ADC NEWSLETTER
ICTY TPIY
ISSUE 94
23 November 2015

ICTY CASES

Cases at Trial

Hadžić (IT-04-75)

Karadžić (IT-95-5/18-I)

Mladić (IT-09-92)

Šešelj (IT-03-67)

Cases on Appeal

Prlić *et al.* (IT-04-74)

Stanišić & Simatović (IT-03-69)

Stanišić & Župljanin (IT-08-91)

ICTY NEWS

Prosecutor v. Mladić (IT-09-92)

On 5 November, the testimony of ballistics expert Mile Poparić was concluded. The centrepiece of Poparić's evidence was a 355-page report he prepared examining "small arms fire on the Sarajevo Area 1992 – 1995". In his report, Poparić analysed 19 scheduled and unscheduled sniping incidents that occurred in Sarajevo. In doing so he studied lines of sight, the respective positions and weapon capabilities of the Army of Republika Srpska (VRS) and Bosnian Army (ARBiH) forces, as well as testimonies of victims and witnesses from previous cases and during the Prosecution investigations. Where controversial accounts surfaced in relation to the incidents he addressed all possible scenarios. In respect of all instances, he concluded that the bullet either could not possibly have come from VRS held territories or if it did, the victim could not have been targeted intentionally, but was rather hit as a result of ricochet.

Poparić began his evidence testimony by noting the obstacles he encountered in his analyses, including the fact that overall little physical evidence could be obtained. This often led him to rely on police records, news reports and witness statements. In addition, forensic medical records were occasionally missing or were not thorough enough to provide solid grounds for assessments. As an illustration of the general issues and line of questions that arose during the testimony of Poparić, one of the more contentious cases will be briefly highlighted here.

The incident F-4 in the Indictment involved Nafa Tarić and her eight-year-old daughter. They were wounded by a single bullet when stepping out from behind a protective barrier of containers that were positioned across

ICTY AND MICT NEWS

- Mladić: Defence Case Continues
- Milan Lukić: Appeals Decision
- Sreten Lukić: Decision on Serving Sentence
- Orić: Motion on *Non Bis in Idem*
- Uwinkindi: Certification of Appeal
- Niyitegeka: Decision on Assignment of Counsel

Also in this issue

Ivana Krndelja Street. In preparing his report, Poparić first considered the closest Serbian positions with a line of sight from whence a VRS shooter could have targeted mother and child from the direction indicated by the victim. Based on an operations map of the ARBiH, he concluded that the distance could not have been less than 680 metres. Secondly, he measured the time it would have taken for the victims to reach the place where they were shot. He did this based on footage created by the Office of the Prosecutor (OTP) as a reconstruction of the event. His calculations showed that the pair spent 1.02 seconds without cover. Based on this data, he concluded that the hypothetical VRS shooter, using an M74 machine gun, did not have sufficient time to aim and shoot, because it would have taken the bullet longer (1.21 seconds) to cover the abovementioned distance, than it took for the pair to reach the place where they were shot. Additionally, Poparić could not establish with certainty that there was visibility from that given location. He could only do so in respect of VRS trenches located 800 metres away from the incident.

During the examination-in-chief, the Judges asked extensively about the precision with which Poparić could measure the time Nafa Tarić and her daughter spent exposed. It was established that during the filming, the victim was not given any instruction to walk with the same speed as she did at the time of the incident, yet Poparić relied on the footage to measure the time of exposure. At this point, the Judges asked the witness whether he considered that the victim may have stopped, cleared the territory first, or that her daughter may have slowed her down so that the time measured would be inaccurate. They further inquired if Poparić considered the scenario where the victim took two steps instead of the one shown on the video. In response, Poparić pointed out that the victim did not state anything about being slowed down or clearing the area first. To the contrary, she stated that no one was ever hit there so she did not expect danger. The witness also stated that even if the pair had spent 1.0 second more without cover, his conclusion would not change. The reason is that a well-trained marksman would on average need two seconds to fire a bullet. In his calculations Poparić only considered the time it took for the bullet to cover the distance in question and did not include the time it would have taken to aim and pull the trigger.

During cross-examination of the witness, the Prosecutor attempted to establish through the witness' evidence that there was a protracted campaign of sniping against civilians in Sarajevo and questioned Poparić on whether he had taken this circumstance into consideration when analysing the specific case. Poparić only confirmed that he relied on the statement of Nafa Tarić, which stated that at the specific spot where they were shot, there were no other incidents either before or after their incident and that she considered it safe to walk at that location. He declined to give evidence on any other shooting which was put to him by the Prosecutor and which he had not studied. He furthermore confirmed that in his report he "did not deal with whether that area was constantly targeted or not". In addition, he accepted that he did not use a GPS when visiting the places and contended that a map was sufficient to find the precise locations.

Mile Poparić,

Following Poparić's testimony, the witness Ostoja Marjanović testified on 9 and 10 November. Marijanović spent almost all his working life in the Ljubija mine and was the mine's acting General Director from 1991 until the middle of 1996, performing this duty throughout the war. After the interruption of excavations at the mine, he took over the job of securing the mine's infrastructure. Members of the VRS never took part in this work. He did not know about what happened in Tomašica, or about the burial of posthumous remains, but he later learnt that everything connected with Tomašica was organised by the Prijedor Security Services Centre (CJB) without his knowledge.

The Mladić case continued on 10 November with Savo Štrbac, President of Belgrade-based NGO Veritas, giving testimony before the Tribunal. Veritas, an organisation that was set up by the witness and which he now chairs, aims to accurately record the status of the victims of the war in the former Yugoslavia. Štrbac, who had once been both a lawyer and judge, was a security officer in the Benkovac Territorial Defence during the war. He also acted as the President of the Commission for the Exchange of Prisoners and was a secretary in the Krajina Government.

Štrbac gave evidence of the actions that were taken by Croatians against the Serbs during the war. The witness, a Serb, lived through the change in regime in Croatia, when the Croatian Democratic Union (HDZ) won the elections, and when on 22 December 1990, the Constitution was changed to make the Serbs in Croatia a national minority. The witness described the

active anti-Serb campaign carried out in Croatia at that time, which was present on three levels: social, administrative and political. This campaign led to the 'Glass Night' in May 1991 in Zadar, the attacks on Gospic, and the evacuation and destruction of Slavonska Pozega, to name a few. The witness' organisation, Veritas, has followed the plight of Serbs during the war. Notably, they have found that approximately 300 Serbs went through camps in Croatia such as Pakracka Poljana or Marino Selo, and most of them are still missing. The witness also described in detail the exchange of prisoners, in which he was actively involved at that time. In one such exchange, the witness was even aided by Mladić, and he described him as being "very delicate and wise in his conduct". On 12 November, Dragan Kijac was re-called to continue his testimony, which began and was interrupted on 19 October. Kijac explained the functioning of the State Security Service; he also explained the existence of various groups inside his service like Typhoon, Milos and others. Kijac later served as a Minister of the Interior (MUP) in the Republika Srpska government and as Deputy Prime Minister.

Kijac witnessed the first barricades in Sarajevo and took part in their removal and in calming the overall situation. Kijac was also a member of the Public Security Centre (CSB) group that visited the SJBs of Novo Sarajevo and Novi Grad. He saw a greater number of people armed with long-barrelled weapons, who were members of the reserve police force. This had been activated without his knowledge, although he was the city secretary at that time. It was obvious to him that almost all the police at those stations came from the Muslim ethnic group.

At the beginning of April 1992, he spent one weekend in the Pale area outside Sarajevo. On his way back home, he learned that barricades had been set up again at a number of places in the city. At that moment he decided to remain in the Pale area and place himself at the disposal of the MUP of the Republika Srpska. When the war broke out in 1992, Kijac was appointed Chief of the Sarajevo National Security Service Sector of the Ministry of the Interior of Republika Srpska.

MICT News

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

On 22 September, the Mechanism for International Criminal Tribunals (MICT) ordered that Milan Lukić's Appeal of his Application for Review be assigned to a bench of five judges. This order follows the Court's previous decision on 7 July, in which the Appeals Chamber dismissed his Application for Review over one dissent. The Prosecutor opposed the motion on 17 August and the panel will consider both the Appeal and the Prosecution's response.

Judge Jean-Claude Antonetti, the sole dissenting Judge, published an extensive opinion in two parts. While the first portion of the dissent was published contemporaneously with the 7 July decision, the second part of his dissent was published on 1 October. In this second part of the dissent, Judge Antonetti discussed at length the importance of new facts and witness testimony. He disagreed with the Appeals Chamber regarding the importance of factual findings, and did not support the decision to evaluate that the new evidence had not been reported within the guidelines established by existing jurisprudence and the Rules of Procedure and Evidence (RPE). He heavily criticised the presence of a judge who had been a member of the Appeals Chamber and was now reviewing the case, as he believed that this practice is inconsistent with the rights of the Accused under comparable European law. Further, he criticised the Chamber's failure to perform a preliminary legal analysis of the new information brought by the Defence in its decision. Instead, he focused on the importance of the testimony in light of Lukić's alibi defence. Judge Antonetti reviewed testimony relating to the events in Drina, Bikavic, Varda Factory, and the incident on Pionirska Street. While the other Judges were satisfied with the credibility of the Prosecution's witnesses, Judge Antonetti believed that there were multiple inconsistencies which could render the conviction a miscarriage of justice. Indeed, Judge Antonetti concluded his opinion by noting that he personally had serious doubts that the Accused was present at the scene of the crimes with which he is charged.

Lukić did not appeal the Prosecution's Motion of 17 August, in which the Prosecution contends that his claim that an appeal lies from the Review Decision is unfounded because neither the Statute nor the Rules provide for an appeal from a decision dismissing a request for review. On 13 November, consequently, the Chamber found that the Appeal was unfounded, granted the Prosecution Motion and dismissed the Appeal in its entirety.

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

On 6 August, the Mechanism for International Criminal Tribunals (MICT) made a decision on the location in which Sreten Lukić, former Police General, would serve his sentence.

The International Criminal Tribunal for the former Yugoslavia (ICTY) sentenced Lukić to 20 years' imprisonment for crimes against Kosovo Albanians in 1999, minus the time that he had already spent in detention before the decision was made. On 4 November 2014, the Regional Court in Warsaw, Poland, decided that Lukić could serve the remainder of his sentence in a Polish prison. The President Judge Meron has agreed with this decision, and with the support of the "Agreement between the Government of the Republic of Poland and the United Nations on the Enforcement of Sentences of the International Criminal Tribunal for the former Yugoslavia" which was signed on 18 September 2008, has concluded that Lukić's sentence will be served in the Republic of Poland. Poland is one of 17 countries that has pledged to accept war criminals convicted in The Hague. In making their decision, the President took into consideration the wishes of the host country, as well as the opinion of the Accused.

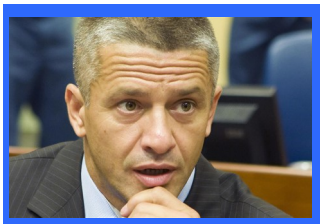

Sreten Lukić

The decision was made in August of this year, and has now been made public as Lukić has already been transferred. Lukić is the second person convicted by the ICTY, the first being Radislav Krstić, to be serving his sentence in the Republic of Poland.

Prosecutor v. Orić (MICT-14-17)

On 12 November, the Order Assigning a Single Judge to Consider a Motion in the case of *Prosecutor v. Naser Orić* was handed down. On 6 November, Orić filed the Second Motion Regarding a breach of *non bis in idem*, which has not yet been made publically available. Judge Theodor Meron, President of the Mechanism for International Criminal Tribunals (MICT), noting the 30 June 2006 Trial Judgement and the 3 July 2008 Appeals Judgement in the case, assigned the Motion to Judge Liu Daqun.

Orić was acquitted in 2008 by the ICTY Appeals Chamber of all charges brought against him, primarily relating to his alleged command responsibility over crimes against Serbs in Srebrenica and Podrinje in eastern Bosnia, as the Tribunal ruled that he did not have control over the Bosnian Army at the time. The Chamber, however, denied the Defence's proposal that further investigation be dropped, leaving room for the District Prosecution in Bijeljina, Republika Srpska to continue an investigation into Orić's individual accountability for crimes committed against Serb civilians in Kravica and Zalazje in 1992 and 1993.


Naser Orić

The current indictment of Orić by the State Court of Bosnia and Herzegovina (BiH) is founded on the premise that it does not violate the rule of *non bis in idem*, as there is no proof that Orić had been tried in the ICTY or courts in BiH for any of the crimes that were under investigation carried out by the Prosecution in Bijeljina.

Prosecutor v. Uwinkindi (MICT-12-25)

The previous edition of the newsletter reported on the decision rendered by the Trial Chamber denying the Defence's motion for a stay of proceedings, an oral hearing and other related matters in the case of *The Prosecutor v. Jean Uwinkindi*. Following the handing down of the decision, on 29 October, the Defence submitted a request for certification of appeal pursuant to Rules 79(c) and 80(b) of the Rules of Procedure and Evidence.

Decisions on preliminary motions are without interlocutory appeal. Pursuant to Rules 79(c) and 80(b), however, the Trial Chamber can grant certification to appeal such a decision if it involves an issue that would significantly affect the fair and expeditious


Jean Uwinkindi

conduct of the proceedings or the outcome of the trial and where in the opinion of the Trial Chamber the immediate resolution of the issue by the Appeals Chamber may materially advance the proceedings. The Defence, on the basis that the original decision is one that concerns matters that have a bearing upon fair and expeditious conduct of the proceedings and the rights of the Accused, accordingly requested that the Trial Chamber considers that the request is grounded in law and does grant certification.

Prosecutor v. Niyitegeka (MICT-12-16-R)

On 28 October, a decision was made on Eliézer Niyitegeka submissions concerning the Appeals Chamber "Decision on Niyitegeka's Request for Review and Assignment of Counsel" of 13 July.


Phillipe Larochelle

The decision was in regards to Niyitegeka's submission contending that the Registrar had failed to assign him Counsel, in accordance with the Decision of the Appeals Chamber on 13 July. The Registrar had indicated that more time was required to complete the conflict of interest assessment prior to assigning Phillipe Larochelle as Niyitegeka's Counsel. The Registrar requested that in the interest of justice, as well as the urgency expressed in the submission, that Counsel be appointed immediately on an interim basis. The Appeals Chamber ordered the Registrar to assign, on an interim basis, Niyitegeka's counsel pending the completion of the conflict of interest assessment.

The Decision on Request for Review dated 13 July was Niyitegeka's sixth request. Niyitegeka's Request for Review was based on a challenge to the credibility of a prosecution witness, whose uncorroborated testimony underpinned key aspects of Niyitegeka's convictions. The Appeals Chamber stated that it could not exclude that the potential ground of review may have a chance of success, and that given the complexity and specificities of the issue, Niyitegeka would benefit from legal assistance. The Appeals Chamber considered it would be premature to decide the merits of this potential ground for review and therefore dismissed the request for review without prejudice.

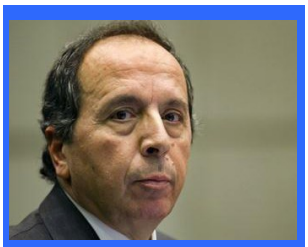
Niyitegeka was appointed Minister of Information in the Interim Government in the early stages of the Rwandan Genocide, holding the position until the time he fled Rwanda in July 1994. He was found guilty of genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, as well as crimes against humanity, including murder extermination and other inhuman acts. Niyitegeka's appeal in 2004 was dismissed in its entirety. He was sentenced to life imprisonment and is serving his sentence in Mali since December 2008.

LOOKING BACK...

The Special Tribunal for Lebanon

Five years ago…

On 10 November 2010, the Appeals Chamber of the STL held that Jamil El Sayyed was allowed access to documents relating to his detention by the Lebanese authorities. Sayyed claimed that he was wrongly detained by the Lebanese authorities for over four years on the basis of false testimony, during which time he was not charged with a crime. He asked the Tribunal for access to evidence relating to his detention, so that he could pursue civil claims in national courts. Further, the Appeals Chamber confirmed that the STL had jurisdiction to consider Sayyed's request and determined that


Jamil El Sayyed

Sayyed had legal grounds to bring the application before the Tribunal.

Sayyed was the head of the Lebanese General Security Directorate at the time of Rafik Hariri's assassination in April 2005, following which he resigned from office due to mounting political pressure. He was detained for more than three and a half years, from 2005 to 2009 in Beirut, due to his alleged involvement in the assassination. He was released on 29 April 2009 on the basis that the Prosecutor considered that at the time there was insufficient evidence to indict.

International Criminal Tribunal for Rwanda

Fifteen years ago…

On 8 November 2000, former Rwandan military leader Tharcisse Muvunyi pleaded not guilty to charges of genocide and crimes against humanity, including rape. Muvunyi was the most senior military officer responsible for security operations in Butare Préfecture and Commander of the École des sous-officiers (ESO) in Butare, Rwanda, from April to June 1994. Muvunyi had been living in London prior to his arrested by the United Kingdom authorities in February 2000, on an international arrest warrant issued by the ICTR.

In September 2006, Muvunyi was found guilty of genocide, direct and public incitement to commit genocide and inhumane acts as a crime against humanity. However, in an unprecedented move, in 2008, the Appeals Chamber quashed his conviction and ordered a partial re-trial on a charge of direct and public incitement to commit genocide. On 11 February 2010, Trial Chamber III found Muvunyi guilty of direct and public incitement to commit genocide and sentenced him to 15 years' imprisonment.

The International Criminal Tribunal for the former Yugoslavia

Twenty years ago…

On 16 November 1995, the ICTY indicted Ratko Mladić and Radovan Karadžić for a second time on charges alleging their direct responsibility, as well as for the acts of their subordinates, for the atrocities committed in July 1995 in the United Nations designated safe area of Srebrenica. These included allegations that both were responsible for planning, instigating, ordering or otherwise aiding and abetting in the planning, preparation or execution of genocide, crimes against humanity and violations of the laws and customs of war.

Radovan Karadžić

Karadžić was a fugitive between 1996 and 2008, at which point he was arrested in Belgrade and extradited to The Hague. The trial commenced in 2010 and was completed in October 2014. The Trial Judgement is expected by the first quarter of 2016. The Mladić trial commenced in May 2012, with the Prosecution case closing in February 2014. The Defence commenced their case in 19 May 2014. The trial remains ongoing.

NEWS FROM THE REGION

Bosnia and Herzegovina

Bosnian State Court Acquits Former Croatian Defence Counsel Fighter

On 9 November, former soldier of the Croatian Defence Council (HVO) Ilija Jurić was acquitted of crimes against civilians allegedly committed in Odžak in Northern Bosnia in 1992. Jurić was indicted on charges of sexually abusing Bosnian Serb women and physically abusing Bosnian Serb children. One alleged victim, Milica Djekić, explained to the court how she was sexually abused by the Accused. The Chamber, however, noticed some inconsistencies between the statement of Djekić and those of other witnesses who testified. The Judges were unable to find sufficient evidence that Jurić had perpetrated these sexual crimes against Bosnian Serb women and could also not determine beyond reasonable doubt that Jurić had abused Bosnian Serb children. These doubts ultimately led to Jurić's acquittal. The verdict can be appealed.

Kosovo

Possible Retrial of Fatmir Limaj on "Klecka" Charges

Fatmir Limaj could face his third war crimes trial for abuses committed at the Kosovo Liberation Army (KLA)'s Klecka detention camp, after Kosovo's Appeals Court decided to hear a motion for retrial. On 1 and 2 December the Court is scheduled to hold a hearing to discuss the Prosecution's request to annul the 2013 "Klecka" verdict, which acquitted Limaj of war crimes against civilians and prisoners of war. The case can also be sent for retrial. Limaj has faced several different war crimes allegations related to his service in the KLA. He was one of the first Kosovo Albanians to stand trial at the International Criminal Tribunal for the former Yugoslavia (ICTY), where he was acquitted of charges related to the Lapušnik prison camp.

Fatmir Limaj

Montenegro

European Commission Expresses Concern Over Montenegro War Crimes Judgements

The latest EU progress report has expressed concern that Montenegro has not yet prosecuted any senior officials allegedly involved in the conflicts of the 1990s. The European Commission has stated that in order for Montenegro to continue towards eventually joining the EU, it must act more vigilantly in combating impunity over war crimes in line with international standards. The European Commission has asserted that until now, Montenegro's Prosecution team has not been proactive in following up allegations of war crimes. The Commission also stated that, "the judicial decisions reached so far have contained legal mistakes and shortcomings in the application of International Humanitarian Law". Last December, the Appellate Court confirmed the decision of the High Court in Bijelo Polje, that granted the acquittal of all eight Defendants accused of war crimes in Kaludjerski Laza, a border post between Montenegro and Kosovo, in 1999.

NEWS FROM OTHER INTERNATIONAL COURTS

Extraordinary Chambers in the Courts of Cambodia

Clare Slattery, Legal Consultant, Im Chaem Defence Team

Judicial Update

In addition to participating in the trial hearing in Case 002/02, the Nuon Chea Defence filed a motion requesting the Trial Chamber to expedite the appearance of Ewa Tabeau, to give testimony at the end of the trial segment regarding the treatment of the Vietnamese on the relevant demographic issues, in particular the demographic issues in relation to the Vietnamese and the Cham.

In October, Khieu Samphân's Defence prepared the trial hearings for which they filed an urgent motion requesting additional time and continued to attend the hearings. They also filed a submission requesting to review the amended modalities on how to use the procès-verbaux of hearings in Cases 003 and 004. They consider that these modalities (closed sessions) are disproportionate and violate the right of Khieu Samphân to a public trial.

The Nuon Chea Defence replied to the responses by the Co-Prosecutors and the Civil Party Lead-Co-Lawyers respectively to Nuon Chea's sixth request for additional evidence. Further, the Nuon Chea Defence, at the request of the Supreme Court Chamber, filed its written submissions on the admissibility of the transcripts of certain interviews conducted by Robert Lemkin, and on the significance of the 'rift' between various factions within the Communist Party of Kampuchea (CPK), to the relevant issues in Case 002/01. Following the response by the Co-Prosecutors to Nuon Chea's submissions on the significance of the 'rift', the Nuon Chea Defence filed a reply expressing its disappointment at the lack of genuine engagement by the Co-Prosecutors in the discussion of the substantive issues and at the Co-Prosecutors' disrespectful suggestion that the Defence's requests for additional evidence were made in bad faith.

The Khieu Samphân Defence filed, at the request of the Supreme Court Chamber, written submissions on the admissibility of the transcripts provided by Robert Lemkin. Khieu Samphân's Defence also filed their observations on the appeals hearing calendar, requesting more time to plead the individual criminal responsibility and responded to the Co-Prosecutor's observations on the calendar.

In October, the Meas Muth Defence filed a response to a request by the International Co-Prosecutor for an extension of time to respond to an appeal filed by the Defence, a request to reject the International Co-Prosecutor's belated response, and a reply to the response. The Defence also filed one request for clarification to the Pre-Trial Chamber. The team also filed four requests and two letters to the Co-Investigating Judges. All of these filings were classified as confidential. The Case 003 Defence also joined in signing a letter to the Defence Support Section (DSS) prepared by the Ta An Defence team requesting additional translation resources. Finally, the team continues to review material on the Case File and to prepare submissions to protect Meas Muth's rights and interests.

In October, the Defence team for Im Chaem filed a submission in support of Ao An's application to annul the investigative action concerning forced marriage. Further, the Defence team continues to review the evidence in the Case File and to prepare submissions to protect Im Chaem's fair trial and procedural rights.

The Ao An Defence team filed four responses to five of the International Co-Prosecutor's urgent requests to disclose Case 004 documents in Case 002. In addition, it filed an urgent request for a page extension with respect to a proposed application for transcriptions and translations of audio recorded interviews in the Case File. Its request for a page extension was granted by the International Co-Investigating Judge. In addition, the team continues to review the materials in the Case File and prepare other confidential submissions to safeguard Ao An's fair trial rights.

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

Special Tribunal for Lebanon

STL Public Information and Communications Section

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

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

On 1 October, Mahmoud Assi, a vehicle collision expert and a manager of an insurance company in Lebanon, testified before the Trial Chamber. During his examination-in-chief, the witness spoke about the procedures followed by car insurance companies in Lebanon when a traffic collision takes place. The witness was asked about a specific car accident which occurred in November 2004. He explained how and why Assi's name was on the accident declaration although another expert had actually examined the vehicle and written the report. In particular, the witness explained that if a client contacts him and the location of the accident is far away from his location, he would give the driver the contact details of another expert who is closer to the accident area.

According to the Prosecution, the phone number that contacted Assi to report the accident is attributable to one of the Accused in the *Ayyash et. al* case, Salim Ayyash. Furthermore, the Prosecution presented a disclaimer and a waiver document signed by Ayyash in relation to the compensation he received from the insurance company for the damages incurred to the vehicle in question.

Assi was not cross-examined by any of the Defence Counsel.

On 2 October, protected witness PRH 651 testified via video link before the Trial Chamber. The witness is a senior manager for a business that manufactures and sells furniture in Lebanon. The witness was asked about his company's procedure for selling and delivering furniture, a specific retail shop that used to sell the witness's business products, as well as about the phone numbers written on an advertisement leaflet of that retail shop.

PRH651 said the retail shop placed an order from his company in November 2004 for a customer who the Prosecution claims to be Hassan Merhi, an Accused in the *Ayyash et. al* case. The witness was questioned about documents in relation to that order. The first document was the order document, which includes the phone number that the Prosecution attributes to Merhi and his family, which is provided as the contact number of the person who ordered the furniture. The second document was the actual invoice for the same products. The third document was an invoice list that includes the name of the delivery driver, as well as a delivery note which allegedly bears the signature of Merhi. The delivery note also indicates that one of the items, a mattress, was returned. Another document the witness was asked about was a second order made the same day as the first delivery. This order was made with the same address and contact number.

Defence Counsel for Merhi cross-examined PRH651. The witness was questioned about his business relationship with the retail shop owners from which Merhi allegedly ordered the products, the delivery of the orders made by Merhi, in addition to the witness' company's usual procedure in respect to returned goods.

On 5 October, the Trial Chamber received evidence that it had previously ruled admissible. The Prosecution addressed five issues during the hearing. The first issue was in relation to the statement of deceased protected witness PRH045, which was deemed admissible in the Trial Chamber's decision of 24 July, pursuant to Rule 158 of the Tribunal's Rules of Procedure and Evidence (RPE) relating to witnesses who are deceased or are considered unavailable. As witness PRH045 is subject to protective measures due to unique circumstances associated with him, the Prosecution and Defence Counsel for Badreddine had agreed to deal with the witness's testimony on a confidential basis, a procedure approved by the Trial Chamber.

The second issue was related to the admission by the Trial Chamber of the statement of PRH402, who is unavailable. The statement was admitted pursuant to Rule 158. On 14 February 2005, the witness was in the area next to St. Georges Hotel in Beirut, when the explosion, which killed the late Prime Minister Hariri and others, occurred. The witness suffered bruises and lost his wallet in the explosion. The Prosecution told the Trial Chamber that the Lebanese authorities have no information about the whereabouts of this witness, and the Prosecution had no other means to trace him.

The third issue related to a set of 62 photographs found to be admissible, pursuant to the Trial Chamber's decision of 28 August. The photographs were taken in different areas in Beirut on 8 August and 7 to 8 October 2014. The Prosecution's motion for the admission of these photographs was unopposed by the Defence Counsel. The Prosecution intends to use these photographs to address specific issues with witnesses who will appear at a later stage of the trial.

The fourth item that the Prosecution had requested to be admitted was satellite photography from the European Space Imaging, consisting of nine individual high quality photographs of eight different regions in Beirut. The Trial Chamber found the photos admissible in its decision of 9 July.

Finally, the Trial Chamber also admitted into evidence a document obtained from the Special Investigation Commission of the Central Bank of Lebanon in response to a Prosecution's request for assistance. The document contains the addresses of the Bank Audi branches in three locations in Lebanon for the years 2004 and 2005. According to the Prosecution, these addresses are relevant for establishing the attribution of phone numbers to one of the Accused, Salim Ayyash, based on the use of phones which it alleges were used by Ayyash in the areas of these three branches, at the approximate times of recorded ATM transactions on accounts registered to Ayyash.

On 14 October, the Trial Chamber heard evidence from the Prosecution related to the location of residences associated with the Accused. The Prosecution alleges that these residences are linked to the use of certain phones by the Accused, also used in relation to the 14 February 2005 attack.

The Prosecution presented documents related to two properties associated with Ayyash. During the hearings of 15 and 16 October, the Prosecution presented evidence on the properties of Oneissi, Sabra and Merhi. This evidence enables the comparison of several locations where the relevant phones were used, including the alleged residences of the Accused.

Furthermore, during the hearing, the Prosecution responded in court to the Trial Chamber's email questions in relation to the "Prosecution Motion for the Admission of Witness Statements pursuant to Rule 155 and Documents pursuant to Rule 154," with a corrected version filed on 29 September. The Prosecution explained various database-related topics and related queries. The Trial Chamber's Presiding Judge, David Re, made an order that the filing be reclassified as public.

On 14, 15 and 16 October, the Trial Chamber heard oral submissions from the Defence Counsel for Badreddine, Merhi, and Oneissi, the Head of the Defence Office, the Registry and the Prosecution on the joint request of the Defence Counsel for Badreddine, Merhi, and Oneissi applying for a modification of the conditions imposed on the assignment of Dr. Omar Nashabe. The former President of the Tribunal, Judge David Baragwanath, specified the conditions of Nashabe's appointment in his decisions of 21 December 2012 and 27 March 2013. The former President's conditions were that Nashabe may only provide the following support to Defence teams: assisting with information concerning factual areas of interest; alerting Counsel to any evidentiary material that they may need to collect; suggesting potential witnesses to Counsel; cross-referencing and summarising relevant publicly available factual materials; and producing reports and memoranda further to those activities.

In the decision of 21 December 2012, the former President held that "Dr. Nashabe shall be treated as a member of the public for the purposes of access to the premises of the Tribunal and information thereof". On 27 March 2013, at the request of the Registrar, Judge Baragwanath issued a clarification decision stating that "Dr. Nashabe should be treated as an expert consultant external to the Defence teams".

On 14 October, the Trial Chamber stated it was seeking submissions on two points. The first issue was jurisdiction, namely whether the Trial Chamber can make the order which is sought. Secondly, the Trial Chamber asked for submissions on what action it should take and why it should make the orders and modifications sought.

When dealing with the question of jurisdiction, Counsel for Badreddine, Merhi, and Oneissi, with the support of the Head of the Defence Office, requested the Trial Chamber to lift the restrictions placed on Nashabe concerning access to information and evidentiary material communicated to him by the Defence teams. The Registrar submitted that the Defence teams should exhaust the remedies set forth in the former President's decisions and go to the current President, as Judge Baragwanath had issued his decisions in his capacity as President of the Tribunal. The Prosecution did not question the Trial Chamber's authority to deal with this matter.

On 15 October, the Trial Chamber addressed the second part of the submissions. The Registrar made a preliminary submission that a full risk assessment be performed with the cooperation of Nashabe, before any further steps are taken, in case the Trial Chamber decides that it could intervene as suggested by the Defence Counsel.

The Trial Chamber asked the Defence teams to indicate how Nashabe could assist them in the telecommunications and attribution phase of the evidence. The Defence Counsel for Badreddine, Oneissi, and Merhi stated that Nashabe is a specialist in forensic science, is assisting them with their research, and is knowledgeable about current Lebanese events. They also informed the Trial Chamber that Nashabe will be of assistance to the Defence telecommunications expert in collecting information and getting administrative documents in Lebanon. Counsel added that they would like to have information about certain companies, the location and relation between the phone calls, to question witnesses, and to rebut evidence which has been put forward. They emphasised that they need an expert to perform such tasks, especially for the telecommunications phase of the Prosecution case and Nashabe has performed his tasks well. The Defence teams stated they would like to continue working with him.

On 15 October, the Trial Chamber continued to hear the Prosecution case, which connects certain properties to specific phones used by the Accused in or around those properties. The Prosecution presented evidence in relation to the property it claims is associated with Oneissi and showed bank records it received from the Special Investigation Commission in Lebanon in relation to Oneissi. The Prosecution additionally presented documents concerning two real estate properties relevant to Merhi. The documents came as a result of a request for assistance from the Lebanese Directorate General for Real Estate Affairs. It also presented subscription documents from the Électricité du Liban in relation to these properties.

On 16 October, the Trial Chamber continued to hear from the Prosecution about the properties of Merhi. The Prosecution showed files it received from the General Secretariat of the Council of Ministers, relating to housing damage compensation claims submitted by Merhi and his father, to the Rebuild Lebanon Recovery Project established by the Council of Ministers of the Government of Lebanon following the 2006 conflict. The Prosecution also tendered two lease contracts for properties in Lebanon, indicating that the tenant's name is Merhi's father. The Prosecution indicated its intent to rely on these documents, along with other evidence, to attribute phones to Merhi, based on the frequency these phones were used in or around the areas of the properties in question.

The Prosecution also relied on Rebuild Lebanon Recovery Project documents, including a compensation claim, to establish the location where the father of another Accused, Sabra, lived during the relevant time periods. Another set of documents allegedly proved the location of the home of Sabra's wife, her grandfather and her father. According to the Prosecution, these documents assist, along with other evidence, in attributing the alleged phones to Sabra, based on the frequency the phones used in or around the areas of the properties in question.

The Legal Representative for Victims (LRV) provided his submissions on the joint Defence request for the modification to Nashabe's assignment. The LRV, when discussing the possible impact of the modification of the appointment on the victims, noted that the Defence has numerous opportunities to object to the victims' protective measures or to seek an order permitting disclosure of their identities to an investigator, who was not permitted to have access to them, but they have not done so. The LRV argued that he would oppose a blanket relaxation of the conditions of Nashabe's contract with the STL permitting him access to confidential material, but they would accept an application on a case-by-case basis to disclose information, provided the LRV would be consulted on its position.

On 23 October, the Trial Chamber issued a decision concerning the assignment of Nashabe to assist the Defence Counsel in their preparations for trial. First, it considered whether, in the absence of express statutory regulation, a Chamber, in the interest of justice and to guarantee a fair trial, may vary the administrative or judicial orders of another Judge or Chamber. The Chamber determined that it could. The Chamber then considered whether it should intervene and if it could only do so after all other available measures have been exhausted. The Chamber concluded that Defence Counsel had exhausted all available remedies before the Tribunal's President and that the Chamber had the ability to intervene pursuant to Article 16 of the Statute, Rule 130 (A). However, the Chamber was not persuaded that it should intervene in the manner suggested by Defence Counsel. instead, it would evaluate giving Nashabe access to certain confidential

information on a case-by-case basis. The Trial Chamber agreed with the Registrar's proposal that Nashabe undergo a security risk assessment before receiving access to confidential information.

Contempt Case against Al Jadeed S.A.L. and Al Khayat (STL-14-05)

In the Contempt Case against Al Jadeed [CO.] S.A.L./New TV S.A.L (N.T.V.) and Karma Mohamed Tahsin Al Khayat (STL-14-05), on 5 October, the *Amicus Curiae* Prosecutor (*Amicus*) filed a notice of appeal against the Judgment of the Contempt Judge, Nicola Lettieri, of 18 September in the case STL-14-05. Karma Al Khayat and Al Jadeed S.A.L. were each charged in the Order *in lieu* of Indictment of 31 January 2014, with two counts of contempt and obstruction of justice under Rule 60 *bis* of the Tribunal's Rules of Procedure and Evidence (RPE). In the Judgment, the Judge acquitted Khayat of Count 1 and convicted her under Count 2. He acquitted Al Jadeed S.A.L. of both counts.

Under Count 1, Al Jadeed S.A.L. and Khayat were charged pursuant to Rule 60 *bis* (A) with knowingly and wilfully interfering with the administration of justice, by broadcasting and/or publishing information on purported confidential witnesses in the Ayyash *et al*. case, thereby undermining public confidence in the Tribunal's ability to protect the confidentiality of information about, or provided by, witnesses or potential witnesses. Under Count 2, Al Jadeed S.A.L. and Khayat were charged pursuant to Rule 60 *bis* (A) (iii) with knowingly and wilfully interfering with the administration of justice, by failing to remove from Al Jadeed TV's website and its YouTube channel information on purported confidential witnesses in the Ayyash *et al*. case, thereby violating an order issued by the STL's Pre-Trial Judge on 10 August 2012.

The *Amicus*'s notice identified 22 grounds of appeal, arising from supposed legal and/or factual errors in the Judgment related to the acquittals of Khayat under Count 1 and Al Jadeed S.A.L. under both counts.

On 6 October, Judge Lettieri issued a written decision providing reasons for the Sentencing Judgment with respect to Khayat. This decision followed the sentencing hearing on 28 September, in which the parties argued what they thought the appropriate sentencing should be. During the hearing, the *Amicus* asked for a 100,000 Euros fine and a one-year prison sentence for Khayat. Defence Counsel for Khayat submitted that the conviction itself was adequate punishment. At the end of the hearing, the Judge sentenced Khayat to a fine of 10,000 Euros. On 20 October, the *Amicus* filed an Appeal Brief against the Contempt Judge's Judgment, expanding on the grounds of appeal identified in the notice of appeal and requesting that the Appeals Panel overturn the Judgment, in part, and enter convictions for Khayat under Count 1 and Al Jadeed S.A.L. under both counts.

On 21 October, the *Amicus* filed a notice of appeal against the Sentencing Judgment. In the notice, the *Amicus* provided eleven grounds of appeal, arising from alleged legal and/or factual errors by Judge Lettieri in determining the sentence. The *Amicus* requested the Appeals Panel to correct the alleged errors and impose an appropriate sentence against Khayat. Also on 21 October, Defence Counsel for Khayat submitted a notice of appeal against the Judgment with respect to the conviction of Khayat. In the notice, the Defence provided five grounds of appeal, arising from alleged legal and/or factual errors by Judge Lettieri. Defence Counsel requested the Appeals Panel to correct the errors of law, reassess the relevant evidence and reverse Khayat's conviction.

Contempt Case against Akhbar Beirut S.A.L and Al Amin (STL-14-06)

On 14 October, Contempt Judge Nicola Lettieri ordered the trial in case STL-14-06 to start on 28 January 2016. Ibrahim Mohamed Ali Al Amin and Akhbar Beirut S.A.L are each charged with one count of contempt and obstruction of justice under Rule 60 *bis* of the Tribunal's RPE. The initial appearances of the Accused were held on 29 May 2014. Judge Lettieri entered non-guilty pleas on behalf of the Accused. In the same order, the Judge scheduled a Pre-Trial Conference for 11 December at 15:30 (CET).

DEFENCE ROSTRUM

Netherlands Taken To European Court of Human Rights over Srebrenica

By Claire Smith

On 26 October, lawyers for Hasan Nuhanović and the family of Rizo Mustafić filed a complaint to the European Court of Human Rights (ECHR), against the Netherlands for the Dutch Government's alleged failure to properly investigate the role of its peacekeeping commander Tom Karremans, his deputy Rob Franken and personnel officer Berend Oosterveen, in the deaths of the applicants' families in Srebrenica in July 1995.

The complaint alleges a failure of the procedural obligation to investigate fatal incidents, as a violation of Article 2 of the European Convention of Human Rights (ECHR). The complaint comes as a result of Dutch prosecutors declining to bring charges in 2013 against the three senior Dutch officers that were on duty at the United Nations protected enclave at the time the three victims were killed by the Bosnian Serb army.

It is well established that the jurisprudence of Article 2 of the ECHR implies a positive procedural obligation, including the duty for states to investigate deaths that may have occurred in breach of the Convention. The purpose of such an investigation is to ensure the effective implementation of domestic laws that protect the right to life, and in cases involving state agents or bodies, to ensure accountability for deaths that have occurred under their responsibility. In order to discharge this positive obligation, an investigation must be independent, effective, expedient, accessible and transparent to both the relatives of the victims and the public. In this instance, effectiveness is inherently linked to the capability of an investigation, in determining whether the force used was justified and to the identify those responsible.

The lawyers acting for the families allege that the Military Chamber incorrectly imputed the level of criminal participation in the crime, as an influencing factor on the required vigour of the investigation. Secondly, they alleged that the Military Chamber was incorrect to create a sliding scale linking the number of causalities to the level of investigation. Thirdly, the claimants alleged that neither the Public Prosecution Service (PPS) who conducted the investigation nor the Military Tribunal, as the court overseeing the investigation, were free from influence. Rather the Ministry of Defence exerted pressure not to prosecute suspects. This pressure effected the expeditiousness of the investigation and ultimately led to the decision not to bring criminal proceedings against Karremans *et al.*. The complaint also alleges deficiencies in the effectiveness of the investigation, including a failure by the PPS to allow the applicants to provide first-hand testimony on the alleged crimes, or to interview the accused on the relevant events, or to use its power to compel the Ministry of Defence to disclose relevant information. Additionally, the complaint alleges that the Military Chamber failed to use its power to compel the PPS to disclose the advice of the Reflection Chamber and other relevant evidence.

Members of the DutchBat

Both Nuhanović and the family of Mustafić have pursued alternative avenues against the Dutch Government in their search for justice for Srebrenica. In 2008, the District Court of The Hague denied their civil claim that sought to hold the Netherlands liable for failing to prevent the massacres in and around Srebrenica in July 1995, and that the Dutch State had committed war crimes, was involved in the ensuing genocide and violated fundamental human rights, by handing the claimants' family members over to the Bosnian Serb forces. The Court held that the Dutch Government could not be held responsible, as the peacekeepers operating in Bosnia were under a United Nations operational command and control.

The Dutch Court of Appeal in The Hague effectively reversed the District Court Decision in 2011, holding that the DutchBat acted unlawfully in evicting two of the victims, which in turn triggered legal responsibility for the deaths of the male victims, and that the wrongs could be attributed to the Netherlands. The Court of Appeal applied human rights obligations abroad, on the basis that the International Covenant of Civil and Political Rights (ICCPR), had been incorporated into the domestic law of Bosnia and Herzegovina and that the provisions of the ICCPR and

ECHR amounted to rules of customary international law that were binding extraterritorially. Further, the Court of Appeal found in relation to dual attribution, that it was possible that both the Netherlands and the United Nations had "effective control" over the same conduct however when attributing the conduct to the Netherlands, it in no way determined the effective control of the United Nations. This decision was upheld by the Supreme Court in 2013, which in the light of the evolution of the jurisprudence went further in its discussions of extraterritorial application of human rights obligations.

This is not the first time the ECHR has received complaints in relation to the Srebrenica Genocide. In 2013, the ECHR unanimously declared that an application filed by the Mothers of Srebrenica against the Netherlands was inadmissible. The complaint was filed on the basis that the Dutch Court's decision to declare their case against the United Nations inadmissible, on the grounds that the United Nations has immunity from domestic court jurisdiction, which violated the applicant's right of access to a court. The ECHR rejected the complaint as manifestly ill-founded, given that United Nations immunity serves a legitimate purpose, and to allow military operations under Chapter VII of the Charter of the UN within the scope of national jurisdiction, would be detrimental to the ability of the UN to secure international peace and security. The Defence Ministry has rejected the new case as unfounded.

The Establishment of an Association of Counsel at the International Criminal Court

By Hannah McMillen

The International Bar Association (IBA), based in the Peace Palace in The Hague, has published a discussion paper on the formation of an Association of Counsel at the International Criminal Court (ICC) in order to clarify key issues in the dialogue surrounding representation of Defence Counsel before the Court. Drawing from the experiences of the Association of Defence Counsel practising before the International Criminal Tribunal for the former Yugoslavia and representing Counsel before the Mechanism for International Criminal Tribunals (ADC-ICTY) and the Defence Office of the Special Tribunal for Lebanon (STL), the paper posits that an independent, representative Association of Counsel with adequate funding from a neutral source is essential to promoting effective court operations and the equality of arms. Though from the outset, the paper specifies that the establishment of an Association of Counsel in no way obviates the need for an internal independent Defence Office as demonstrated by the example of the STL, such an association at the ICC would be a unique addition to defence rights before international tribunals, being the only permanent lawyers' association of its kind.

The paper discusses several issues that have plagued both established representatives of Defence Counsel, such as the ADC-ICTY, and have impeded the progress of founding an Association of Counsel at the ICC heretofore. These include matters of establishment, mandates, funding, relation to other court organs and to external bodies, as well as discussions surrounding inevitable cultural and legal background differences among diverse association members. In addressing these, the paper highlights salient features of the ADC-ICTY's establishment and the challenges it has overcome to earn its place at the table, where it is now "the main bastion for defence rights" before the ICTY and the Mechanism for International Criminal Tribunals (MICT). It also emphasises points of divergence between the ADC-ICTY and the proposed ICC Association of Counsel, with particular reference to the role of the ICC's governing body, Association of States Parties (ASP), and to the possibility that an Association of Counsel at the ICC would need to encompass both Defence Counsel and Counsel representing victims' interests in a formalised, yet discrete structure.

ADC-ICTY President Colleen Rohan is quoted in the text as saying that "in order for the ICC to achieve international validity, the Court must be seen to properly and fairly adjudicate the cases before it. This requires institutional integrity and, in real terms, recognition that the Defence, like the Prosecution, is integral to the Court process. This is beyond the competence of the Registry. The ICC is a court, not a bureaucracy. The existence of a strong, independent defence office and of a professional association of counsel is fundamental". In so speaking, she echoes the paper's conclusions that both a Defence Office, à la the STL, and an Association of Counsel to advocate for the interests of individual Defence Counsel, are both necessary to the exercise of the profession at the

ICC and elsewhere. The paper advocates for maintaining or expanding the current resources and mandate of the ICC's Office of Public Counsel for the Defence (OPCD), to potentially fill the former role, and urges continued dialogue between court officials, professional legal associations and engaged nongovernmental organisations in order to establish the latter, "to the benefit of the ICC in particular and international criminal justice in general".

'70 Years' Nuremberg' Lecture

By Marie Sherwood

On 14 November, interns from the Association of Defence Counsel practising before the International Criminal Tribunal for the former Yugoslavia (ADC-ICTY attended a lecture at the Peace Palace Library, commemorating the 70th Anniversary of the Nuremberg Trials held in Germany. The lecture asked its participants to reflect on the lessons from the Nuremberg Trials which began 70 years ago, on 20 November 1945.

The Nuremberg Trials were the first international war crime proceedings ever held, which bought closure to World War II and paved the way for justice to both the victims and the Accused of international conflicts. The Trials established the precedent for individual criminal responsibility under international law and laid the foundation for the creation of the international criminal tribunals and courts. The Peace Palace has held the archives of the International Military Tribunal for the Nuremberg Trails since 14 March 1950.

At beginning of the lecture, Jeroen Vervliet, Director of the Peace Palace Library, allowed for a moment of silence to commemorate the victims of the terrorist attacks in Paris, which had occurred just 24 hours prior.

Jeroen Vervliet

The first speaker of the event, H.E. Justice Shireen Avis Fisher for the Residual Special Court of Sierra Leone (RSCSL), spoke on the topic of 'The Development of Gender Based Crimes against Women under the Rules of International Law'. Justice Fisher accredited the proceedings of the Nuremberg Trials to have triggered the efforts of international courts and tribunals to acknowledge gender based crimes under international humanitarian law. Prosecutors during the Nuremberg Trials did not confront the evidence of sexual violence, as they were seen as inevitable aspects of war and not comparable to other alleged war crimes committed by the accused. It was not until several years later, that researchers began noticing a pattern in the trial archives that led to the unearthing of hundreds of documents, witness testimonies and video footage, pertaining to what we now identify as gender-based crimes.

Justice Fisher claimed that the Prosecutors of the Nuremberg Trials did not confront the evidence of sexual violence, as they were seen as inevitable aspects of war and not comparable to other alleged war crimes committed by the Accused. Justice Fisher acknowledged that it was not until several years later, when researchers were reviewing the trial archives, that they began to notice a pattern that led to the unearthing of hundreds of documents, witness testimonies and video footage, pertaining to what we now identify as gender-based crimes. Justice Fisher has accredited the finding of these documents to have played a role in the efforts of international courts and tribunals in acknowledging gender based crimes under international humanitarian law.

H.E. Justice Shireen Avis Fisher

The second speaker, Judge Howard Morrison of the ICC and the ICTY, spoke on the topic of 'Crimes of Aggression in the Nuremberg Trial and the Development of this Crime.' Judge Morrison began by stating that his speech was from a personal perspective. He argued that if it had not been for the Nuremberg Trials, we would not have seen the development of *ad hoc* tribunals, the International Criminal Court or the Rule of Law. The Nuremberg Trials showed humanities absolute determination to apply the Rule of Law, even under the most difficult of circumstances.

Judge Morrison noted that World War I was meant to have been a war to end all wars, instead we have seen the formation of even more autocracies and injustices, throughout World War II, Korea, Vietnam, Af-

ghanistan, Iraq and other international and national wars, including what has recently taken place in Paris. He contends that we will need to change our approach in order to meet the new challenges that are going to arrive as a result of these wars and changing democracies. He believes that we will see new wars emerging in the next hundred or so years as the environment changes, wars will be fought over food, water, living space etc. and that humanity will need to adapt in order to survive.


Judge Howard Morrison

Judge Morrison argues that it would be incorrect to believe that international criminal law is coming to an end; on the contrary it is only just beginning. He contends that contemporary society is capable of the most enormous advances in history, but we choose to turn away from ending conflicts. He asserts that for those affected by these conflicts, what must prevail is the Rule of Law and fairness of the proceedings in the courts, meaning that politics stops at the court door.

Judge Morrison continues his lecture by describing the role of the Defence in court procedures, arguing that the Defence is a core part of the Rule of Law and should be treated as such. He argues that all accused persons should have the presumption of innocence and the right to a fair trial, but as the Defence is not a part of the ICC or the ICTY, the Accused do not always have access to the same resources or time, as the Prosecution has. He argues that this needs to change and that courts need to remember that they are not setting out to change the world; they are here to enforce the Rule of Law and justice.

Judge Morrison concluded his lecture by inspiring the younger generation in the room, by claiming that they can do anything they want if they put their mind to it. They will be the ones who are going to make the biggest difference, as they are faced with the many challenges of our changing world.

The final lecturer of the afternoon was Dr. Axel Fischer, researcher at the Philipp University of Marburg, Germany, who spoke on the topic of "International Criminal Law as a Success Story and the Nuremberg Trial Films from the U.S. Authorities".

Fischer began his lecture by explaining that the Nuremberg Trial films where made by the U.S. authorities in order to keep the German public informed of trial proceedings and to narrate to the American public the details of the U.S. occupation in West Germany. The films also served as a reminder that the Accused had not been executed because they had a right to a fair and orderly trial. These trials were the Accused' and witnesses stories of the events of World War II and this needed to be shared with a worldwide audience.

Fischer claimed that the films attempted to create an impression of fairness in the trial, by focusing on the testimonies of the Accused and also their prosecution. The films were not meant to be a propaganda piece, but an emphasis on the need for a strong enforcement of international criminal law in times of conflict.

Fischer told the audience that after the trials, the German public was asked "to what extent they believed that it was a fair trial?", to which the majority of the German public answered that they believed it was a very fair trial. However, in a follow up the German public was asked "whether they believed there would be different verdicts in the judgments of the accused", to which the majority of the German public responded no, they believed all of the Accused would be executed. At the conclusion of the trials of 22 Nazi Leaders; eleven were executed, three were given life imprisonment, four were given imprisonment ranging from 10 to 20 years and three were acquitted.

Fischer concluded his lecture by asserting that trials, regardless of the costs involved, are necessary in combating impunity and enforcing justice. In the case of the Nuremberg Trials everyone assumed that the Accused were guilty, but their guilt needed to be determined in a constitutional way, through the presumption of innocence and the enforcement of the Rule of Law.

On the 70th Anniversary of the Nuremberg Trials, we can reflect on the many lessons the events have taught us and of lessons that we are still learning today.

ADC-ICTY Conference on the Situation of Defence Counsel at International Criminal Courts and Tribunals

Date: 5 December 2015

Time: 9:00 - 17:30

Location: Bel Air Hotel, The Hague

Registration: adcicty.events@gmail.com

Fee: 35 Euros *(including coffee breaks)*

(20 Euros for ADC-ICTY members, students and unpaid interns)

Lunch: 15 Euros per person *(upon reservation)*

This one-day conference will focus on the situation of Defence Counsel at International Criminal Courts and Tribunals and will feature four distinguished panels on various topics in relation to the role and importance of the Defence.

The Keynote Speech, No Justice Without Defence Counsel, will be given by Judge Prof. Dr. h.c. Wolfgang Schomburg, and Closing Remarks will be delivered by ADC-ICTY President, Colleen M. Rohan. Panelists include renowned Defence Counsel, Judges and representatives from various international criminal courts and tribunals.

It is possible to obtain credits for continuing legal education purposes.

Join us for the **ADC-ICTY's Annual Drinks and Christmas Party** at Hudson's Bar & Kitchen in The Hague on 5 December 2015 from 8 PM onwards.

For further information please contact the ADC-ICTY Head Office at: adcicty.events@gmail.com and visit http://adc-icty.org/home/opportunities/annual%20conference.html.

ADC-ICTY Conference Programme

5 December 2015 - Bel Air Hotel, The Hague

09:00 - 09:15 Keynote Speech - ***No Justice without Defence Counsel***

Judge Prof. Dr. h.c. Wolfgang Schomburg

09:15 - 10:45 Panel 1 - ***The Role of Defence Counsel at International Criminal Courts and Tribunals***

Moderator: Christopher Gosnell

Panelists: Marie O'Leary
Judge Alphons Orie
Judge Janet Nosworthy

11:15 - 12:45 Panel 2 - ***The Necessity of a Defence Office from the International and National Perspective***

Moderator: Jens Dieckmann

Panelists: Héleyn Uñac
Xavier-Jean Keïta
Nina Kisić

13:45 - 15:15 Panel 3 - ***The Importance of a Bar Association for International Criminal Courts and Tribunals***

Moderator: Dominic Kennedy

Panelists: Colleen Rohan
Fiana Reinhardt
Michael G. Karnavas

15:45 - 17:15 Panel 4 - ***The Future of Defence Counsel on the International and National Level***

Moderator: Dragan Ivetić

Panelists: Gregor Guy-Smith
Judge Howard Morrison
Novak Lukić

17:15 - 17:30 Closing Remarks – Colleen Rohan

For further information and to register for this conference, please visit: http://adc-icty.org/home/opportunities/annual%20conference.html or send an email to adcicty.events@gmail.com

BLOG UPDATES AND ONLINE LECTURES

Blog Updates

Michael Karnavas, **"Attorney-Client Privilege - Part V: Other Privilages in International Criminal Tribunals"**, 8 Novemeber 2015, available at: http://tinyurl.com/pnqgb7d

Mirjana Kosic, **"Lessons of the Balkan Refugee Crisis"**, 11 November 2015, available at: http://tinyurl.com/nvfbq87

Julian Ku, **"Should the U.S. Even Bother to Invoke Article V of the North Atlantic Treaty After Paris?"**, 16 November 2015, available at: http://tinyurl.com/a92yhy

Online Lectures and Videos

"Surveillance Law", by Jonathan Mayer, 20 January 2015, available at: http://tinyurl.com/lv8x07f

"International Law in Action", by Larissa van der Herick, Yannick Radi and Cecily Rose, 18 January 2015, available at: http://tinyurl.com/o56almy

"International Human Rights Law in Comparative Perspective: How the Individual Has Been Protected From Both Public and Private Power"., by Olivier De Schutter, starting in 29 February 2016, available at: http://

PUBLICATIONS AND ARTICLES

Books

Zawati, Hilmi M. (2015). **Fair Labelling and the Dilemma of Prosecuting Gender-Based Crimes at the International Criminal Tribunals**, Oxford University Press.

Viebig, Petra (2015). **Illicitly Obtained Evidence at the International Criminal Court**, T.M.C. Asser Press.

De Vos, Christian, Sarah Kendall & Carsten Stahn (2015). **Contested Justice - The Politics and Practice of International Criminal Court Interventions**, Cambridge University Press.

Articles

Stolk, Sofia (2015). **"The Record on Which History Will Judge Us Tomorrow"**, Leiden Journal of International Law, Volume 28 Issue 4.

Gattini, Andrea & Cortesi, Giulio (2015). **"Some New Evidence on ICJ's Treatment of Evidence: The Second Genocide Case"**, Leiden Journal of International Law, Volume 28 Issue 4.

de Serpa Soares, Miguel (2015). **"An Age of Accountability"**, Journal of International Criminal Justice, Volume 13 Issue 4.

CALLS FOR PAPERS

The 1st KIIT Bhubaneshwar's National Conference on International Law has issued a call for papers on the topic "Contemporary Issues and Challenges".

Deadline: 28 November 2015 More Info: http://tinyurl.com/nmvozt6

The European Journal of Law and Political Sciences has issued a call for papers for its upcoming journal issue on the topic "Contemporary law, politics and political science".

Deadline: 30 November 2015 More Info: http://tinyurl.com/pn93y75

The European Society of International Law 2016 Research Forum has issued a call for papers on the topic "Beyond the Western Paradigm? Towards a Global History of International Law".

Deadline: 15 January 2016 More Info: http://tinyurl.com/pdy2r8d

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For more info visit:

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

or email:

iduesterhoeft@icty.org

EVENTS

Peace in the Middle East: Has International Law Failed?
Date: 2 December 2015
Location: T. M.C. Asser Institute, The Hague
More Info: http://tinyurl.com/pq2g398

Discussion on the EU's Forthcoming Global Strategy on Foreign and Security Policy: Common Rules in an Age of Power Shifts
Date: 8 December 2015
Location: Hague Institute for Global Justice, The Hague
More Info: http://tinyurl.com/oyug4pl

European Lawyers' Seminar on Freedom of Expression
Date: 10 December 2015
Location: The Law Society, London
More Info: http://tinyurl.com/okourp3

Inside the International Law Commission: Towards a Convention on Crimes Against Humanity
Date: 16 December 2015
Location: T. M.C. Asser Institute, The Hague
More Info: http://tinyurl.com/one7805

OPPORTUNITIES

Legal Officer (P-3)
International Criminal Tribunal for the former Yugoslavia
Office of the President, The Hague
Closing Date: 26 November 2015

Assistant Appeals Counsel (P-3)
Residual Mechanism for International Criminal Tribunals
Office of the Prosecutor, The Hague
Closing Date: 4 December 2015

Intern - Legal Affairs (I-1)
International Criminal Tribunal for the former Yugoslavia
Chambers, The Hague
Closing Date: 7 January 2016

Legal Counsel
International Bureau of the Permanent Court of Arbitration
Office of the Secretary-General, The Hague
Closing Date: Ongoing