on effect of which was that this bias shaded what was reported by the officials to their superiors, and on to the higher levels of the UN.

According to Karadžić it was from this backdrop of biases and mistakes that the ICTY was born. Its aim to achieve an end to the war and reconciliation between the nations of the region failed, and instead it only resulted in a prolongation of the conflict. In his view, the earlier denigration and stigmatization of the Serb side rendered the subsequent trials contradictory to the idea of justice, and exposed judges who voted for acquittals to blame and pressure for their views. All of this was compounded, in Karadžić's view, by treating government officials as "gang leaders" without taking account of presidential duties and competences, and if this practice survives then no president in the world would be safe from prosecution.

Karadžić took further issue with the way the trials were conducted by the Tribunal. In particular that accused were held for long periods of time prior to their trials so that the Prosecution could gather evidence against them, and that even when some accused were acquitted they had still been subject to a form of punishment. He also criticised the burden of investigation on the Defence, and the lack of equality of arms between the parties, and the need for the Defence to rely on the Prosecution disclosing exculpatory materials in a timely manner. Karadžić claims that there were also significant misunderstandings and misinterpretations

due to the trials being conducted in a foreign language.

One significant failing in Karadžić's view was that both the Chambers and the Prosecution comprised people who had an inadequate knowledge of the laws and rules of war. In his opinion the misunderstanding of the structure, competences and autonomy of the Territorial Defence as an armed force of every local area and municipality led to the incorrect conclusion that armed skirmishes between neighbourhoods were planned and intended actions ordered by the central authorities. Karadžić states that this conclusion was only possible because of the "miraculous and magic tool" of Joint Criminal Enterprise.

According to Karadžić this was coupled with the Tribunal disregarding evidence of the causes of conflict or the contribution of the opposing side, and allowing hearsay evidence to have priority over official documents provided by the government. In addition, Karadžić criticised the practice of introducing statements of witnesses who could not be questioned under Rule 92bis, and allowing "adjudicated facts" from previous proceedings where such facts had not been contested. All of this amounted to a suspension of the principles of *in dubio pro reo*, the presumption of innocence, and *audiatur et altera pars*.

Karadžić considers that this is a unique opportunity for the UN to rescue its dignity and credibility, and recover its reputation in world crises. To do so the UN must establish

rules to ensure the honesty of its representatives, since the presence of the UN in a crisis situation should provide hope for all and not create jeopardy for one side over another. Karadžić does not consider that this is an issue concerning one person or one nation, but rather is an institutional problem which must be addressed by the nations of the UN as a whole. In his view the only solution is for the Security Council to form a commission of legal experts to review the practice of the Tribunal and invalidate all unjustified decisions.

Prosecutor v. Uwinkindi (MICT-12-25)

On 4 October 2016, the Appeals Chamber of the MICT issued a decision on Jean Uwinkindi's appeal against the referral of his case to the Rwandan authorities. Uwinkindi was charged with genocide and extermination as a crime against humanity before the ICTR, and his case was referred for trial before the High Court of the Republic of Rwanda on 28 June 2011, confirmed by the Appeals Chamber on 16 December 2011.

A request by Uwinkindi for revocation of the referral order and a stay on the Rwandan proceedings was rejected by the Trial Chamber on 1 October 2015, on the basis that Uwinkindi failed to show that the referral conditions were no longer met in his case and that it was in the interests of justice to revoke the referral order. Uwinkindi filed an appeal on seven grounds, alleging errors of law and fact on the part of the Trial Chamber. While his appeal was pending

Uwinkindi was convicted of genocide and crimes against humanity by the Rwandan High Court and sentenced him to life imprisonment. Uwinkindi has also filed a notice of appeal against the Rwandan judgment.

Uwinkindi alleged that the Trial Chamber erred in its consideration of the applicable law and in its findings on the evidence he presented related to improper questioning by the Rwandan authorities and other violations of his fair trial rights in Rwanda. He also submitted that the Trial Chamber incorrectly determined that the *non bis in idem* principle only protects an individual from being “tried again for the same acts,” and that he was being prosecuted in

violation of *non bis in idem, res judicata*, and Rwandan law.

Uwinkindi further asserted that the Trial Chamber erred in finding against him on the issues of choice of counsel and the impact of newly appointed counsel on the conduct of the trial. He also claimed that the Trial Chamber failed to consider that the Rwandan proceedings violated the equality of arms principle, and that it erred in finding that it was not within its purview to scrutinise the legal aid budget allocations. Finally, Uwinkindi submitted that the Trial Chamber erred in failing to find a violation of his right to be tried by an independent and impartial tribunal based on a number of issues during the Rwandan trial.

The Appeals Chamber dismissed Uwinkindi’s appeal in its entirety. The Appeals Chamber considered that Uwinkindi failed to demonstrate on any of the grounds submitted that the Trial Chamber erred in its findings. The Appeals Chamber concluded that he failed to substantiate that the referral of his case to Rwanda should be revoked.

The full text of the decision is available [here](#).

ICTY News

Prosecutor v. Mladić (IT-09-92)

On 4 October 2016 the Defence filed an interlocutory appeal challenging the decision of the Trial Chamber on the Defence Motion for a fair trial and the presumption of innocence, issued on 4 July 2016. The appeal asserts that the submissions on the violations of rights were not addressed by the Trial Chamber, and that other errors of law and fact impact the Appellant’s right to a fair trial.

The Defence submitted that the Trial Chamber did not substantively address the Appellant’s primary concern that his right to

the presumption of innocence had been violated. In particular, that the Trial Chamber did not examine whether his rights were violated through staff on the closely related Karadžić case subsequently working on the Mladić case.

The Defence also submitted that the Trial Chamber incorrectly applied the test for judicial impartiality. The Defence discussed the jurisprudence of the European Court of Human Rights which was referred to in the Trial Chamber’s decision, arguing that the Trial Chamber introduced a new standard

for judicial impartiality and misapplied the existing rules.

Finally, the Defence submitted that the Trial Chamber incorrectly asserted that findings in the Karadžić case did not constitute findings on the criminal responsibility of the Appellant. The Defence considers that the Karadžić judgment does contain findings of the Appellant’s guilt, highlighting in particular parts of the Karadžić judgment make explicit findings that Mladić’s participation in a JCE was proven beyond a reasonable doubt.

News from other International Courts



Cour
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International
Criminal
Court

International Criminal Court

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The Prosecutor v. Ahmad Al Faqi Al Mahdi (ICC-01/12-01/15)

On 27 September, Trial Chamber VIII of the ICC unanimously found Al Mahdi guilty as co-perpetrator of the war crime of intentionally directing attacks against religious and historic buildings in Timbuktu, Mali, in June and July 2012, and sentenced him to nine years' imprisonment. The Trial Chamber was composed of Judge Raul C. Pangalangan (Presiding Judge), Judge Antoine Kesia-Mbe Mindua and Judge Bertram Schmitt. The decision followed an admission of guilt entered by Al Mahdi on 22 August at the opening of the trial, and the Chamber was satisfied that he made this admission voluntarily and after sufficient consultation with Defense counsel.

The Trial Chamber found following a non-international armed conflict in Mali in January 2012, and the retreat of the Malian armed forces in April 2012, the armed groups Ansar Dine and Al-Qaeda in the Islamic Maghreb (AQIM) took control of Timbuktu. These armed groups imposed political and religious decrees on the local population, and controlled local government through an Islamic tribunal, police force, media commission and morality brigade known as the *Hesbah*. Al-Mahdi was active in

these organizations, and led the *Hesbah* from April to September 2012.

When the leader of Ansar Dine and two prominent members of AQIM made the decision in late June 2012 to destroy mausoleums, Al Mahdi agreed to conduct the attack, despite initially having some reservations about carrying it out. The attack destroying ten of the most important and well-known sites in Timbuktu, which were dedicated to religion and history, was carried out between around 30 June 2012 and 11 July 2012.

The Chamber considered that Al Mahdi played an essential role in the attack, and found that he had exercised joint control over the attack. As the Head of the *Hesbah* he had overall responsibility for all aspects of the execution phase of the attack, and he was personally implicated in the destruction of at least five sites.

In determining the nine-year sentence of imprisonment, the Chamber considered a number of different factors. The Chamber considered that although it was a serious crime, crimes against property are generally of less gravity than crimes against persons. However, the buildings which were targeted

were not only religious sites, but also held immense symbolic value for the people of Timbuktu and constituted a common heritage of the community. In addition, all of the destroyed sites but one were UNESCO World Heritage sites and as such their destruction not only affected the direct victims, but also the people of Mali and the international community.



AHMAD AL FAQI AL MAHDI

In mitigation the Chamber considered a number of circumstances. Firstly, the Chamber noted that Al Mahdi's admission of guilt, his repentance, and provision of a detailed account of his acts may further peace and reconciliation in Northern Mali through the acknowledgement of the significance of the attack. Secondly, his cooperation with the Prosecution from early in the proceedings despite the potential security risks to his family was noted. Thirdly, his expression of remorse and

empathy with the victims, and his call on people not to repeat such conduct was seen as mitigating. Fourthly, the Chamber noted Al Mahdi's initial reluctance to commit the crime and the steps he took to limit the

damage while carrying the attack. Fifth and finally, although of limited importance Al Mahdi's good behaviour in detention was also mentioned as a mitigating factor. On a balance of these factors and the need to

sufficiently reflect the harm suffered by the victims in the case, the Chamber imposed the sentence it deemed proportionate to the gravity of the crime and the individual culpability of Al Mahdi.



Extraordinary Chambers in the Courts of Cambodia

Liam MacAndrews, Legal Intern, Im Chaem Team

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Nuon Chea Defence

In August, the Nuon Chea Defence Team continued to be engaged in the Security Centres and "Internal purges" segment of the Case 002/02 trial and started to participate in the Regulation of Marriages segment. Alongside, it filed a series of requests before the Trial Chamber, some of which are summarised below.

On 1 August, the Defence filed a notice informing the Trial Chamber that Mr. Nuon Chea felt compelled to continue to exercise his right to remain silent as the chamber failed to assess evidence critically and focused instead on substantiating his guilt. It recalled that while during Case 002/01 Mr. Nuon Chea expressed his intention to respond to questions, he later decided to reverse his position due to the treatment of the Defence during cross-examination of a witness.

On 8 August, the Defence requested the admission into evidence of a press article published after Mr. Locard's testimony as an expert witness. The article contained a number of comments which the Defence considered were demonstrative of Mr. Locard's lack of impartiality and neutrality,

and was therefore relevant to the weight to be given to his evidence.

On 16 August, the Defence filed a public version of a request for the admission into evidence of documents by Robert Lemkin, containing, *inter alia*, transcripts of interviews recorded by Robert Lemkin and Thet Sambath for the purpose of their film "Enemies of the people", and related to rebellion events occurring in the Northwest Zone in 1975-1979.

On 19 August, the Defence filed a public version of its fifth witness request for the Security Centres and "Internal purges" segment. It requested eleven new witnesses who may provide evidence regarding key contested issues in the current trial segment, namely the internal rebellion within the CPK, and the functioning of S-21.

On 22 August, the Defence filed a public version of its first request to summon Chin Saroeun to testify for the trial segment on the Phnom Kraol Security Centre, as he could provide accurate and valuable information in respect to the armed conflict with Vietnam.

Finally, on 29 August, the Defence requested the Chamber to reject the International Co-Prosecutor's request to admit into evidence 35 documents from Case 004, which had just been disclosed to the parties. It argued that the request was belated, as the documents had been in the possession of the prosecution for several months, and related to segments which had already passed, and therefore that the admission into evidence of the documents would deprive Mr. Nuon Chea of his right to test evidence.

Khieu Samphân Defence

In August, the Khieu Samphân Defence Team prepared for and attended the hearings in Case 002/02, including witness testimony regarding purges, the regulation of marriage, and 'expert' testimony on the security centres (Henri Locard). Further, the Defence prepared for and attended 'key document' presentation hearings concerning the security centres and purges, hearings on harm suffered by Civil Parties in relation to the security centres and purges, and a trial management meeting to discuss problems caused by the disclosure of

elements from Cases 003 and 004 into Case 002/02.

After Henri Locard's claim in the courtroom to have been put under 'cold torture' by Khieu Samphân's international lawyer (without any reaction from the Trial Chamber) - thereby also insulting the true victims of torture during the DK - it was reported in the press that Mr. Locard further insulted the Defence lawyers and both accused, notably characterising the Defence lawyers as "criminals" and "perverse". The Defence requested the admission of the press articles, further revealing the deep bias of the 'expert' towards the accused (E415/4).

The Defence filed several other submissions. Amongst others, the Defence: opposed requests from the International Co-Prosecutor seeking to admit many documents and to hear witnesses from Cases 003 and 004 (E319/52/3 and E425/1); reiterated its initial request to call two

persons, following Michael Vickery's refusal to testify (E408/6); and requested to admit certain documents for the upcoming testimony of expert Kasumi Nakagawa (E431/2).

Meas Muth Defence

In August, the Meas Muth Defence Team filed a request to the OCIJ for the names of the witnesses who have testified in Case 002 under pseudonym. It also filed a reply to the Pre-Trial Chamber concerning crimes against humanity and a nexus with armed conflict and filed a request related to this reply. The Meas Muth Defence continues to review material on the case file and to prepare submissions to protect its client's fair trial rights and interests.

Ao An Defence

In August, the Ao An Defence Team submitted an investigative request and a

motion to protect Ao An's fair trial rights. Further, the team continued to review all materials on the case file in order to participate in the investigation, and prepare other filings to safeguard Ao An's fair trial rights.

Yim Tith Defence

In August, the Yim Tith Defence Team continued to analyse the contents of the case file in order to participate in the investigation, prepare Mr. Yim Tith's defence and endeavour to protect his fair trial rights.

Im Chaem Defence

The Im Chaem Defence Team continues to review the evidence in the case file in order to prepare Ms. Im Chaem's defence and endeavour to safeguard the client's fair trial rights in the remaining proceedings of the pre-trial stage of Case 004/01.

News from the Region

Bosnia and Herzegovina

Soldier Imprisoned for Wartime Rape



A former Bosnian Serb soldier, Krsto Dostić, has been convicted of raping a woman in the Foca area in 1992. The State Court in Sarajevo, on 6 October, found that Dostić had raped a pregnant woman in the village of Ljubovici between April and August 1992.

The Court ruled that he had committed the rape as part of a widespread and systematic attack on Bosniak civilians in the municipality of Foca. Presiding Judge, Mira Smajlović, stated that the Court was convinced by the victim's evidence, who testified under protective measures. Dostić was sentenced to ten years in prison and ordered to pay 40,000 Bosnian Marks to the victims' compensation fund.



STATE COURT OF BiH



Serbia

Serbian Veterans Invite Croatian Veterans for a Meeting

The Association of Participants of the Armed Conflict in the Former Yugoslavia has invited Croatian veterans for a friendly meeting to promote a message of peace and reconciliation for future generations in the region. Željko Vukelić, Secretary of the Union for War Veterans of Serbia, stated that war veterans have more credibility when it comes to resolving these controversial issues than politicians do. He further stated the importance for the public to witness those who one day fought against each other can now sit together with respect and appreciation for each other. The initiative emerged from an appeal by the

heads of umbrella veteran associations Josip Klem and Dražimir Jukić. They requested a meeting with Prime Minister Aleksander Vučić and other parties to come to an agreement. Vukelić believes that war criminals from both sides should be held



JUKIĆ & KLEM

responsible and he has the impression that the Croatian side are ready to engage in a dialogue to resolve the issues on both sides. Vukelić hopes to achieve a common stance on the peace initiative toward Croats but recognizes that this is not an easy task as there are many fresh wounds on both sides, but he believes that it is time to move on and never see another war in the region again. Croatian veterans' leader Josip Klemm, the president of the Association of the Special Police from the Homeland War, confirmed that he and the Croatian war veterans who support him want to "start a dialogue, along with the institutions of both countries".



Kosovo

Kosovo Serb Leader Ivanović Appeals against Conviction

Kosovo Serb political leader, Oliver Ivanović, has appealed against his nine-year sentence. Ivanović was convicted of crimes for ordering the murder of ethnic Albanians in Mitrovića in April 1999. He claims before the Appeals Court in Pristina that his conviction should be overturned and that he should be acquitted as he says that he did not order the murder of the ethnic Albanians.

Ivanović told the court that he did not agree

with what happened and was not party to any crimes during the events in 1999. His defence lawyers claimed that the facts were wrongly established and that the testimonies of key witnesses were unreliable. Ivanović was found not guilty of inciting the killings of ten ethnic Albanians by the 'Bridge Watchers' during the unrest which erupted in Mitrovića on 3 February 2000.



OLIVER IVANOVIĆ

Kosovo President Sends Letters to Prosecutors

President Hashim Thaçi has sent letters to Kosovo Prosecutors urging them to take action on resolving a series of crimes that occurred during and after the war in 1999 against both ethnic Albanians and Serbs. Thaçi stated during a press conference that he had sent four letters about unresolved crimes against Kosovo Albanians and Serbs. He sent the letters to the Head of State Prosecution and to the Kosovo Prosecutorial Council.

In the first letter he asked the Prosecutor to investigate crimes committed by Serbian forces in a number of cities such as, Prekaz,

Recak and Lubeniq In the second letter to the Prosecutor he requested an investigation into murders and other crimes committed after the war, such as the cases of the Bytyqi brothers, the attempted assassination of former President, Ibrahim Rugova, and the murders of Serbs in Gracke, Gorazhdec and Podujevo. In the third letter he wants the rapes of women in Kosovo by Serbian forces to be investigated and in the fourth letter he sent he wants investigations to be conducted into the destruction of cultural monuments during and after the war. Thaçi says that by solving these criminal

cases the trust of citizens and international partners in Kosovo's justice institutions would be strengthened.



HASHIM THAÇI

Looking Back...

Special Tribunal for Lebanon (STL)

Five years ago...

On 7 October 2011, the Appeals Chamber at the STL rendered its decision allowing in part and dismissing in part the Appeal by the Prosecutor against the Pre-Trial Judge's decision of 2 September 2011 and ordering the disclosure of documents. The Prosecutor appealed against the decision of the Pre-Trial Judge which ordered them to disclose documents to the accused El Sayed and his counsel. El Sayed sought the documents of witness statements which are, according to him, false witnesses or authors of defamatory allegations.

The Prosecution argued that the witnesses they interviewed all feared giving statements if this would be disclosed to El Sayed. El Sayed argued that he never threatened anyone and such fear is not necessary. The Appeals Chamber agreed that there is no reason to fear risk to the witnesses and that disclosure of statements would not suggest to impede the due conduct of forthcoming litigation. Therefore, the Prosecution had to disclose the witness statements to El Sayed and his counsel. However, the Appeal Chamber only allowed for certain witness statements to be disclosed, namely the witnesses from the list agreed upon by both parties. For the other witnesses, the Appeals Chamber left this decision to the Pre-Trial Judge to consider and determine whether the other witnesses should be disclosed by the Prosecution.

International Criminal Tribunal for Rwanda (ICTR)

Ten years ago...

On 30 October 2006, the Appeals Chamber of the International Criminal Tribunal for Rwanda (ICTR) rendered its decision on interlocutory appeal in the Zigiranyirazo case. Zigiranyirazo argued that the Trial Chamber violated his fundamental right to be tried in his presence by deciding to hear

witness Michel Bagaragaza in person in the Netherlands while Zigiranyirazo participating in the proceedings only by video link from Arusha. He stated that the right to be present can only be satisfied when being physically present. Zigiranyirazo therefore requested that the statement made by Bagaragaza be dismissed.

The Prosecution and the Trial Chamber described Bagaragaza as a key witness in the case. Zigiranyirazo wished to confront the witness in person and considered the video-link proceeding as not given him a fair trial. In January 2006, the Trial Chamber denied the Prosecution's request to hear Bagaragaza by video-link and as he was unable to travel to Arusha, Zigiranyirazo should travel to the Netherlands for the proceedings. The Trial Chamber denied the video-link as it raised concerns whether the Trial Chamber would be able to effectively and accurately assess the testimony and demeanour of Bagaragaza.

Before the trial session, the Trial Chamber was informed that Zigiranyirazo would not be permitted to enter The Netherlands. No reason for this was expressed to the Trial Chamber. In response to this, the Trial Chamber modified the arrangement and scheduled a hearing with Bagaragaza in the Netherlands and Zigiranyirazo by video-link from Arusha. He challenged the decision on the grounds that this violated his right to be present at trial and to personally confront the witness. The Trial Chamber decided not to wait for the outcome of the decision and to continue the proceedings. Bagaragaza testified from 13 through 15 June 2006 and the case was closed on 28 June 2006. The Defence appealed this decision to dismiss the testimony given by the witness.

The Appeals Chamber came to the conclusion that the Trial Chamber erred in law with the right of the Appellant to be present at his trial during the testimony of an apparently key witness against him. The Appeals Chamber therefore decided that the testimony given by Bagaragaza should be excluded from the case.

International Criminal Tribunal for the former Yugoslavia (ICTY)

Fifteen years ago...

On 9 October 2001, the ICTY rendered their judgement in the Čelebići case. The accused Hazim Delić, Esad Landžo, Zdravko Mucić and Zejnir Delalić were originally sentenced in November 1998, however, the Appeals Chamber allowed appeals against convictions and sentence and decided whether any adjustments should be made. In the sentencing by Trial Chamber II in 1998 Delalić was acquitted, Mucić was sentenced of seven years imprisonment, Landžo was sentenced fifteen years imprisonment and Delić twenty years imprisonment. All four accused were charged with numerous counts of grave breaches of the Geneva Conventions of 1949 under Article 2 and violations of the laws or customs of war under Article 3.

The events of which they were charged took place in the Čelebići prison-camp in central Bosnia and Herzegovina. Mucić was a commander of the camp and was found guilty, as a superior, for crimes committed by his subordinates. Delić was the deputy commander of the camp and was found personally responsible for crimes including murder, torture and inhuman treatment. Landžo was a guard at the camp and was found guilty as being personally responsible for crimes including murder, torture and cruel treatment.

The Appeals Chamber dismissed the charges under Article 3 and stated that where if there was evidence of guilt based on the same conduct under both Article 2 and 3, a conviction should be only entered under Article 2. The Appeals Chamber also quashed the convictions of Delić on two counts relating to the killing of one detainee and considered that the Trial Chamber should make an adjustment on the two counts.

The Trial Chamber considered all the facts given by the Appeals Chamber and decided that Mucić be sentenced to nine years imprisonment, Delić to eighteen years imprisonment and Landžo to fifteen years imprisonment.

Blog Updates and Online Lectures

Blog Updates

Damning International criminal defense with faint praise, by Michael G. Karnavas. Blog is available [here](#).

The NIAC threshold, by Deborah Pearlstein. Blog is available [here](#).

A Turn to the "Symbolic" at the International Criminal Court, by Mark Kersten. Blog is available [here](#).

Online Lectures and Videos

United Nations Treaty and Charter-based Human Rights Bodies: Competitive or Complementary? by Sir Nigel Rodley. Lecture available [here](#).

Media and the Search for Criminal Evidence: Learning from the (non-) cooperation between journalists and international criminal tribunals, panel in the Innovative Media for Change in Transitional Justice conference. Discussion available [here](#).

Publications and Articles

Books

Elisa Novic (2016), **The Concept of Cultural Genocide**, Oxford University Press

Dr. Sangul Kim (2016), **A Collective Theory of Genocidal Intent - International Criminal Justice Series**, Asser Press

Findlay Start (2016), **Culpable Carelessness. Recklessness and Negligence in the Criminal Law**, University of Cambridge

Laurens Lavrysen (2016), **Human Rights in a Positive State. Rethinking the relationship between positive and negative obligations under the European Convention on Human Rights**, Intersentia

Articles

Yuvaraj, J (2016), **"When does a child 'participate actively in hostilities' under the Rome Statute? Protecting children from use in hostilities after Lubanga"** Utrecht Journal of International and European Law 32 (83), pp. 69-93.

Samad, A (2016), The International Crimes Tribunal in Bangladesh and International Law **Criminal Law Forum** 27(3), pp. 257-290.

Peskin, V & Boduszynski, MP (2016), **The Rise and Fall of the ICC in Libya and the Politics of International Surrogate Enforcement**, International Journal of Transitional Justice 10(2), pp. 272-291.

Webb, P (2016), **The Immunity of States, Diplomats and International Organizations in Employment Disputes: The New Human Rights Dilemma?** European Journal of International Law 27(3), pp. 745-767.

Calls for Papers

Utrecht Journal of International and European Law have issued a call for papers to be published in its 85th edition on **General issues within International and European Law**. Deadline: 18 April 2017. For more information, click [here](#)

International Journal of Transitional Justice, Special Issue 2018 Call for Papers on **Transitional Justice from the Margins: Intersections of Identities, Power and Human Rights**. Deadline: 1 July 2017. For more information, click [here](#)

Events

ESIL – AAIL Symposium: International Legal Aspects of Migration: African and European Perspectives

Date: 14 October 2016

Location: Ministry of Security and Justice, The Hague

For more information click [here](#)

Asser-ICJ Series "The International Court of Justice: A Major Player in the Field of Human Rights?"

Date: 26 October 2016

Location: TMC Asser Institute, The Hague

For more information click [here](#)

60 Years After the Hungarian Revolution - Diplomacy and Sovereignty

Date: 24 October 2016

Location: The Embassy of Hungary, The Hague

For more information click [here](#)

How about the Immunities of International Organisations?

Date: 14 October 2016

Location: Humanity House, The Hague

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Opportunities

Associate Legal Officer (P-2), New York

Office of Human Resources Management

Deadline: 17 November 2016

For more information, click [here](#)

Associate Appeals Counsel

Office of the Prosecutor, ICTY

Deadline: 5 November 2016

For more information, click [here](#)

Crime Prevention and Criminal Justice Officer, Vienna

Office on Drugs and Crime

Deadline: 24 November 2016

For more information, click [here](#)

Legal Officer (P-3), The Hague

International Criminal Tribunal for the former Yugoslavia

Deadline: 19 October 2016

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