ADC NEWSLETTER
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Prosecutor v. Mladić (IT-09-92)

On 8 December 2014, a former Bosnian Serb soldier appeared via video link for the Defence under protective measures. The statement of witness GRM010 explains that fire support was requested for the part of Pofalići inhabited by Serbs because a gang had started torching houses and plundering property, resulting in the Serbs withdrawing towards the Žuč and Mijatovići Kosa facilities. He was informed at this time, by a man named either Milenko or Milanko Mladić, that smoke was emanating from the family home of General Mladić. On the same day he was privy to a conversation in which the participants discussed military or paramilitary formations being fired upon in Pofalići since there were "no longer Serbs there anyway". This did not imply that non-Serb civilians would be fired upon. During cross-examination, Operation Lukavac 93 was discussed and the witness explained that the objective of this operation was to link the Herzegovina and Sarajevo Corps and to force the enemy to the negotiating table in order to achieve a fair peace.

On 8 and 9 December, the Defence called Boško Amidžić, former member of the 1st Krajina Corps. On the subject of Operation Corridor 1992, Amidžić explained that the decision to re-establish a road link between the city of Banja Luka in the west of Bosnia and the eastern parts of the territory controlled by the Bosnian Serbs came as a result of a lack of food, medicine and fuel both for the army and the civilian population.

Amidžić had been in charge of supplying the Manjača camp with accommodations such as food and clothes. He explained that the conditions at Manjača were the

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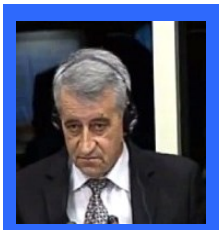
Also in this issue

best that could be achieved given the lack of material capabilities at the time and that he was not aware of any murders or deaths in Manjača. Amidžić stated that there was an attitude of openness towards humanitarian organisations, noting that additional help at improving the conditions was allowed and that he was not aware of any request ever being denied. Furthermore, Amidžić stated that the subsequent reports on the conditions at Manjača were not even close to the truth.

Turning to the Mali Novi Logor barracks, Amidžić stated that this was not a prisoner of war camp. In order to demonstrate this, the International Committee of the Red Cross and international humanitarian representatives were brought to the barracks where he and Mladić would show them the facilities. Amidžić stated the allegations concerning the ill-treatment of prisoners which were made by his successor, Osman Selak, were lies. Amidžić claimed that there were never any orders given for the destruction of religious facilities in Banja Luka. On the contrary, an order was given prohibiting the destruction of religious sites.

On the topic of the reception of the Croat population, the witness stated that water, food and medical aid were provided and that the Croats felt safe on Serbian territory. The witness emphasised that the well being and transportation of Croats to destinations of their choice was given under the orders of Mladić.


Milovan Lelek

The trial continued on 10 December with the testimony of former Rogatica Brigade officer Milovan Lelek. According to Lelek, civilians in approximately ten Muslim villages in Rogatica remained loyal to Serbian authorities. The Serbian municipal civilian authorities regularly supplied these villages with anything they needed, including food for people, livestock and fuel for agricultural machinery. Despite an incident near Šatorovići where extremists attacked a Serbian civilian vehicle, killing a father and daughter, Lelek stated that the relations between the Serb and Muslim populations were not strained and they continued to live normally as before the war. He testified that the Muslim civilians were afraid their good relations with the Serbs would result in attacks from the extremists, and hence wanted to leave. Serbian authorities facilitated their requests.

During cross-examination, the Office of the Prosecutor (OTP) alleged that the "voluntary departure" consisted of non-Serb civilians being taken to one of the four prison facilities in Rogatica – Rasadnik, Sladara, the parish house and the High School. From there, they were either "exchanged" for Serb soldiers or were simply expelled. The witness explained that these were reception centres, not prison facilities, and the civilians had been put up in those centres at their own request. They spent some time there before leaving for the territory under the control of the Bosnia and Herzegovina (BiH) Army.

The OTP then produced a list drafted by the Drina Corps which contained the names of women who were classified as prisoners of war in the Rasadnik prison camp. The witness re-affirmed that civilians were not detained but were temporarily put into reception centres before leaving the area voluntarily. He reasoned that because the Muslim civilians were criticised for living side by side with Serbs, they were thus not welcome in territory under BiH Army control. The Serb authorities likely classified the women as prisoners of war in documents in an effort to help them leave voluntarily into BiH Army controlled territory.

On 11, 15 and 16 December, Vojo Kuprešanin appeared before the Chamber. Kuprešanin held several positions at the regional and republic level, including President of the Autonomous Region of Krajina (ARK) Assembly, member of the ARK Crisis Staff and a party member (MP) in the Republika Srpska Assembly. He testified that the motive underlying the establishment of the ARK was to improve the economic situation and life of the residents. He affirmed that the unification of the two Krajina regions in Croatia and Bosnia was a lasting desire of the Serbs on both banks of the Una River. The witness stated that President Karadžić was against the unification as he believed it contradicted the unification of BiH as a whole where Serbs would be protected, able to exercise their basic rights, develop and advance. He stated that Bosnia's declaration of independence from Yugoslavia was the cause of the war. Kuprešanin described the October 1991 Declaration, which was adopted amid a boycott of the Sarajevo Parliament by Serb MPs who opposed independence, as "unconstitutional" and "humiliating" to the Serb people.

Throughout his testimony, Kuprešanin praised the leadership of Mladić during the 1992-95 war. The witness stated the Serbs were grateful to the General and that he would be remembered in Serbian history as a "positive person". Kuprešanin confirmed that the Serb forces killed 68 non-Serbs in the village of Briševo near Prijedor in July 1992. However, he insisted that the killing of non-Serbs in Brisevo, which is listed in Mladić's indictment, did not occur during a Bosnian-Serb military operation.

On 16 December, the Defence called Snježan Lalović who was a reporter at Radio Sarajevo and at Serbian Radio and Television. His tasks as a journalist included reports from the frontlines, reports on politics and everyday life, announcements by information services of the political and military leaders of Republika Srpska and reporting to the general public on various meetings throughout the Republika Srpska. On 25 May 1995, the Army Republika Srpska (VRS) facilities around Pale were bombed. The following day Lalović was tasked with filming the United Nations Protection Force (UNPROFOR) members that were prisoners of war in the Pale municipality.

Pale Municipality

During direct-examination, Lalović explained the reasons behind his flight from Sarajevo, suggesting that the situation was tense, with regular shootings occurring and barricades being erected by people wearing civilian clothing, presumably paramilitaries. In May 1995, he regularly received news of imminent NATO bombings from the news agencies Beta and Tanjug. During cross-examination, Lalović described the filming of prisoners and two UNPROFOR members who were handcuffed. Lalović confirmed that whilst speaking with these men, it was natural that they were frightened but that he did not force them to give a statement. The Prosecution noted that the Chamber had received evidence that on 26 May 1995, two UNPROFOR men were handcuffed to a bridge and accompanied by a VRS soldier from Canada. The Canadian soldiers had told the UNPROFOR men to make a statement for Pale TV, to the effect that NATO was bombing civilian targets, and that during this time the previous witness had been threatened.

Lalović contested this version of events, contending that whilst the atmosphere was heated, the statement was never forced, and clarified that he had sought permission. The witness subsequently purported that "these reports were supposed to serve to fend off further NATO bombings" and that it seemed logical that the UN military personnel was taken in order to stop NATO from bombing VRS locations.

On the same day, Marjan Jesić appeared before the Chamber as a witness for the Defence. In 1992, Ješić was mobilised into the Territorial Defence and was tasked with distributing food to the units stationed in Prijedor and nearby. At the beginning of his testimony, Ješić presented a list containing the names of members of his immediate and extended family that were killed in the Jasenovac camp in World War II.

Ješić then recounted how he was wounded in an attack by Muslim forces in the town of Prijedor on 30 May 1992. He was driving along his normal route to distribute food for the troops of the 43rd Motorised Brigade in Prijedor on 30 May 1992, when he noticed several dead policemen in front of the hall of reserve officers. A Muslim soldier wearing a green bandana over his head then opened fire on Ješić's truck, throwing him out of the vehicle. Ješić testified that he was held prisoner for approximately two hours at several locations until the solider instructed him to cross a canal near Stari Grad before shooting him in the face. Ješić was eventually rescued by Serb forces and spent approximately two years in treatment in Belgrade.

Rato Runjevac, a former Sarajevo Public Prosecutor, appeared for the Defence on 16 and 17 December. He explained that in 1990, as an Assistant Minister of Justice of BiH, he worked on amending the Constitution and concluded that cessation was against the Constitution. Pursuant to Amendment 67, the Parliament could only decide on a change of borders within the Socialist Federal Republic of Yugoslavia. The issue had not undergone a preliminary procedure of the Council for Protection of Constitutionality of the Peoples and National Minorities in Bosnia and Herzegovina.

The summary of his witness statement concerned incidents caused by Juka Prazina in Sarajevo, to which the local authorities took an opportunistic attitude and which resulted in no criminal proceedings. The witness was provided with the case files concern-

ing the infamous murder of a Serbian best man who was killed in Baščaršija. The witness saw that despite there being witnesses recognising the person who fired the shot, the policemen had released that person. The witness concluded that the decision to hold a referendum on independence, which was unconstitutional, caused the rise of inter-ethnic tensions. During April 1992, there were people opening fire all over town resulting in the witness being unable to return to his job and having to move to Trebinje until the end of the war.

During cross-examination, the witness confirmed that he was not aware of how two of his Bosnian Muslim neighbours had obtained weapons. Runjevac took his children out of Sarajevo on 3 April, before the international recognition of Bosnia because there was panic about what would happen upon international recognition. The witness himself did not execute his function as Senior Public Prosecutor in Sarajevo after 30 April 1992.

The Prosecution subsequently showed a document stating his reason for leaving was "wilful abandonment of his duty and work obligations." However, Runjevac noted that he had never seen this decision and that it was not true that he wilfully abandoned his work because it was his intention to return on 1 May, after having left his children in Trebinje. However, due to the war there was a lot of destruction preventing him returning to work. Upon a question from Judge Orie, Runjevac explained that the conduct of Šabanović was broadcast live on Television Sarajevo and the dialogue between Šabanović and the President of the Presidency of BiH could be followed.

On 17 December, Boro Tadić testified for the Defence on the situation in Sanski Most. During the war, Tadić acted, among others, as the Chief of the Department of National Defence for the municipality. Additionally, Tadić also participated in the founding of the Serbian Democratic Party (SDS). When asked about the reasons for his participation, Tadić explained that he realised that as a member of the Assembly of BiH the years ahead "would be very grave." The witness further testified that his participation was triggered by the Croats' and Muslims' establishment of their own parties. Wishing to remain "free from any political chain", he himself consistently refused to become a member of the party.

During cross-examination, the OTP questioned Tadić on The Informator, a publication of the SDS Information and Promotion Centre to which the witness contributed. Tadić explained he considered the content of the journal to portray the truth rather than to constitute propaganda. However, he disagreed with the strong language used in the review against the Muslims.

On the Prosecution's claim that the military service could excuse an individual from criminal proceedings, the witness explained that one is to be presumed innocent until proven otherwise, and thus is expected to carry out his or her regular military duty, unless kept in detention. Tadić confirmed he was responsible for work obligations in the municipality. The witness further explained both Serbs and non-Serbs were mobilised to join the military. He did not have specific knowledge of either the manner in which they were deployed or whether they died while fulfilling their obligations. He affirmed that it was much safer to be in a work obligation unit than in a war unit.

On 18 December, VRS Colonel Milovan Milutinović came to testify. According to Milutinović, Muslim authorities sacrificed their own compatriots in a bread-line massacre in 1992, in addition to two incidents in the Markale market, and opened fire on their own people, journalists and UNPROFOR in order to blame Serbian forces. Milutinović also testified that whilst investigating what happened in the second Markale incident, Russian members of the UNPROFOR joint commission found that some previously killed persons were found among the bodies at the second Markale massacre and were likely exchanged a few days prior. A copy of the report of the investigation was provided to the Main Staff of the Army of Republika Srpska. Milutinović denied that Mladić was responsible for the crimes in Srebrenica. He described Mladić as a "superior officer and a human being" who could never have issued an order that would have violated the Geneva Conventions. He pointed out that the UNPROFOR Commander Rupert Smith praised Mladić for his treatment of the people of Srebrenica. Milutinović also said that Mladić "gave his word as a General" that all those who had gathered in Potočari could choose if they wanted to leave or stay. Milutinović was the last Defence witness to give evidence in 2014 with the trial having been adjourned until 19 January 2015.

Prosecutor v. Popović *et al.* (IT-05-88-A)

On 12 December 2014, the Appeals Chamber unanimously dismissed a renewed motion on behalf of Vinko Pandurević for his provisional release pending they Appeal Judgment. In reaching this conclusion, the Appeals Chamber determined that Pandurević had not satisfied the requirements of Rule 65 (I) of the Tribunal's Rules of Procedure and Evidence for provisional release, in that the passage of nine months since the issuance of the original Decision to not grant Pandurević's provisional release did not amount to a material change impacting upon the factors previously considered by the Appeals Chamber. Furthermore, in the declaration Judge Mandiaye Niang explains that he holds the view that a strong case was made for the provisional release of Pandurević, but that the case "does not propose any meaningful new circumstances since the issuance of the earlier decision". Thus, the motion was rejected.

ICTY Rules of Procedure and Evidence

Rule 65 (I)

Without prejudice to the provisions of Rule 107, the Appeals Chamber may grant provisional release to convicted persons pending an appeal or for a fixed period if it is satisfied that:

(i) the appellant, if released, will either appear at the hearing of the appeal or will surrender into detention at the conclusion of the fixed period, as the case may be;

(ii) the appellant, if released, will not pose a danger to any victim, witness or other person, and

(iii) special circumstances exist warranting such release.

Prosecutor v. Prlić *et al.* (IT-04-74-A)

On 23 December 2014, the Defence for Valentin Ćorić in the *Prlić et al.* case re-filed their Notice of Appeal following a Decision from the Appeals Chamber of 11 December 2014. The Decision found that the Prosecution was not given sufficient notice of the exact scope of Ćorić's appeal because of a lack of specificity in two of the grounds, but that the Prosecution's allegation that they would be prejudiced could be cured by the filing of an amended Notice.

On 21 October 2014, the Prosecution filed a motion with the Appeals Chamber to strike two grounds of appeal from Ćorić's Notice of Appeal (filed 4 August 2014). The basis for the Prosecution's challenges was that for Grounds 12 and 14, the basic requirements had not been met. It allegedly failed in both Grounds to specify the specific legal and factual findings of the Trial Chamber challenged and where in the Judgement they appear. As a result, the Prosecution asserted it was not provided with sufficient notice of the challenged findings. The Defence for Ćorić responded on 30 October 2014, noting first that the Prosecution's challenge was untimely, as they had several months during which they submitted several other motions and a Status Conference between the filing of the Notice of Appeal and the Prosecution's Motion to Strike. Ćorić also argued that the Prosecution misapprehended the Notice of Appeal and related jurisprudence on the Notice from the ICTY and the International Criminal Tribunal for Rwanda (ICTR). They argued that it demonstrated that full notice of the Grounds of Appeal are sufficiently disclosed through the Notice of Appeal in combination with further development in the Appeals Brief.

Valentin Ćorić

They further noted that because of the persistent and pervasive nature of the errors identified in Grounds 12 and 14 of their Notice of Appeal, the phrasing of the Ground specified the argument with sufficient particularity, notwithstanding the partial absence of specific paragraph references. All parties in the *Prlić et al.* case filed their Appeals Brief's on 12 January 2015.

Prosecutor v. Šešelj (IT-03-67-T)

On the Trial Chamber granted provisional release to Vojislav Šešelj, with the condition that the Accused should not contact or attempt to influence witnesses or victims, and should refrain from hampering the proceedings. Also, the Accused shall undertake to appear before the Chamber when compelled to do so.

On 1 December 2014, the Prosecution requested the Trial Chamber to revoke this decision on two main grounds. First, the Prosecution alleged the Trial Chamber had overestimated the gravity of the Accused's state of health. Second, the Trial Chamber erred in failing to consult the Accused to ensure that he will abide by the prescribed conditions. Thus, the Prosecutor asked for a hearing to be held in presence of all the parties, including Serbia, in order to discuss the conditions of a new provisional release. Finally, the Prosecution claimed that the Accused breached the above-described conditions when declaring that he would never return to the Tribunal unless forced to do so, and by insulting and threatening witnesses and victims in the press.

The Accused noted that the Prosecution's claims are based on unacceptable political considerations, in such a way that it compromised its independence. Šešelj expected the Trial Chamber to initiate a disciplinary action against the Prosecutor. On 13 January, the Trial Chamber issued its decision rejecting the Prosecution's submissions, and declared it lacked the competency to undertake the potential disciplinary action requested by the Accused.

The first two grounds for revocation have been considered as inadmissible. Indeed, the Trial Chamber recalled that the only way for the Prosecution to criticise the motivation of a decision is to file an appeal. The fact that the Prosecutor did not file any proper appeal rendered his motion more akin to a disguised request for reconsideration. The Trial Chamber also stated that such reconsideration would have required the Prosecution to bring forward a new indictment based on events having occurred following the provisional release of the Accused. Not only did the Prosecutor fail to raise such new elements, but also he failed to any manifest error of assessment. The Trial Chamber rejected the grounds relating to the alleged breaches of the term of provisional release by the Accused. First, the Trial Chamber stated that the Accused could not have violated the obligation to appear before the Chamber, as there has not been any order to return. In this sense, mere declarations of intent could not constitute a breach of the conditions. Second, concerning the public statements of the Accused, the Trial Chamber ruled that they were too vague to be considered threats or attempts to influence victims and witnesses. In his separate opinion Judge Mandiaye Niang emphasised that the Accused had regularly and constantly been making such allegations, and that such cannot be considered as new elements. Consequently, the Trial Chamber deemed that the Prosecution's claims were inadmissible.

As for the Accused's request for a disciplinary action against the Prosecutor, the Trial Chamber declared that it had no jurisdiction as the Prosecutor was appointed and mandated by the UN Security Council. In his separate opinion, the President of the Trial Chamber, Judge Jean-Claude Antonetti, recalled that pursuant to Article 16 of the ICTY Statute, the Prosecutor shall act independently as a separate organ of the ICTY. As a result, the UN Security Council, while drafting the ICTY Statute, failed to provide an organ with the mandate to challenge the way the Prosecutor completes his duties. The President added that in some domestic legal systems, disciplinary measures can fall under the competency of the nomination authority, which would be the UN Security Council in the present case.


Judge Mandiaye Niang

Judge Mandiaye Niang in his separate opinion also explained that the Prosecution had seven days to file an appeal against the Trial Chamber's decision of 6 November 2014. Furthermore, Judge Niang expressed that the Prosecution had the possibility to apply for a proceedings until the Appeals Chamber's ruling. The Prosecution's failure to do so within the aforementioned period was considered as an implicit agreement with the provisional release decision, and the decision thus became final.

Second Meeting of International Defence Offices

On 15 and 16 December 2014, the Second International Meeting of Defence Offices took place at the Peace Palace in The Hague. The Meeting was organised by the Defence Office at the Special Tribunal for Lebanon, headed by François Roux, and was hosted by Mr. Steven van Hoogstraten, Director of the Peace Palace. Sir David Baragwanath, President of the Special Tribunal for Lebanon, opened the Meeting, which was attended by representatives from Defence offices and sections of the international courts and tribunals, as well as by lawyers and professional associations of lawyers. ADC-ICTY President Colleen Rohan and Head of Office Isabel Düsterhöft attended the Meeting on behalf of the Association.

The two-day Meeting featured an introduction to the meeting, chaired by Dr. Mark Ellis, Executive Director of the International Bar Association and numerous round table discussions on various issues involving the role of the Defence before international criminal courts. Specific attention was given to the protection of Defence lawyers in international criminal law and to the importance of a separate Defence organ/office in international criminal courts and tribunals. The Meeting included significant debate and a robust exchange of ideas between the attendees. Furthermore, the Meeting was concluded with the publication of a Final Declaration.

This Final Declaration states that the members of the profession expressed their wish that "in all current and future international criminal courts the establishment of a Defence Office, as an independent organ, on par with the Office of the Prosecutor, following the example of the STL", be established. Moreover, the attendees were in favour of the creation of a Bar Association and expressed sincere concerns about the "lack of rules governing prosecutions and arrests of Defence [C]ounsel before international criminal courts." It was suggested that an independent committee should be established in such cases. Finally, the participants noted that an increased cooperation and coordination should be instituted between the various Defence offices and sections, including a continuation of these discussions and proposals for a third Meeting in 2015.

LOOKING BACK...

Extraordinary Chambers in the Courts of Cambodia

Five years ago…

On 14 January 2010, the Co-Investigative Judges at the ECCC notified all parties that the judicial investigation in Case 002 was concluded. This was done in accordance with Rule 66 (1) of the Internal Rules. Case 002 was initiated against Ieng Sary, Ieng Thirith, Nuon Chea and Khieu Samphan.

The judicial investigation had been initiated by the Co-Investigative Judges upon receipt of the Introductory Submissions by the Co-Prosecutors, which were filed in 2007. Subsequent Supplementary Submissions resulted in the extension of the scope of the investigations. During the judicial investigation, more than 800 statements from witnesses, civil parties and charged persons were taken. More than 2000 civil party applications had been received in that case. The proceedings against Ieng Sary and Ieng Thirith were terminated due to the death of the former and the ill health of the latter. The case against Nuon Chea and Khieu Samphan commenced with an initial hearing in June 2011 and has since been severed into separate trials addressing different sections of the indictment. Case 002/01 commenced on 21 November 2011 and focused on alleged crime against humanity in relation to the forced movement of the population from Phnom Penh and other regions, and the execution of Khmer Republic soldiers. The Trial Judgment was rendered in August 2014, finding both Accused guilty and sentencing them to life imprisonment.

Case 002/02 focuses on the alleged crimes of genocide against the Cham and the Vietnamese, forced marriages and rape, internal purges and other alleged criminal conduct. Trial hearings commenced in October 2014.

International Criminal Tribunal for Rwanda

Ten years ago…

On 17 January 2005, the Prosecution and Defence presented their closing arguments in the case of *Vincent Rutaganira* at the ICTR. Rutaganira was former Councilor in Mubuga and charged with seven counts including genocide, conspiracy to commit genocide, murder, extermination and other inhuman acts, serious violations of Common Article 3 of the Geneva Conventions and serious violations of Additional Protocol II.

He had pleaded guilty to the charge of extermination as a crime against humanity in the form of a plea agreement between the Prosecutor and the Accused.

In its closing arguments the Prosecution called for a sentence between six and eight years, the Defence for not more than six years. The Prosecution also requested that Rutaganira would be allowed to serve his sentence in Europe or Swaziland.

François Roux

Counsel for the Defence, François Roux, presented three morality witnesses during the closing arguments. The Accused expressed remorse for the genocide of 1994 and the particular role he played in it. The Trial Chamber was also asked to take into consideration the poor health of the Accused.

Trial Chamber III, composed of Presiding Judge Adresia Vaz, Judge Flavia Lattanzi and Judge Rita Arrey, sentenced Rutaganira to six years' imprisonment on 14 March 2005.

International Criminal Tribunal for the Former Yugoslavia

Fifteen years ago…

On 26 January 2000, the Appeals Chamber of the ICTY issued its Judgement in Sentencing Appeals in the case of *Duško Tadić*. The Chamber was comprised of Judges Mohamed Shahabuddeen (Presiding), Florence Mumba, Antonio Cassese, Wang Tieya and Rafael Nieto-Navia. The Defence for Tadić had filed an appeal against the sentence imposed on 14 July 1997 (20 years) and the increased sentence decided upon on 11 November 1999 (25 years).

Upon this increase the sentence was again reduced to 20 years in 2000, on the basis that "[a]lthough the criminal conduct underlying the charges [..] was incontestably heinous, his level in the command structure, when compared to that of his superiors, or the very architects of the strategy of ethnic cleansing, was low". At that point in time, Tadić had already served five years, eleven months and fourteen days of his sentence and it was decided that this time was to be deducted from the overall sentence.

The Appeals Chamber upheld that the Accused should serve a minimum of ten years in prison and decided that this term should run from the date of the first Sentencing Judgment in 1997. Hence, his sentence should end no earlier than in 2007.

Judges Shahabuddeen and Cassese attached two Separate Opinions in relation to the question whether crimes against humanity are more serious than war crimes. Judge Shahabuddeen noted that there is no principle in international law that states that a crime against humanity is a more serious offence than a war crime. For the purpose of sentencing there should hence be no principled distinction.

Judge Cassese disagreed with the majority on this particular issue and concluded that in principle all international crimes are serious offences and there is no hierarchy of gravity. However, he claimed that in the case of crimes against humanity, its broader criminal context and the knowledge of such by the Accused, the reaction by the international community should be "more severe than in cases where the same conduct amounts to a war crime".

He therefore argued that crimes against humanity should entail a heavier sentence.

NEWS FROM THE REGION

Bosnia and Herzegovina

Outgoing Deputy President Sends Documents to State Prosecution Office

It has been reported that the outgoing Deputy President of Bosnia's Federation entity has sent a large amount of documents to the State Prosecution Office about war crimes, which have allegedly been committed with the involvement of officials of the Party for Democratic Action (SDA).

Mirsad Kebo alleged that "[t]his evidence contains information about the crimes of Mudjahedin fighters and those who [...] supported and commanded this unit". The documents are said to include names such as those of former Zenica Police Commander, Sefik Džaferović, who is now a high-ranking politician in the SDA. Džaferović had recently been elected President of the Bosnian Parliament's House of Representatives.

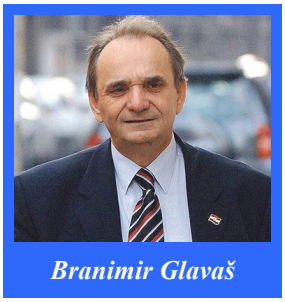
Džaferović successfully evaded censure and the proposal to remove him from his position as President was rejected by the Bosnian Parliament. The evidence allegedly also implies Bakir Izetbegović's involvement in war crimes, who is currently the SDA Acting President.

SDA party officials have heavily critcised Kebo's actions and have alleged that the documents are falsified. The documents were sent as part of a criminal complaint about war crimes against Serb civilians in Vozuća and are mainly incriminating army and police evidence.

Croatia

Croatia's Constitutional Court Overturns Sentence

On 12 January, the Croatian Constitutional Court overturned a ruling convicting wartime general and former politician Branimir Glavaš. The Court ordered new proceedings against Glavaš and found that the supreme and county courts had applied wrong legal conventions in the two cases against him. He was released on 20 January 2015 from prison in Mostar.



Branimir Glavaš

Glavaš, former Commander of the Osijek Defence Force and General, had been indicted in 2006 in view of his alleged command responsibility for the torture and killing of a civilian in front of a garage in 1991. He was indicted a second time in 2007 for the execution of victims on the Drava riverbank in Osijek in 1991 and 1992.

After being convicted in both cases in 2009, he was arrested in Bosnia and sent to serve his sentence in Mostar. The Constitutional Court also ordered the Supreme Court to verify whether his human rights and fundamental freedoms had been breached during the two cases. Glavaš was also a high-ranking member of the Croatian Democratic Union (HDZ) and later on founded his own party, the Croatian Alliance of Slavonia and Baranja (HDSSB).

The County Court in Zagreb has issued an arrest warrant by which his sentence to 10 years imprisonment remains in force. His Defence team is said to have filed a motion to the Supreme Court of Croatia to abolish custody measures based on the first instance verdict, which has been overturned.

Croatia and Germany

Former Yugoslav Intelligence Official Accused of Obstructing Investigations

Josip Perković, a former Yugoslav Intelligence Officer, who is on trial in Germany for the alleged murder of a Croatian emigrant, has been accused by witness Božo Vukušić of trying to stop investigations into killings by the Yugoslav secret services between World War II and the 1990s.

Vukušić is a former member of the Croatian counter-intelligence agency SZUP and gave testimony in the Court in Munich, Germany. He also alleged that he had met a German citizen in 1992 who was working for the State Security Administration (UDBA) and had been ordered by Perković to assassinate a number of emigrants, which he refused to do. While Vukušić had included this in his initial report to the commission investigating UDBA assassinations, no criminal proceedings against Perković were ever launched.

On cross-examination, the witness confirmed that he obtained a position with the Croatian counter-intelligence agency regardless of a prior murder conviction in Germany. He had been sentenced to life imprisonment for the killing of an alleged Yugoslav spy in 1983. He was subsequently released in 1991, allegedly on the orders of former Croatian President Franjo Tuđman.

NEWS FROM OTHER INTERNATIONAL COURTS

International Criminal Court

Letícia Borges Thomas, Lucy Turner, Aimel Yousfi-Roquencourt,
Office of the Public Counsel for the Defence.

The views expressed herein are those of the author alone and do not reflect the views of the ICC.

Prosecutor v. Thomas Lubanga Dyilo (ICC-01/04-01/06)

Judgment on the Appeal of Thomas Lubanga Dyilo Against his Conviction

On 1 December 2014, the Appeals Chamber rendered the first appeal judgment of the ICC in the case of *Prosecutor v. Thomas Lubanga Dyilo*. Two years after the Trial Chamber Judgment convicting Lubanga of the charges of enlistment, conscription and using children under the age of fifteen years to participate actively in hostilities (Article 8(2)(e)(vii) of the Statute), and sentencing him to 14 years imprisonment, the Appeals Chamber confirmed both the conviction and sentence.

The Appeals Chamber dismissed both the Prosecution arguments and all grounds of appeal raised by the Defence, *id est* violations of Lubanga's right to be informed in detail of the nature, cause and content of the charges, violations of the Prosecutor's statutory obligations and the subsequent prejudice of the integrity of the trial, including legal and factual errors in the Trial Chamber's determination of Lubanga's guilt.

As the first final Appeal Judgment of the ICC dealing with Defence additional evidence requests – in the case at instance relevant to witnesses D-0040 and D-0041 "in relation to [a] ground of appeal alleging errors in the Trial Chamber's establishment of the age element for the crimes of enlistment, conscription, and use to participate actively in hostilities" – the Appeals Chamber laid down the standard for the admissibility of additional and rebuttal evidence in final appeal proceedings. It was recalled that according to Article 83(2) the Appeals Chamber may "[r]everse or amend the decision or sentence; or "[o]rder a new trial", if "the proceedings appealed from were unfair in a way that affected the reliability of the decision or

sentence, or that the decision or sentence appealed from was materially affected by error of fact or law or procedural error".

In addition, the Appeals Chamber opined that "it is necessary to introduce the criterion that it must be demonstrated that the additional evidence could have led the Trial Chamber to enter a different verdict, in whole or in part". The Appeals Chamber averred that "[it] will generally not admit additional evidence on appeal unless there are convincing reasons why such evidence was not presented at trial, including whether there was a lack of due diligence", and noted that "appellate proceedings are not concerned with correcting all errors that may have occurred at trial, but rather only those errors that have been shown to have materially affected the relevant decision".

In the case at hand, additional evidence requests of the Defence were rejected on the grounds, firstly, that the Appeals Chamber was not persuaded by the Defence arguments as to why this evidence was not presented at trial and, secondly, because Lubanga "ha[d] not demonstrated that the evidence – had it been available to the Trial Chamber – could have led to a different verdict, in whole or in part".

Moreover, the Appeals Chamber dismissed the Defence arguments regarding the violations of the right under Article 67(1) to be informed of the charges against the Accused and the alleged reversed burden of proof for lack of substantiation. While dismissing these arguments the Appeals Chamber recalled that "an Accused should be able to raise a claim that his or her fair trial rights have been violated at any stage of the proceedings". As to the kind of information the Accused must be provided with "in order to be able to prepare an effective defence, where an Accused is not alleged to have directly carried out the incriminated conduct and is charged for crimes committed on the basis of a common plan", the Chamber specified that the Accused must have detailed information about "(i) his or her alleged conduct that gives rise to criminal responsibility, including the contours of the common plan and its implementation as well as the Accused's contribution; (ii) the related mental element; and (iii) the identities of any alleged co-perpetrators".

The Appeals Chamber further addressed the Prosecutor's obligations and held that "the Prosecutor must provide details as to the date and location of the underlying acts and identify the alleged victims to the greatest degree of specificity possible in the circumstances". In order to assess whether an Accused was sufficiently informed about the charges against him or herself, the Appeals Chamber considered that the parameters of the charges were defined not only in the DCC but also in "auxiliary documents".

Partly Dissenting Opinion of Judge Sang-Hyun Song

Judge Song agreed with the Majority to reject Lubanga's appeal, but respectfully disagreed with the determination that Article 8(2)(e)(vii) of the Statute contains three separate offences instead of three separate conducts by which the same offence can be committed. According to the Judge, the Trial Chamber erred when establishing three distinct crimes and the Appeals Chamber, although not triggered by the Defence's Appeal, should have approached the matter *proprio motu* given its importance.

In his view, the ordinary meaning of Article 8(2)(e)(vii) of the Rome Statute, identical to Article 8(2)(b)(xxvi), uses the term "or", instead of "and", to establish three different possible conducts that result in the commission of the same crime. That was also one of the reasons why, at the time of the travaux préparatoires, the drafters opted for including more than one word to define the crime. Their intention was not to create separate crimes, but to establish more than one modality for the same offence, in order to avoid the decriminalisation of similar conducts that would end up having the same consequence: the incorporation of children under a certain age into armed forces.

To support his view, the Judge invoked the jurisprudence of the Special Court for Sierra Leone (SCSL), where the analogous provision (Art. 4(c) of the SCSL Statute) sets the three different conducts as one single crime, and the ICC Elements of Crimes, which not only "do not separate the three forms of conduct under articles 8 (2)(b)(xxvi) and 8 (2)(e)(vii) of the Statute", but establish that "the drafters of the Elements of Crimes did not consider them to be separate offences".

Dissenting Opinion of Judge Anita Ušacka

Judge Anita Ušacka dissented from the Majority decision, basing her opinion on two principal grounds. The first ground was that the factual detail in the charges against Lubanga was sufficient only in respect of the children who were allegedly conscripted, enlist-

ed and used as part of Union of Congolese Patriots (UPC/FPLC); these nine cases were excluded from the charges when the conviction decision was given, and so the charges on which Lubanga was convicted were insufficiently detailed. The second ground was that the age element of the crimes did not meet the standard of reasonable doubt.

In relation to her first ground, Judge Ušacka stated that she would not have convicted Lubanga on the evidence the Trial Chamber relied upon, pointing to the Judges' finding that nine witnesses, presented by the Prosecution as former child soldiers in the UPC.

UPC, had lied about their identities, ages, and their having served with the group. For the duration of the trial, the Prosecution's argument was predicated on the presence of the nine cases, which constituted the material basis of the trial. As Lubanga had constructed his defence around this material basis, removing it deprived him of the opportunity to challenge the charges properly at trial.

Judge Ušacka stated that the conclusions of the Trial Judges were similarly inexact, and that the evidence they relied upon did not reach the threshold of reasonable doubt. The absence of the nine cases created a lacuna of material specifics, with the charges being framed in "unacceptably broad" terms. Highlighting fair trial concerns, Judge Ušacka stated that, given the abstract nature of the allegations, the only way Lubanga could possibly refute the charges would be for him to prove that child soldiers had never been used or recruited: a seeming reversal of the burden of proof.

Turning to her second ground, Judge Ušacka expressed concerns about the method by which the ages of the individuals were deduced, noting that determining the age of an individual on the basis of physical appearances was "error-prone", "subjective and complex". The findings of the Trial Judges, she stated, were grounded largely in the age approximations of witnesses and their own assessment of video footage of UPC soldiers. Referring to the approximations of the witnesses, Judge Ušacka explained that witnesses frequently did not justify their belief that the children were under fifteen. With regard to the video, she stated that the persons represented were only partially visible, the quality of much of the footage was poor, and the sizes of the persons were not easily discernible as there was no point of perspective. She noted, however, that the Trial Judges had nonetheless found that the "images spoke for themselves". With regard to the Judges' own assessment, she stated that she would have expected to see some clarification of the determining factors in the age assessment.

Judge Ušacka noted that the Defence had called two additional witnesses ("D-0040" and "D-0041"), including the most prominent person in the videos, to provide testimony during the appeals phase. The former testified that, when filmed, he was between 19 and 20 years; the latter that he was 17 or 18. Stating that this could have illustrated the limitations of the Trial Chamber's method and potentially altered the outcome of the case, Judge Ušacka disagreed with the decision not to admit this evidence.

Based on these aforementioned points, Judge Ušacka did not accept the Trial Chamber's finding that the children depicted in the video were "manifestly under the age of fifteen". Overall, Judge Ušacka claimed that an aspiration to establish a historical record of events had taken priority over the determining of the Accused's individual liability, and expressed hope that subsequent prosecutions would emphasise fairness of proceedings and not sacrifice the principles of fair trial.

Extraordinary Chambers in the Courts of Cambodia

Marie Faure, Defence Team Intern.

DSS Judicial Updates for December 2014

In December, the Nuon Chea and Khieu Samphan Defence teams continued preparing and ultimately filed their Appeal Briefs against the Trial Chamber's Judgment in Case 002/01. In addition, the Nuon Chea team filed several requests to the Supreme Court Chamber; including a request for a further page extension for the appeal brief and for an extension of time to respond to the Co-Prosecutors' appeal against

the Case 002/01 Judgment. Both requests were granted. The Nuon Chea Defence also requested that the Supreme Court Chamber permit the filing of an addendum to their Appeal Brief as soon as the Special Panel's reasoned majority decision and Judge Downing's dissenting opinion on their application for disqualification of four of the Trial Chamber Judges are made available to the parties. This request was made following the rejection by the Trial Chamber to circulate courtesy copies of such decision before the deadline for filing their Appeal Brief due on 29 December 2014. The Supreme Court Chamber is yet to decide on this matter.

Furthermore, the Trial Chamber has put pressure on Khieu Samphan's Defence by ordering the Defence Support Section (DSS) to hire one international and one national lawyer as Court Appointed Standby Counsel. The Chamber also issued an order to refer the Co-Lawyers for Khieu Samphan to their respective Bar Associations for having left the Courtroom during the 17 October 2014 hearing at the instruction of their client.

The Case 003 Defence team continues to prepare submissions to protect their client's fair trial rights and continues to review publicly available material, since the case file remains inaccessible. Similarly, the Defence teams in Case 004 continue to protect their clients' rights by requesting access to the case file and preparing their defence through the use of publicly available resources.

Mechanism for International Criminal Tribunals

The views expressed herein are those of the author(s) alone and do not necessarily reflect the views of the MICT.

Augustin Ngirabatware

On 18 December 2014, the Appeals Chamber of the Mechanism for International Criminal Tribunals (MICT) partially affirmed the conviction of Augustin Ngirabatware, who was represented by ADC members Guénaël Mettraux and Mylène Dimitri. Ngirabatware was a politician accused of participating in the genocide in Rwanda.

Ngirabatware was convicted of direct and public incitement to commit genocide, aiding and abetting genocide, and a Joint Criminal Enterprise (JCE) III (in extended form) crime against humanity (rape) by Trial Chamber II of the International Criminal Tribunal for Rwanda (ICTR) on 20 December 2012 and sentenced 35 years of imprisonment. These convictions arose out of a speech given at a roadblock in Ngamyumba Commune in February 1994 and statements and weapons distributed at two other roadblocks in Ngamyumba Commune in April 1994.

Ngirabatware raised several grounds of appeal, addressing, *inter alia*, the Trial Chamber's dismissal of his 98*bis* application, deficiencies in the indictment, failure to make proper findings on the elements of crimes and failure to properly assess his alibi evidence. The Appeals Chamber dismissed these grounds of appeal finding no error on the part of the Trial Chamber.

Ngirabatware also appealed his conviction under JCE III for rape as a crime against humanity, arguing that his JCE contribution was improperly pleaded in the indictment and that, because the common criminal purpose of the JCE was extermination, of which he was acquitted, he could not be subject to the extended for of liability for that JCE.

Here, the Appeals Chamber agreed, noting that extermination was indeed the common criminal purpose under the extermination and rape counts, which were thus linked as primary and extended crimes under the alleged JCE. Thus, by convicting Ngirabatware of rape under JCE III, when he was acquitted of the primary extermination JCE, the Trial Chamber impermissibly expanded the scope of the rape count.

In essence, because the Prosecution was unable to meet its burden to prove that Ngirabatware contributed to common criminal purpose of extermination, responsibility for crimes that may be the natural and foreseeable consequence of that purpose could not be upheld. This conviction was thus set aside and an acquittal entered. As a result of this reversal, Ngirabat-ware's 35-year sentence was reduced to 30 years.

Special Tribunal for Lebanon

STL Public Information and Communications Section.

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

In the hearing on 3 December, Prosecution Counsel stated that the witness scheduled to appear on that day, Ali Diab, brought to the attention of the Office of the Prosecutor (OTP) confidential items that he collected, which are of potential relevance to his testimony. Diab's statement was subsequently postponed to allow the OTP to examine the evidence.

The hearing continued with Prosecution Counsel reading onto the record summaries of witness statements and reports admitted in accordance with the STL's Rules of Procedure and Evidence (RPE).

The hearing on 4 December began with Prosecution witness Rashed Hammoud testifying about his role as a trained paramedic, his work for Hariri, and his presence at the scene of the attack. Hammoud spoke about the logistics of the former Prime Minister's medical team, including the number of paramedics employed and the number of ambulances that were available at the time.

Additionally, the witness testified about his recollection of the 14 February 2005 attack. Hammoud was afterwards examined by the Legal Representative for Victims (LRV), who asked him about the physical and mental injuries he suffered as a result of the attack. Subsequently, Defence Counsel cross-examined Hammoud in relation to his knowledge of the logistics and planning of Hariri's convoy.

Marwan Hamade, who began his testimony in November 2014, continued to present evidence before the Trial Chamber on 8, 9, 10, and 11 December 2014. On 8 December, Hamade informed the Chamber about the political situation in Lebanon prior to Rafik Hariri's assassination. He spoke about the rise of the Bristol group, which consisted of Hariri's allies and those who opposed the extension of former President Emile Lahoud's mandate.

He also spoke about Hariri's ongoing efforts to form a cabinet. He later testified about the resignation of Hariri's government on 20 October 2004.

Hamade described the 1 October 2004 assassination attempt against him and the wounds he sustained, including two brain haemorrhages, burns and wounds to his face, chest, and leg. Hamade also stated that very little effort was made to investigate the assassination attempt. Hamade also noted that Elias Murr, Minister of the Interior at the time, informed him that the Syrian Intelligence in Lebanon hid evidence in his case from the Lebanese Internal Security Forces. He then told the Court about his health progress following the attack.

On 9 December, the Trial Chamber opened the hearing by issuing an oral decision, adding Walid Jumblatt and Ali Mohamad Hamade to the Prosecution's witness list.

The Prosecution then continued to examine Hamade. Hamade provided an overview of 14 February 2005, when he met Hariri in the morning parliamentary session.. In addition, the witness spoke about the former Prime Minister's behaviour and schedule on that day.

The Legal Representative for Victims (LRV) asked Hamade about the ramifications of being the subject of an attempted assassination, about his residual physical health problems following the bombing, the change in his lifestyle after the attack and its impact on his family. Hamade described in detail the experience of surviving a car bomb.

During his testimony, Hamade also explained the impact of Hariri's death on his family, the relationship Hamade maintains with Hariri's family and why Hariri's killing caused tremendous public outrage and political division in Lebanon. The reasons behind the withdrawal of Syrian forces from Lebanon were also discussed, in addition to the reason why Hariri was a concern for the Syrian regime.

The Trial Chamber asked Hamade about Hariri's relationship with Hezbollah. Hamade said that the former Prime Minister intended to bring about the eventual disarmament of Hezbollah through dialogue and negotiations with the party, not through coercion. He

also said that while relations were not close, he still maintained normal exchanges with the party.

Subsequently, Defence Counsel cross-examined Hamade, asking him whether he personally knew the Accused, Mustafa Badreddine. Defence Counsel said that Badreddine fought between 1977 and 1982 alongside Walid Jumblatt's Progressive Socialist Party (PSP) militia, as well as the Palestine Liberation Organization (PLO) and other leftist militias. Hamade denied personally knowing Badreddine, emphasising he was not involved in the military activities of the PSP.

On 10 and 11 December, Defence Counsel continued to cross-examine Hamade. The Defence lawyer for Badreddine asked Hamade if he was aware that Hariri and Nasrallah, Hezbollah's Secretary General, had formed a joint permanent committee of Future Movement and Hezbollah cadres to prepare for the 2005 parliamentary elections, which held several meetings, including secret sessions in Paris. Counsel for Badreddine said that the Future Movement and Hezbollah ran in joint parliamentary lists in some districts in 2005. In response, Hamade noted that Hezbollah had pursued the electoral alliance in 2005 after Hariri's assassination because they realised that there was a change in the balance of power after the withdrawal of the Syrian troops.

The days after the attack that killed Hariri were discussed. Defence Counsel for Badreddine asked the witness whether he was aware that Nasrallah came to present his condolences to the Hariri family and that his political advisor informed Wissam El-Hassan, Brigadier General at the Internal Security Forces at the time, that Hezbollah was ready to present the findings of their own investigation of Hariri's attack. Hamade responded saying that, at that time, they were thankful for these statements. He added that they were frustrated and surprised by the 8 March 2005 protest, which Hezbollah was part of, and which was in support of the Syrian presence in Lebanon.

In the course of his cross-examination, Hamade also spoke about a meeting he had with Nasrallah in spring 2005 to obtain clarification on whether Hezbollah played a role in the attempt on his life. Nasrallah confirmed to him that this was not the case. With regard to whether Syria had played any role, Nasrallah allegedly told Hamade that he did not know.

Furthermore, the activity of Hamade's mobile phone line was questioned. According to the Badreddine Defence, the telephone lines attributable to Hamade before and after the attack against him contacted telephone lines that had held communication with individuals that are allegedly involved in the blue, green and yellow telephone networks implicated in the conspiracy to kill Hariri according to the Prosecution. Hamade claimed that his personal mobile line was destroyed as a result of the attack against him, before someone else owned it. Defence Counsel showed call data records (CDR), which reveal that an individual who had called Hamade's telephone in late 2004 had also called a telephone belonging to Sami Issa, an alias of Badreddine, on a telephone that was allegedly used only to contact other members of the assassination team. Hamade said he did not know who used his cell phone at the time since he had lost it in the car bombing that targeted him. He suggested that it may have been a ploy by the assassins to mislead the investigators. The Prosecution questioned the reliability of the Defence's claims on the basis of the evidence presented, including the attribution of telephone lines to certain people. Hamade also noted that, as Minister of Economy and Trade at that time, he received thousands of calls in relation to his position.

Defence Counsel for Oneissi questioned Hamade about the legal conditions in which his Ministry transferred the entirety of mobile telephone data for a specific period of time to the United Nations International Independent Investigation Commission (UNIIIC).

As a Telecommunications Minister at the time, Hamade had ordered phone companies to cooperate with the investigation. He added that the decision to collect phone metadata was made by the United Nations under Chapter 7 of the Charter and adopted by the entirety of the Lebanese government under the presidency of former President Emile Lahoud.

On 12 December, Ali Diab appeared as a Prosecution witness before the Court via video teleconference. Diab received a technical education in electronics. In 2005, Diab was an electronics technician employed by the Hariri family after he started working for the family in 1986.

He began his work with jamming devices in 1993 pri-

or to receiving further training abroad regarding jamming devices during his employment. In 2005, he was in charge of the security systems of Hariri himself.

Diab informed the Trial Chamber that on 12 February 2005, two days prior to the attack on Hariri, he checked the jamming system in Hariri's convoy vehicles and it worked without any problems. He also confirmed that he was the only person responsible for the jamming systems and devices as well as the security equipment in the Quraitem Palace. Diab stated that, on 14 February 2005, he was at the Palace, in the control room at the main gate. He told the Court that he heard a close protection officer saying on the radio that they had been bombed and that they needed an ambulance. Afterwards, he stayed at the palace in order to handle the situation with the controllers.

Defence Counsel cross-examined Diab, asking him about his relationship with another witness who is subject to protective measures, in addition to technical questions relating to the functioning of the jamming equipment as well as the number of batteries that were available in Hariri's convoy vehicles on the day of his assassination. Defence Counsel for Badreddine asked Diab who he thinks was responsible for pulling out the plugs from the jammer; removing the safety fuses; cutting the wires that connect the remote control to the channels; and removing the battery from Hariri's convoy vehicles.

On 15 December, Prosecution Counsel read before the Trial Chamber nine Rule 155 summaries of witness statements as well as two Rule 161 summaries of expert witnesses.

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)

On 18 December, the Contempt Judge, Nicola Lettieri, ordered the trial in the contempt case against Al Jadeed S.A.L. and Karma Al Khayat (14-05) to start on 16 April 2015. Karma Al Khayat and Al Jadeed S.A.L. are charged with two counts of contempt and obstruction of justice under Rule 60 *bis* of the Tribunal's RPE. Following the opening statement(s), the *Amicus* will present his case-in-chief from 16 April 2015 onwards, as needed. Defence Counsel shall present its case, if any, from 12 May 2015.

On 8 December, the *Amicus* made submissions pursuant to the Contempt Judge's decision of 28 November 2014 on the two motions by the Amicus, requesting the admission of written statements instead of *viva voce* testimonies.

DEFENCE ROSTRUM

Dealing with Today's Global Cyber Threats

By Fábio Kanagaratnam

On 15 January, the Humanity House hosted a lecture on "Dealing with Today's Global Cyber Threats". Ida Haisma ,Executive Director of the Hague Security Delta (HSD), talked about cyber attacks and how they present a real threat today.

Haisma's opening remarks touched upon how cyber security affects our daily lives due to the permanent contact with technology. Haisma highlighted the work of the HSD, naming it the largest security cluster in Europe. The goals of the HSD not only aim at improving the role of security in the world but also aim at stimulating economic growth. According to her, the work of the HSD has helped building a strong platform where institutions collaborate and exchange ideas regarding security.

Haisma noted that one of the most important areas of focus is human capital development. She indicated that there is a lack of investment in education regarding cyber security and that a discussion on the demands of the market and how to ensure professionals have the appropriate skills for today's demands needs to be instigated.

On the topic of cyber security, Haisma noted that cyber crime exerts a heavy cost worldwide; she defended that cyber attacks cannot be prevented most of the time and noted that cyber security is about risk management. She described a change in the focus of

cyber threats, which have become progressively international, changing the identity of the perpetrator "from hacker to state". Haisma added that today, cyber crime is seen a service, highlighting how easy it is to request certain malicious activities for a low price.

In order to tackle the changing cyber security environment, the HSD created the Cyber Security Space Initiative, fostering innovation in the security field. The programme aims at tackling possible cyber security problems two years in advance. In order to achieve this goal the project touches upon the various lines of security development, governance, organisations, people, processes and technology.

Haisma highlighted the importance of the human factor in cyber security and noted that while a large amount of money is spent on cyber security research, it is mostly fragmented and not focused on the relevant issues. She added that raising awareness of cyber risks is essential, in particular that it should be present in the management of every organisation. Haisma concluded her presentation noting how important risk management is at every level of society, stating that "we need to teach people to know what to do in order to prevent and to manage risk".

BLOG UPDATES AND ONLINE LECTURES

Blog Updates

Julien Maton, **ICC: Judgment in the Croatia vs Serbia Genocide Case on 3 February 2015**, 19 January 2015, available at: http://tinyurl.com/ptckch9.

Kristen Boon, **SDNY Finds UN Immune in Haiti Cholera Case,** 20 January 2015, available at: http://tinyurl.com/a92yhy.

.Adam Wagner, **BBC News on Anti-Terrorism Law and Human Rights,** 19 January 2015, available at: http://tinyurl.com/mqzragf.

Online Lectures and Videos

"LLB: Self Defence with Dr. David Lowe," by John Moores University, 6 January 2015, available at: http://tinyurl.com/lj2uokz.

"Surveillance Law with Jonathan Mayer," by Stanford University, 20 January 2015, available at: http://tinyurl.com/lv8xo7f.

"Introduction to International Criminal Law with Michael Scharf," by Case Western Reserve University, 3 November 2014 to 26 January 2015, available at: http://tinyurl.com/pjg2xe8.

PUBLICATIONS AND ARTICLES

Books

Chen, Lung– Chu (2014). *An Introduction to Contemporary International Law A Policy-Oriented Perspective*, Third Edition, Oxford University Press.

Roger, O'Keefe (2014). *International Criminal Law*, Oxford International Law Library.

International Court of Justice Handbook (2014), ICJ.

Articles

Plouffe-Malette, Kristine (2014). "*Prosecuting Genocide, Crimes against Humanity and War Crimes in Canadian Courts", written by Fannie Lafontaine,* International Criminal Law Review, Volume 14, Issue 6.

Rutz, Julia *(2014). "The Framework of the Right to Defence in Palestine: Legal Rationale and Practical Implementation",* International Criminal Law Review, Volume 14, Issue 6.

CALL FOR PAPERS

The **Department of International Law** at the Graduate Institute for International and Development Studies in Geneva has issued a call for papers on the fundamental of international law.

Deadline: 15 February 2015 More Info: http://tinyurl.com/q89jtcv.

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http://adc-icty.org/home/membership/index.html

or email:

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The ADC-ICTY wishes a Happy New Year!

EVENTS

Building on a New Paradigm of International Criminal Law
Date: 30 January
Location: The Hague Institute for Global Justice, The Hague
More Info: http://tinyurl.com/nabb52k.

Summit on International Law & Human Rights
Date: 4 and 5 February
Location: the Peace Palace
More Info: http://tinyurl.com/kvvfpwc.

Conference on Dehumanisation of Warfare
Date: 13 and 14 February
Location: European University Viadrina, Frankfurt (Oder)
More Info: http://tinyurl.com/ptvtv6f.

OPPORTUNITIES

Associate Legal Officer (P-2), Bamako
UN Multidimensional Integrated Stability Mission in Mali
Closing Date: 26 January

Field Operations Officer (P-3), Various
International Criminal Court
Closing Date: 15 February

Legal Officer (P-3), New York
UN Office of Legal Affairs
Closing Date: 28 February

The ADC-ICTY would like to express its sincere appreciation and gratitude to Bernd Bertram and Shenali De Silva for their contribution to the Newsletter, we wish them all the best for the future!