ADC NEWSLETTER
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ICTY CASES

Cases at Trial

Hadžić (IT-04-75)

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ICTY NEWS

Judge Agius and Judge Liu Elected President and Vice-President of the ICTY

On 21 October, the Extraordinary Plenary Session elected Judge Carmel Agius of Malta as the new President of the International Criminal Tribunal for the former Yugoslavia (ICTY). Simultaneously, Judge Liu Daqun from China was elected as Vice-President of the Tribunal. Both will start their two-year term on 17 November.

Judge Agius has been serving as Vice-President of the Tribunal since 2011. He was elected to the Tribunal in 2001 and re-elected in 2004. Judge Agius serves as an Appeals Chamber Judge for both the ICTY and the International Criminal Tribunal for Rwanda (ICTR). Since 2003 he has been a member of the ICTY Rules Committee and has served as a member of the Tribunal's Bureau. He coordinated and contributed to the drafting of the Rules of Procedures and Evidence (RPE) of the Mechanism for International Criminal Tribunals (MICT) and was elected as a Judge of the Mechanism in 2011.

Judge Liu Daqun was appointed as an ICTY Judge in 2000 and was re-elected in 2001 and 2004. He has also been serving in the Appeals Chamber for the ICTY and the ICTR as well as for the MICT. Judge Liu was Presiding Judge over the *Naletilić and Martinović*, *Blago-*


Judge Agius


Judge Liu

ICTY AND MICT NEWS

Also in this issue

jević and Jokić, and *Halilović* cases, among others, and is a member of the Appeals Chamber in all three current ICTY Appeals cases.

Both Judges were actively involved in the Rome Conference in 1998, and negotiated on behalf of their home countries in matters of the establishment of the International Criminal Court (ICC). Judge Liu was Chief Negotiator of the China Delegation, and Judge Agius signed the Final Document on behalf of Malta.

Prosecutor v. Mladić (IT-09-92)

On 19 October, Zorica Subotić, the Mladić Defence's ballistics expert, concluded her ten days of testimony which had spanned over a period of three working weeks, making her testimony the longest in the Mladić trial thus far. Subotić, who holds Bachelor's and Master's degrees in science specialising in Military Mechanical Engineering, has 35 years' experience as a Research Associate in the Ballistics Department, Sector for Conventional Weapons at the Military Technical Institute in Belgrade. She was called to The Hague to contest the Prosecutor's allegations with regards to the mortar shelling of Sarajevo, the attacks on the Markale Market and modified air bombs. Specifically, in the final week of her testimony, Subotić responded to questions from Prosecutor Adam Weber and Defence attorney Branko Lukić about the technical specifications of mortar missiles and modified bombs used during the conflict in Sarajevo.

Subotić's testimony responded to several aspects of the Prosecution case in three expert reports. The first report dealt with mortar attacks on civilian targets in Sarajevo, in which Subotić specifically analysed nine incidents included in the indictment and three which were not included. She contested the allegations that the shelling of civilians in Sarajevo was a deliberate and important component of the Bosnian Serb army's "terror campaign" against the city during the four-year siege. She stressed the errors made by the Bosnian police teams when investigating the artillery incidents in the city. In her second report, Subotić focused on the attacks on the Markale Market on 5 February 1994 and 28 August 1995, noting mistakes in the original investigations and discrepancies found at the sites of the explosions. Subotić contradicted the Prosecution's allegations, claiming that, given all the photographic evidence and technical specifications reviewed, the rounds were planted and activated from the ground. Finally, in her third report, Subotić analysed the use of modified air bombs during the conflict, with reference to nine particular incidents. Specifically, Subotić contested the Prosecution's argument that modified air bombs were highly indiscriminate weapons, arguing that these were as accurate as any other rocket artillery system and were used in Sarajevo against legitimate military targets in the city such as Bosnian Army (ARBiH) commands, rather than civilian targets.

During cross-examination, the Prosecutor attempted to suggest that Subotić based her findings on erroneous premises, to which Defence Counsel Lukić responded by allowing Subotić to invoke specific information from the documents and testimonies used in the expert reports. Upon the completion of Subotić's marathon testimony, the trial of Ratko Mladić was adjourned for the week of 12-19 October.

On 20 and 21 October, a former British United Nations Protection Force (UNPROFOR) officer testified as a protected Defence witness under a pseudonym and with image distortion. While much of his testimony was given in private session, part of its overall effect was to raise strong doubt as to the Serbs' responsibility for the shelling of the Markale Market in 1994. The witness stated that the totality of the evidence that became available through various official channels suggested that the bombing was not carried out by the Serbs. Alternative explanations that surfaced in the days following the massacre were that the shell detonated *in situ*, was dropped from the top of a building at the Market or was fired by a Mujahidin group. In addition, he described ARBiH tactics which effectively turned the suffering of Bosnian Muslims into an operational goal aimed to trigger international intervention. A prime example cited by the witness was the Bosnian Muslims denying approval for a water system, to be established in Sarajevo by the Soros Foundation, which would have returned running water to the city's households, thus stopping the exposure of civilians to Serb fire while collecting water from elsewhere. Furthermore, the witness described occasions in which the ARBiH engaged in provocation, exaggeration and the staging of events as part of its strategy to achieve international intervention. The witness stated that reports coming from the United Nations Military Observers (UNMOs) during his deployment proved extremely unreliable and biased against the Bosnian Serb Army. It was also clear to the witness that the ARBiH was receiving advice from the United States government, and that it was highly

unlikely that NATO would ever bomb ARBiH positions, whatever the circumstances.

On 22 October, an expert witness for the Defence, Dušan Dunjić, was expected to testify in court, but was found dead in his hotel room by a hotel staff member and a representative of the Tribunal. Emergency services personnel were immediately notified and ascertained Dunjić's death. Dutch authorities conducted an investigation, culminating in an autopsy, with a pathologist from Serbia in attendance to observe. As a result of the autopsy it was concluded that Dunjić died of natural causes.


Dušan Dunjić

Dunjić, born in 1950, was a forensic expert from Serbia, and testified in a number of cases before the Tribunal. He was an expert witness for the Prosecution in the trials of *Milan Milutinović et al.*, *Vlastimir Đorđević and Ramush Haradinaj et al.* In the trials of *Radovan Karadžić, Stanislav Galić, Dragoljub Kunarac et al.* and *Vujadin Popović et al.*, Dunjić testified as an expert witness for the Defence.

Prosecutor v. Hadžić (IT-04-75-T)

On 26 October, the Trial Chamber in *Prosecutor v. Goran Hadžić* issued its Consolidated Decision on the Continuation of Proceedings. In the decision, the Trial Chamber, Judge Hall dissenting, found that Hadžić's terminal brain tumour did not preclude Hadžić from effectively exercising his rights with the assistance of Counsel. Notwithstanding this finding, the Trial Chamber, after rejecting the various Prosecution proposals for resumption of the proceedings, ordered that the trial be stayed for an initial period of three months, determining that the factors in favour of resuming proceedings were not outweighed by "the inhumanity of a situation whereby Hadžić would live out the remainder of his life in detention while being presumed innocent or be released while on the verge of death".

The Trial Chamber ordered that the existing terms and conditions of Hadžić's provisional release continue, subject to amendments requiring Hadžić to consult with his treating physician in Serbia every two weeks, and instructing the Reporting Medical Officer (RMO) and the United Nations Detention Unit (UNDU) Medical Service to report to the Chamber on the medical condition of Hadžić at similar intervals.

In his partially dissenting opinion, Judge Hall noted that the examining neuro-psychologist Dr. Daniel Martell's expert opinion was that, though Hadžić possesses language abilities which are generally intact, demonstrating good reading comprehension and having no difficulties in normal conversation, his "brain tumour has caused severe impairments in many of the core cognitive skills required for him [to] grasp the essentials and participate effectively in the proceedings, and sufficiently exercise his identified rights". Hadžić scored in the bottom one percentile on tests of sustained attention and vigilance, verbal and visual memory, and the ability to recognise and process information. According to Judge Hall, these results, coupled with the expert opinion of medical oncologist Dr. Pol Specenier outlining the "dramatic" progression of the disease and the likelihood that Hadžić's neurological functioning would continue to decline "from week to week", establish that it is more likely than not that Hadžić is incapable of the meaningful participation required at this stage of the proceedings. Judge Hall, therefore, while affirming the majority Decision in every other respect, found Hadžić unfit to stand trial.

Prosecutor v. Stanišić & Župljanin (IT-08-91-A)

On 15 October, a Status Conference was held in the case of Stanišić and Župljanin, pursuant to Rule 65*bis* (b) of the Rules of Procedure and Evidence of the Tribunal. This was the 8th regular Status Conference in the appellate proceedings. Neither appellant raised issues about the conditions in the United Nations Detention Unit (UNDU) or about their health. Neither the Prosecution nor the Defence had any issues to raise except the need to establish a date of appeal. The Appellant Hearing was initially expected to be held in late 2014, but has been subject to ongoing delays, attributed to the turnover of staff as the Tribunal comes to an end. In this instance, Judge Agius, presiding, stated that the Appellate Hearing was unable to be scheduled for a combination of reasons including issues with judicial scheduling. Despite the delay, Judge Agius stated the appeals judgement would be rendered in June 2016, as previously planned. The Appellant Hearing has since been scheduled for 16 December.

Third Meeting of International Defence Offices

The Third Meeting of Defence Offices at the International Criminal Courts took place in Geneva on 22 and 23 October, hosted by Jean-Marc Carnicé, President of the Geneva Bar, Christine Chappuis, Dean of the Faculty of Law at the University of Geneva, and Nicolas Michel, President of the Board of the Geneva Academy of International Humanitarian Law and Human Rights. The Meeting was chaired in turn by Colleen Rohan, President of the Association of Defence Counsel (ADC-ICTY), François Roux, Head of the Defence Office at the Special Tribunal for Lebanon (STL), Iain Edwards, member of the Bar of England and Wales and Defence Counsel before the STL, Salim Jreissati, member of the Beirut Bar Association and former Minister of the Constitutional Council of Lebanon, and George Jreij, President of the Beirut Bar, the latter of whom took the occasion to make an appeal to Lebanon to ratify the Rome Statute creating the International Criminal Court (ICC). The Official Statement is as follows:

FINAL STATEMENT OF THE THIRD MEETING OF DEFENCE OFFICES AT THE INTERNATIONAL CRIMINAL COURTS

1. The Third International Meeting of Defence Offices ("Meeting") took place on 22 and 23 October 2015 at the University of Geneva, Switzerland. In attendance were the representatives of the Defence Offices and Sections, hereinafter referred to as the "Representatives", as well as lawyers and professional associations of lawyers, hereinafter the "Profession".

2. The Meeting was hosted by Mr. Jean-Marc Carnicé, President of the Geneva Bar, Ms. Christine Chappuis, Dean of the Faculty of Law of the University of Geneva and Mr. Nicolas Michel, President of the Board of the Geneva Academy of International Humanitarian Law and Human Rights.

3. The Meeting was chaired in turn by Mr. Iain Edwards, Member of the Bar of England and Wales and Defence Counsel before the STL, Ms. Colleen Rohan, President of ADC -ICTY, Mr. Salim Jreissati, Lawyer member of the Beirut Bar Association, former Minister and former member of the Constitutional Council of Lebanon, M. François Roux, Head of the Defence Office of the STL and M. George Jreij, President of the Beirut Bar.

4. The Meeting was closed by Mr. Nicolas Michel who made a presentation on the role of the United Nations in the creation of the international criminal tribunals.

5. The Meeting was honoured to hear on that occasion M. George Jreij, President of the Beirut Bar, who made a solemn appeal to Lebanon to ratify the Rome Statute creating the International Criminal Court.

6. The Meeting resulted in the following final statement:

7. Following the debate that took place during the Second International Meeting in The Hague in December 2014, the Representatives noted with satisfaction the ongoing creation of an association of lawyers practicing before the International Criminal Court.

8. They reiterated that the interlocutor of this association within the Court must not be the Registry but a Defence Office as an independent body on an equal footing with the Office of the Prosecutor, following the example of the STL.

9. The Representatives have heard the concerns of the Profession about the need for practical and effective respect of adversarial proceedings and equality of arms before all jurisdictions whether national or international.

10. The independence of lawyers as a guarantee of a fair trial was also reaffirmed by the Profession, as was the importance of the defence of the Defence.

11. The Representatives and the Profession recalled the crucial role of the Defence as a pillar of criminal proceedings and therefore of justice.

12. The Profession further expressed the need for special support when lawyers are in charge of representing accused against their will or without them.

13. The Profession renewed its concerns on the situation of persons acquitted before the International Criminal Tribunals and specifically requested the assistance of the Representatives to solve this critical issue.

14. The Representatives expressed their support to the Profession to ensure the training of lawyers in new technologies and investigations.

15. Finally, according to the wishes expressed during the Second Meetings, it was decided to set up coordination between all institutions to follow up on the issues raised. The STL Defence Office was mandated to implement this coordination.

16. The Representatives and the Profession have expressed their gratitude to the Geneva Bar and the Faculty of Law at the University of Geneva for hosting the Third International Meeting particularly in this city of Geneva where the first Geneva Convention was signed on 22 August 1864.

17. Having been received by Mr. Pierre Maudet, State Councillor responsible for Security and the Economy of the Canton of Geneva, in the Alabama Room where the first Geneva Convention was signed, the Representatives and the Profession reiterated that, strengthening the Defence and empowering it to exercise its mission, is firmly within the spirit of the Geneva Conventions.

This statement will be sent by the organisers to the competent authorities.

Geneva, the 23rd of October 2015

MICT News

Prosecutor v. Drago Nikolić (MICT-15-85-ES.4)

A decision on the early release of Drago Nikolić has been made available in its public redacted version as of 13 October. Nikolić surrendered to the International Criminal Tribunal for the former Yugoslavia (ICTY) on 15 March 2005. On 20 April 2005, he pleaded not guilty to all charges in his indictment; however, in June 2010, Nikolić was found guilty of aiding and abetting genocide, of extermination and persecution as crimes against humanity, and of murder as a violation of the laws or customs of war and was sentenced to a single term of 35 years' imprisonment. Though the ICTY Appeals Chamber reversed his convictions in part on 30 January, it affirmed his 35-year sentence.

Drago Nikolić applied for early release or in the alternative that he be allowed to serve the remainder of his sentence at his place of residence in Serbia. The matter was decided on 20 July. Rule 151 of the Rules of Procedure and Evidence of the Mechanism (RPE) provides that the following must be considered when determining pardons, commutation of sentence, or early release: the gravity of the crime or crimes for which the prisoner was convicted; the treatment of similarly-situated prisoners; the prisoner's demonstration of rehabilitation; and any substantial cooperation of the prisoner with the Prosecution. In addition, the President can consider any other humanitarian matters that might weigh into the decision as per paragraph 9 of the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation or Sentence, and Early Release of Persons Convicted by the ICTR, the ICTY or the Mechanism ("Practice Direction").

The President first considered the gravity of Nikolić's crimes and determined that it is very high. The Trial Chamber had previously determined that he "played an important role" and that his contribution was "persistent and determined". The President decided that the gravity of his offences weighed against his early release.

The President determined that the definition of "similarly-situated" in this case would refer to all other prisoners under the Mechanism's supervision. Such prisoners are eligible for consideration of early release upon serving two-thirds of their sentence.

However, paragraph 3 of the Practice Direction also allows a prisoner to directly petition the President of the Mechanism for pardon, commutation of sentence, or early release even before this two-thirds time frame – Nikolić would fall into this category. Despite this, the President decided that it was only in exceptional circumstances that early release before serving two-thirds of the sentence may be granted and decided that this factor did not weigh in favour of early release.

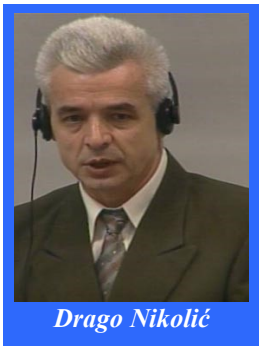
The latest behavioural reports concerning Nikolić determined that he had shown respect for management, staff, and other detainees. Additionally, at the end of his appeal hearing on 6 December 2013, Nikolić stated that he felt "deep regret and remorse for not having done more to prevent the killing of prisoners and said that he was truly sorry for all the people who were killed". The President considered this factor as weighing in favour of his early release.

Paragraph 4(c) of the Practice Direction directs the Prosecution to submit a report of co-operation by the convicted person and the significance of it. The Prosecution stated that Nikolić did not cooperate during the course of his trial, appeal or while serving his sentence. The President noted that an Accused is not required to cooperate with the Prosecution, and therefore this factor remained neutral.

In this outstanding section, the President considered the medical condition of Nikolić and determined that it has been relevant in almost all requests for early release and that after assessing the situation on a case by case basis, it factored in support of early release.

Having considered all of the above factors, the President decided that Nikolić did not merit early release. Additionally, the President denied Nikolić's request that the remainder of his sentence should be served under custody at his residence in Serbia. The President stated that allowing this would go against the wishes of the United Nations Secretary-General who indicated that the enforcement of sentences should take place outside the territory of the former Yugoslavia.

However, despite Nikolić not presenting the request, the President considered the option of pending release under Rule 68. The President departed from the *Radić* decision in considering provisional release even after final sentencing due to the particularly compelling humanitarian circumstances in this case. The President was satisfied that Nikolić did not pose a danger to any victim, witness or other person.


Drago Nikolić

Nikolić's release was scheduled to begin on 24 July or as soon as practicable thereafter, and to last until 25 January 2016. The following are some of the conditions that were attached to the release: Authorised official(s) of the Ministry of the Interior of the Republic of Serbia and shall keep Nikolić under their supervision and surveillance for the remainder of his release; Nikolić is required to remain within the confines of his residence in Banja Koviljača or the local hospital; Nikolić is not allowed to discuss his case with anyone beyond his Counsel; the expenses of the release are to be covered by the government of Serbia.

Drago Nikolić died on 11 October while on his release in Serbia. The Prosecution Appeal of the Decision Granting Early Release (27 July) was dismissed accordingly on 22 October.

Prosecutor v. Momir Nikolić (MICT-14-65-ES)

On 14 March 2014, Momir Nikolić was granted early release by Judge Theodor Meron, President of the Residual Mechanism for International Criminal Tribunals (MICT). A redacted version of the decision that was issued under seal became public on 12 October. The document, with varying degrees of redaction, addresses five criteria based on which his request was assessed.

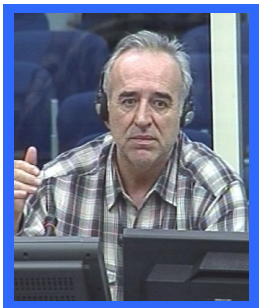
Nikolić was arrested on 1 April 2002 on charges of genocide, crimes against humanity and violations of the laws or customs of war. On 7 May 2003, an amended plea agreement was approved by the Trial Chamber. Nikolić pleaded guilty to Count 5, crimes against humanity of persecution on political, racial and religious grounds committed against Bosnian Muslims after the fall of Srebrenica to the Bosnian Serb army. In addition, he agreed to testify in other proceedings before the Tribunal – a promise he duly honoured in later cases. He was sentenced to 27 years' imprisonment by the Trial Chamber which was reduced to 20 years by the Appeals Chamber, and was transferred to prison in Finland.

According to Article 26 of the Statute of the Mechanism, "if, pursuant to the applicable law of the State

in which the convicted (...) is imprisoned, he or she is eligible for pardon or commutation of sentence, the State concerned shall notify the Mechanism accordingly". However, any decision on pardon or commutation of sentence may only be made by the President of the MICT. On 31 March 2012, Nikolić completed half of his sentence which, under Finnish law, made him eligible for conditional release on that date. Thus, on 2 September 2013 and pursuant to paragraph 3 of the Practice Direction (MICT/3 of 2 July 2012), Nikolić filed an application for early release before the MICT.

Further to Rule 151 of the Rules of Procedure and Evidence (RPE) of the MICT, in determining whether a pardon, commutation of sentence or early release is appropriate, the President shall consider, *inter alia,* four factors: 1) the gravity of the crimes for which prisoner was convicted, 2) the treatment of similarly-situated prisoners, 3) the prisoner's demonstration of rehabilitation and 4) his substantial cooperation with the Prosecution.

In addressing these criteria, President Meron found that the gravity of the crimes for which Nikolić was convicted had been deemed very high. In his assessment, the President relied on the Trial Chamber, which described the crimes committed in Srebrenica as "of an enormous magnitude and scale", highlighting their continuing impact upon the survivors and the vulnerability of the victims as an aggravating factor. This finding, together with Nikolić's substantial role in their perpetration, weighed against his early release. The same conclusion was reached after an assessment of the treatment of similarly-situated prisoners. In this respect, President Meron noted that prisoners under the supervision of the MICT are eligible – but not entitled – to early release only after serving two-thirds of their sentences. Nikolić, however, had not yet served two-thirds of his sentence.


Momir Nikolić

With respect to the third criterion, demonstration of rehabilitation, and further to paragraph 4(b) of the Practice Direction, President Meron relied his assessment on the Prison Report and the Mental Health Report, prepared by the prison authorities and the chief physician of the Criminal Sanctions Agency. According to these, Nikolić "has behaved extremely well", conducted himself with "dignity and extremely politely" and was considered "the most reliable prisoner in the prison". He maintained regular contact with his family and had a permanent maintenance job in the prison. He did not want to evade his guilt and could hardly be characterised as dangerous. These signs of rehabilitation were thus weighed in his favour.

The assessment of the fourth criterion, cooperation with the Prosecution, is heavily redacted. What is clear is that Nikolić's plea agreement and later cooperation with the Prosecution was considered. Finally, further to paragraph 9 of the Practice Direction and Rule 151 the President considered humanitarian concerns as an "other factor". In this respect, again, a substantially redacted explanation reveals only reference to previous decisions on early releases in which a prisoner's health was considered, especially when the seriousness of a condition made it inappropriate for the convict to remain in prison.

In light of the foregoing – and despite the MICT practice that a convicted person is only allowed to apply for early release upon completion of two-thirds of his sentence – Nikolić was granted early release.

Prosecutor v. Ljubiša Beara (MICT-15-85-ES.3)

On 28 May, in a decision that has only recently been made available to the public, the President of the Residual Mechanism (MICT), Judge Theodor Meron, ordered that Ljubiša Beara serve his sentence in a detention facility in the Federal Republic of Germany. Beara, a high ranking security officer with the Bosnian Serb Army, conviction and sentencing to life imprisonment for his role in the Srebrenica massacre was upheld by the Appeals Chamber in January 2015.

The cases serves as a further example that, notwithstanding the fact that its federal constitutional structure prevents it from entering into a formal agreement with the United Nations regarding the enforcement of sentences, Germany is willing to conclude agreements related to individual cases on an *ad hoc* basis. Beara's transfer to Germany has now been completed.

Prosecutor v. Kamuhanda (MICT-13-33)

Five new documents in the case *Prosecutor v. Jean de Dieu Kamuhanda* have been made publicly available since last month. On 28 September, the Second Motion for Access to Confidential *Inter Partes* Material from the *Nshogoza* Case was filed, the First Motion having been denied on the grounds that it was did not specify which confidential material was required. The Second Motion requests specifically (1) Exhibit P2 and (2) all transcripts of recordings or reports of interviews conducted by Special Counsel Loretta Lynch concerning the events at Gikomero Parish on 12 April 1994. Exhibit P2 is a list of names of persons who were involved in the case; during the trial, witnesses referred to people by number from this exhibit, rather than by their names, so as not to reveal the names of protected witnesses in public session. For instance, Witness GAA testified at trial that, "Sometimes I would meet number 8 and number 9 there, but every time I went to the meeting, I would go with number 64; I also travelled with number 10". This and many other instances is incomprehensible without access to Exhibit P2. Likewise, the interviews conducted by Special Counsel Loretta Lynch (who was retained by the Prosecution to investigate allegations of instigating and bribing witnesses to give false testimony) have never been disclosed to Kamuhanda, though their content bears directly on his case.

Also on 28 September, a Notice of Changes in Composition of Defence Team was filed pursuant to the 7 July 2000 Decision on the Prosecutor's Motion for Protective Measures for Witnesses. Therein Kamuhanda notified the Single Judge that Dick Prudence Munyeshuli of Rwanda, Jean-Martin Ndahirwe of Belgium, Leopold Nsengiyumva of the United States and Daniel Ntawumenyumunsi of Kenya have joined his Defence team as investigators and will be privy to confidential case information.

On 1 October, Kamuhanda filed a Notice of Appeal pursuant to Rules 90(J) and 108(I) on the Single Judge's Decision on Motion for Appointment of *Amicus Curiae* Prosecutor to Investigate Prosecution Witness GEK (16 September 2015) (the "Impugned Decision"). He raises a single ground of appeal: that the Single Judge erred in law when finding, in paragraphs 10 and 11 of the Impugned Decision, that he lacked jurisdiction to appoint an *amicus curiae* prosecutor, an error that invalidated the decision dismissing the motion.

On 7 October, an Order Assigning a Single Judge to Consider an Application Pursuant to Rule 86 was filed, wherein MICT President Theodor Meron assigned the consideration of Kamuhanda's Second Motion for Access to Confidential *Inter Partes* Material from the *Nshogoza* Case to Judge Vagn Joensen.

Lastly, on 15 October, Kamuhanda's Appeal on the Decision on Jurisdiction to Investigate Prosecution Witness GEK was filed, following the Notice of Appeal of 1 October. He expounds upon the contention that the Single Judge rendered an incorrect interpretation of governing law when holding that the Residual Mechanism lacked jurisdiction to initiate an investigation into allegations of contempt and false testimony occurring before the International Criminal Tribunal for Rwanda (ICTR) Appeals Chamber.

Prosecutor v. Uwinkindi (MICT-12-25)

On 25 September, the Prosecution submitted a motion to the MICT Trial Chamber in the case of the *Prosecutor v. Jean Uwinkindi* to strike the Reply made by the Defence on account of it exceeding the stipulated word count, that it was not filed within the specified time limit, and that the expert witness testimony annexed to the Reply introduces new evidence that had not been included on the original record of the Uwinkindi proceedings.

Regarding the alleged out-of-time filing, the Prosecution argues that the deadline for filings runs from the date of filing rather than from the date of service. Consequently, the deadline for Uwinkindi's Reply was 14 September, not four days later on 18 September, when the Reply was actually filed. Given that the Defence seems neither able to demonstrate good cause, nor did it formally request an extension, the Prosecution maintains that the Reply is "undeniably out of time".

Turning next to the alleged failure of the Defence to comply with the specified word count, the Prosecution argues that while the Reply reports a word count of 2986 words, having carried out a manual count it considers the actual word count to be closer to 5130 words. Given the significant discrepancy between the actual and reported word counts, the Prosecution

claims that Uwinkindi's Counsel has attempted to deliberately circumvent the word limit and as such has violated the Defence Counsel's duty of candour towards the Mechanism.

Finally, the Prosecution submitted that in the event that the Trial Chamber does not grant its request to strike Uwinkindi's Reply, it should, nevertheless, strike the Expert Report included as an annex on the basis that it cites new evidence outside the record of the Uwinkindi proceedings. This submission is premised upon the contention that unless expert evidence is already part of the case record, it cannot be included as an annex, since pursuant to Practice Direction MICT/11 paragraph 16, annexes are limited to "references, source materials, items from the record, exhibits and other relevant, non-argumentative material".

On 1 October, the Trial Chamber of the MICT issued its decision with respect to certain issues surrounding the order dated 28 June 2011, referring Uwinkindi's case to the national courts of the Republic of Rwanda. The decision addresses, *inter alia*, Uwinkindi's motion for a stay of proceedings before the High Court of Rwanda on the basis that his request for a revocation of the decision referring the case was still pending before the Mechanism.

Pursuant to Article 6(6) of the Mechanism's Statute, the Trial Chamber found that where a case has been referred to a national jurisdiction, the Mechanism retains the power to make a request for deferral provided that the conditions for the original referral of the case no longer be met. It notes, however, that there is no explicit provision in the Statute which provides that an order for a stay of proceedings be binding upon the State and as such can only issue a formal request to the State in question to comply with its wishes.

The Trial Chamber considered that in order to make a formal request to the Rwandan authorities, there must be exceptional circumstances demanding the intervention on the part of the Mechanism. Owing to the absence of any exceptional circumstances, the Trial Chamber found that there was no requirement for it to issue a request for a stay of proceedings and that permitting the national proceedings to continue while the request for revocation of the referral order was still pending did not amount to an egregious violation of Uwinkindi's fair trial rights that could not be remedied should the Trial Chamber find it necessary to revoke the referral order. Accordingly, the request was dismissed.

The Trial Chamber's decision also dismissed Uwinkindi's request for an oral hearing related to the to revocation of the referral order. Uwinkindi had argued that he was in a unique position to provide information on the "multiple violations of his rights" by the Rwandan authorities and should therefore be afforded the opportunity to present oral arguments to the Trial Chamber. The Trial Chamber ultimately concluded that, while it possessed the competence to schedule an oral hearing, there was no aspect of Uwinkindi's request that could not be adequately addressed in writing. Accordingly, the motion was also dismissed.

LOOKING BACK...

International Criminal Court

Five years ago…

On 18 October 2010, the Appeals Chamber of the ICC confirmed Trial Chamber III's decision in the case against Jean-Pierre Bemba Gombo, titled "Decision on the Admissibility and Abuse of Process Challenges". The Decision finally confirmed that the case was deemed admissible before the ICC.

Earlier in 2010 the Defence had filed a motion challenging the admissibility of the case and alleging abuse of process challenges. This motion was dismissed by the Trial Chamber on 24 June, which the Defence appealed on the basis of four grounds on 26 July. Bemba and his Defence had argued, *inter alia*, that Trial Chamber III erred in deciding that the case is admissible and that an order issued by the Bangui Regional Court's Senior Investigating Judge in the Central African Republic in September 2004 did not constitute a "decision not to prosecute" as outlined in Article 17 (1) (b) of the Rome Statute. Presiding Judge Anita Ušacka noted that this Decision was not one within the meaning of Article 17 as it was not a final decision in the case be-

Jean-Pierre Bemba Gombo

fore the Central African Republic courts. She also referred to the *Katanga* and *Ngudjolo* case where it was held that a decision not to prosecute does not cover decisions to close judicial proceedings.

The Appeals Chamber also dismissed, *inter alia*, the Defence's arguments that the Trial Chamber erred in rejecting the request to provide expert evidence on the application of the law of the Central African Republic and in deciding that the submissions made before the local courts in April 2010 constituted an "abuse of this court's process". The Chamber held, as previously decided in the *Kony et al.* case, that the Defence needs to show not only an alleged error but also indicate with precision how such an error would have materially affected the impugned decision, which Bemba failed to do.

The case is currently ongoing at the ICC, closing arguments were delivered in November 2014.

International Criminal Tribunal for the former Yugoslavia

Ten years ago…

On 25 October 2005, Ivica Rajić changed his plea to guilty and entered into a plea agreement with the Prosecution with respect to four of the ten counts in the amended indictment pursuant to Article 2 of the ICTY Statute, filed on January 2004. Rajić pleaded guilty to Counts 1, 3, 7 and 9 of the indictment.

Village of Stupni Do

Rajić was the Commander of the Second Operational Group of the HVO's Central Bosnia Operative Zone and he was charged under Article 7(1) and (3) of the ICTY Statute with several counts of war crimes committed in October 1993, in the town of Vareš and the village of Stupni Do.

On 8 May 2006, in awarding his sentence the Trial Chambers considered as mitigating circumstances Rajić's guilty plea, his remorse and his significant cooperation with the Prosecution. As the Trial Chamber stated his guilty plea "helped to establish the truth surrounding the crimes committed in Stupni Do and Vareš", which "may contribute to the reconciliation of the peoples of the former Yugoslavia and to the restoration of a lasting peace in the region".

Due to all these circumstances the Trial Chambers awarded a sentence of 12 years, as proposed by the Defence. Neither the Prosecution nor Defence appealed the Judgement and in April 2007, Rajić was transferred to Spain to serve his sentence. In 2011 he was granted an early release, having served eight years, or two-thirds of his sentence.

International Criminal Tribunal for Rwanda

Fifteen years ago…

In November 2000, Trial Chamber I of the ICTR denied the motion for withdrawal from the proceedings submitted by the Counsel for Jean-Bosco Barayagwiza. The trial against the Accused and his Co-Accused (Media Case) opened on 23 October and he refused to attend the hearings, arguing that the Tribunal was incapable of providing a fair trial. Counsel for the Accused were instructed not to attend the hearings but otherwise to continue to represent him.

The Trial Chamber refused to allow Counsel to withdraw from the hearings, which put Counsel in an impossible position to represent their client's interest and they hence requested to be released from the case. The Trial Chamber held that in circumstances "where the Accused has been duly informed of his ongoing trial, neither the Statute nor human rights law prevent the case against him from proceeding in his absence". The Chamber also found that the Rules and the Code of Professional Conduct note that Counsel are under an obligation to actively defend the best interests of the Accused. The Chamber distinguished between the words *appointed* and *assigned* and noted that the latter entails obligations towards the client and also implies that Counsel shall represent the interest of the Tribunal to ensure a fair trial.

The Chamber hence held that as the Accused had chosen to be absent from the hearings and gave no instructions with regard to his legal representation, Counsel could not comply with the Accused's instruction not to defend him as this would amount to an obstruction of the judicial proceedings. The Chamber was composed of Judge Navanethem Pillay (South Africa, President), Judge Erik Møse (Norway) and Judge Asoka de Zoysa Gunawardana (Sri Lanka), who appended a separate, concurring Opinion.

NEWS FROM THE REGION

Bosnia and Herzegovina

Orić Denies War Crimes Charges, Case Proceeds to State Court

On 19 October, former Bosnian Army Commander Naser Orić denied charges of committing war crimes against three Serb prisoners in Srebrenica and Bratunac municipalities in 1992. The Prosecution alleges that Orić killed three Bosnian Serb prisoners of war in the villages of Zalazje, Lolici and Kunjerac. Orić denied the charges and the case will proceed to trial in the State Court of Bosnia and Herzegovina. Orić was extradited from Switzerland to Bosnia and Herzegovina in June of this year on the basis of a 2014 Serbian warrant for war crimes. Orić was acquitted on appeal of the charges of war crimes against Serbs in the Srebrenica area by the International Criminal Tribunal for the former Yugoslavia (ICTY), which ruled that he did not have control over the Bosnian Army forces who committed the crimes.

Orić's indictment came as the Republika Srpska authorities prepare for a referendum on the powers of the state level judiciary. The state-level Prosecution has been plagued by allegations of bias against Bosnian Serbs. Republika Srpska, Bosnia's Serb-led entity, plans to stage a referendum questioning the authority of Bosnia's international supervisor, the Office of the High Representative, as well as the state-level Judiciary, because of its alleged bias against Serbs, especially in war crime cases.

Kosovo

Former KLA Leader Arrested and Detained on War Crimes Charges

On 8 October, former Kosovo Liberation Army (KLA) leader Xhemshit Krasniqi was arrested in his hometown of Prizren and detained on suspicion of committing war crimes. The alleged crimes involve the torture of civilians detained in camps run by the KLA in Albania during the conflict with Kosovo in the spring of 1999. Krasniqi was arrested during a police operation conducted by the European Union's Rule-of-Law Mission, EULEX. His lawyer, Haji Millaku, stated the Basic Court of Mitrovica acted on EULEX's request that Krasniqi be held for a 30 days' detention, citing EULEX's fears that if free, Krasniqi could endanger the investigation into the alleged crimes. Subsequently around 1000 people, led by KLA veterans, protested against his arrest.

Serbia

New Trial Convened for Indictees Accused of Harbouring Mladić

The hearing for those indicted for assisting in hiding Ratko Mladić between 2002 and 2006 has been reconvened this month before the First Basic Court in Belgrade. The initial investigation into those that harboured Mladić while he was on the run commenced in 2006, with the first trial beginning in 2007. This resulted in the acquittal of most of the indictees. However, the sentence was annulled and a new trial was ordered.

The trial was halted due to a change in judge, the eighth to sit in the nine years of proceedings. The indictees again entered a not guilty plea, stating they wished to adhere to their earlier defence. Both the Prosecution and Defence, in their initial statement, highlighted that it was necessary to hear from Mladić. The Defence postulates that Mladić is the key witness in the case, without whom the facts are unable to be fully established. This has caused an ongoing issue, as the Court thus far been unable to secure approval from the ICTY for Mladić's testimony.

DEFENCE ROSTRUM

Ukraine Expands ICC Referral to Include Crises in Crimea and the East

By Maria Norbis

On 8 September, Ukraine expanded the International Criminal Court (ICC)'s jurisdiction to investigate alleged crimes committed in its territory from 22 February 2014 to present, giving new hope that the perpetrators of the intensified conflict in East Ukraine may be brought to justice, if not by the national justice system then by the international one.

The receipt of an Article 12(3) declaration from Ukraine was the second such declaration received by the ICC Registrar, Herman von Hebel, in recent years. Ukraine is not a member of the ICC, having just signed the Rome Statute but been unable to ratify it due to its Constitutional Court's decision that the treaty was inconsistent with the Ukrainian constitution. Therefore, following the clashes between protesters and former president Viktor Yanukovych's troops resulting in the death of over a hundred protesters, the Ukrainian parliament turned to the ICC with its first Article 12(3) declaration on 17 April 2014. The declaration accepted the jurisdiction of the Court with regards to the limited events occurring between 21 November 2013 and 22 February 2014, and exclusively concerning the events related to Independence Square under the tenure of Yanukovych. When the ICC Prosecutors began their preliminary inquiry into these events in April 2014, Russia's annexation of Crimea and the invasion of Eastern Ukraine, which took place after February 2014, were not initially included in its scope. The most recent Article 12(3) declaration broadens the scope of its original ICC referral to include Russian military operations in Ukraine and expands the investigation to include the crises in Crimea and the east since conflict erupted in the region in 2014.

According to Rule 44(2) of the ICC Rules of Procedure and Evidence, such a declaration implies acceptance of jurisdiction for all potential crimes listed in Article 5 of the Rome Statute. However, as a court of last resort, these cases would be inadmissible if the alleged crimes were being investigated or prosecuted by Ukraine or any other state with jurisdiction over it. In accordance with Article 15(3) the Prosecutor must conclude whether there is a reasonable basis to proceed with the investigation, and, if so, submit a request for an authorisation for an investigation.

Eastern Ukraine has been racked by conflict since early 2014, with armed rebel groups facing off against Ukrainian military forces in several regions. According to the United Nations Human Rights Monitoring Mission in Ukraine reports, since the beginning of the conflict nearly 8,000 civilians have lost their lives and at least 17,800 have been injured in the region. However, there is doubt as to the extent to which the ICC may find the acts committed in East Ukraine as falling under its scope of crimes as listed in Article 5.

While some have argued that Russia's annexation of Crimea and its invasion of eastern Ukraine could constitute an act of aggression in violation of the United Nations Charter, numerous European treaties and other international undertakings, the ICC currently lacks jurisdiction to prosecute such crimes of aggression. The Court may, however, exercise jurisdiction over crimes against humanity and war crimes pursuant to Article 5(1)(b) and (c) respectively. Under the definitions of these crimes, both the 17 July 2014 downing of Malaysia Airlines Flight 17 and the 24 January 2015 missile attack on the market in Mariupol may be considered war crimes for which those responsible may be investigated under the ICC's jurisdiction. Moreover, myriad reports have surfaced in recent months indicating crimes involved non-military targets and hundreds of civilians perishing in East Ukraine, which could amount to war crimes or crimes against humanity under international law. In support of these allegations video material has appeared on the web showing the torture of Ukrainian prisoners of war and public humiliation of captives in the village of Krasny Partizan. If the Prosecutor finds reliable and credible indications of these actions, they would constitute a reckless disregard of civilians during the conduct of military operations or even deliberate attacks on civilians, giving the ICC Prosecutor the right to pursue an investigation into those responsible. Amongst those potentially responsible, news outlets have noted that even Russian President Vladimir Putin, who commands the armed forces and the entire military chain of command, may find himself under scrutiny for crimes allegedly committed by Russian troops under applicable liabilities including ordering, soliciting or inducing the commission of the crime(s) (Article 25(3)(b)), aiding and abetting the

commission or the attempted commission of the crimes (Article 25(3)(c)) or contributing to the commission or attempted commission of such crimes by participation in a criminal group with a common purpose (Article 25(3)(d)). As the Rome Statute applies equally to all persons without any distinction based on official capacity pursuant to Article 27, including former and acting heads of states or government, should the ICC Prosecutor find sufficient support for such allegations, Putin would be unable to shield himself behind head of state immunities.

That said, even if the evidence adduced eventually leads the Prosecutor's review towards the Russian leader, historical precedent has called into question whether the prosecution of a sitting head of state is a worthwhile endeavour for the ICC given its experience with President Bashir of Sudan, and the lack of state cooperation the ICC faced in seeking his arrest. In fact, the ICC does not have an enforcement mechanism and relies entirely on the cooperation of states provided for under Article 86 of the Rome Statute. However, past ICC experience has shown that the prosecution of sitting heads of state may complicate states parties' obligation to cooperate, due to potentially conflicting state obligations under Article 98 which provides that the ICC shall not request a state to cooperate if such cooperation would make the state breach the immunities of a third state. These inherent problems may limit the extent to which, even if reliable evidence is found, the ICC Prosecutor may wish to pursue this route. Nevertheless, as the Prosecutor begins to review whether there is a reasonable basis to proceed with the investigation, the 8 September Declaration gives renewed hope that a legal pathway may exist through The Hague to bring those responsible for the violence which has gripped Ukraine since February 2014 to justice.

Visit to the Special Tribunal for Lebanon

By Matthew Lawson

On 23 October, interns from the Association of Defence Counsel (ADC-ICTY) visited the Special Tribunal for Lebanon (STL). The primary mandate of the STL is to hold trials for the people accused of carrying out the attack of 14 February 2005 in Beirut which killed 22 people, including the former Lebanese Prime Minister Rafiq Hariri, and injured many others. The Tribunal also has jurisdiction over: (1) attacks carried out in Lebanon between 1 October 2004 and 12 December 2005, if they are connected with the attack on Rafiq Hariri and are of a similar nature and gravity; and (2) crimes carried out at a later date, decided by the parties and with consent of the UN Security Council (UNSC), if they are connected with the attack on Rafiq Hariri. The tour of the STL consisted of a series of short lectures given by representatives of three organs of the Tribunal: Chambers, the Office of the Prosecutor and the Defence Office.

First, Manuel Ventura, Representative from Chambers, described the background and creation of the Tribunal. Following the attack on 14 February 2005, the UNSC responded, with the approval of the Government of Lebanon, by establishing the United Nations International Independent Investigative Commission (IIIC) under Resolution 1595. Following a series of further bombings and reports by the IIIC, the Prime Minister of Lebanon wrote to the Secretary-General requesting, *inter alia*, the establishment of a tribunal of an international character to try all those responsible for the attack. The Secretary-General reported that the best outcome would be a mixed tribunal with both international and Lebanese participation. The UNSC requested him to negotiate an agreement with the Government of Lebanon aimed at establishing such a tribunal, based on the highest international standards of criminal justice.

ADC-ICTY Interns at the STL

There followed a series of negotiations, eventually resulting in the signing of the November 2006 "Agreement between the United Nations and the Lebanese Republic on the establishment of a Special Tribunal for Lebanon". However, several months later, the Lebanese Prime Minister wrote to the Secretary-General noting that the Speaker of the Lebanese Parliament refused to convene a session of Parliament to ratify the agreement, in spite of the expressed support of the Parliamentary majority. As a result, the Prime Minister requested the UNSC to pass a binding decision with regard to the Tribunal. Subsequently, acting in its Chapter VII capacity, the UNSC adopted resolution 1757, authorising the creation of the Tribunal. The STL officially opened on 1 March 2009.

Ventura stated that the STL is unique in a number of ways. For example, the Tribunal has jurisdiction to hold trials *in absentia*. In the main case, Ayyash *et al.* (STL-11-01), all of those presently indicted for the attack on Rafiq Hariri have not been found and their trials are proceeding in their absence. Interestingly, in the case of a conviction *in absentia*, if the accused has not designated a defence counsel of his or her choosing, the accused can elect to be retried in his or her presence before the Special Tribunal. Thus, in the event that an accused is found, they would be fully aware of the Prosecution case as well as the manner in which certain Defence arguments were received by the Tribunal.

Next, a representative for the Office of the Prosecutor, Pascal Chenivesse, discussed the facts of the attack on Rafiq Hariri and the Prosecution case strategy. After a detailed exposition of the timeline of the case, Chenivesse described how the Prosecution case makes comprehensive use of phone records in order to connect the alleged perpetrators to the bombing. By analysing, *inter alia*, the location of phones, the calls between phones, the meta-data of phone calls, and SMS data, the Prosecution intends to build its case against the Accused. Chenivesse stated that, by drawing these many threads of circumstantial evidence together, they were able to discover new witnesses and slowly "close the net" over the perpetrators.

Chenivesse also discussed the manner by which a certain phone can be attributed to a specific accused by the theory of "co-location". For example, it was proposed that the perpetrators would likely have one phone which they used for illicit activities and a separate phone used for their own personal endeavours. By analysing the individual phone records and comparing them with one another, it was possible to draw an inference that these phones belonged to the same person. For example, where the two phones were often in the same location this would make it more likely that they belonged to the same person. Furthermore, if the phones were never used to call one another and were never used at the same time, this would also lend support to the conclusion that they had the same owner.

Finally, the group was given a talk from representatives of the Defence Office, Bettina Spilker and Julien Maton. The pair described how, in contrast to other international tribunals, the Defence Office is included as a distinct organ of the Tribunal. Consequently, it has equal status with the Office of the Prosecutor, a first in the history of international courts. This helps to ensure equality of arms as it carries out its mandate to protect the rights of the accused at all stages of trial.

The Defence described the merits of the electronic filing system used by the STL, 'Legal Workflow' which recently won the William R. McMahon Award at the National Conference of Specialised Court Judges. The representatives stated that it was comparatively better than systems used at other international tribunals and commended it on its ease of use and reliability.

Finally, the Spilker and Maton discussed the weaknesses in the Prosecution case. They focussed on the large body of circumstantial evidence in the Ayyash *et al.* (STL-11-01) case and argued that, even when taken at its highest, a number of different conclusions could be drawn from the evidence which do not implicate the accused. They proposed that such evidence was unlikely to meet the criminal standard of proof.

The STL is dealing with a number of other cases outside the specific attack on Rafiq Hariri. Most recently the Tribunal delivered its decision in the first Contempt Case against Al Jadeed TV and Tahsin Al Khayat. Whilst Al Jadeed TV was acquitted of all counts, Al Khayat was found guilty of contempt and fined 10,000 euros. Both findings are being appealed by the Prosecution and Defence respectively. The decisions on these appeals are due to be produced in the near future.

The ADC interns had a fruitful and informative visit and are grateful to the Representatives of the Tribunal for their time and expertise.

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 a keynote speaker and four distinguished panels on various topics in relation to the role and importance of the Defence.

The Keynote Speech, entitled *No Justice Without Defence Counsel*, will be delivered 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 G. Karnavas, **"Attorney-Client Privilege Pt. IV: The Crime-Fraud Exception"**, 22 October 2015. Available at: http://tinyurl.com/o6jad6r

Gillian Higgins, **"OPCD Releases Progress Report and Attends 'Special SGG Meeting' in The Hague"**, 25 October 2015. Available at: http://tinyurl.com/qbutssh

Denis Dzidic, **"Netherlands Taken to Euro Court over Srebrenica"**, 26 October 2015. Available at: http://tinyurl.com/p2m59vb

Online Lectures and Videos

"Book Launch: Dr. Nicola Palmer's 'Courts in Conflict'", by Johnny Steinburg, 6 October 2015. Available at: http://tinyurl.com/pa6zcao

"Lawyers, Causes and Political Violence: Re-examining Legal Professionalism in Conflicted and Transitional Societies", by Kieran McEvoy, 22 October 2015. Available at: http://tinyurl.com/ojhryhw

"The Special Tribunal for Lebanon: Fighting Terrorism through Rule of Law", by Guido Acquaviva, 22 October 2015. Available at: http://tinyurl.com/pyg6fdt

PUBLICATIONS AND ARTICLES

Books

Helmholz, R. H. **Natural Law in Court: A History of Legal Theory in Practice.** Harvard University Press, October 2015.

Parker, James E.K. **Acoustic Jurisprudence: Listening to the Trial of Simon Bikindi.** Oxford University Press, October 2015.

Reisman, W. Michael and Christina Skinner. **Fraudulent Evidence Before Public International Tribunals.** Cambridge University Press, October 2015.

Wegner, Patrick S. **The International Criminal Courts in Ongoing Intrastate Conflicts: Navigating the Peace-Justice Divide.** Cambridge University Press, October 2015.

Articles

Berster, Lars. **"The Alleged Non-Existence of Cultural Genocide: A Response to the Croatia-Serbia Judgement".** Journal of International Criminal Justice, Volume 13 Issue 4, 2015.

Borda, Aldo Zammit. **"Appraisal-Based and Flexible Approaches to External Precedent in International Criminal Law".** Leiden Journal of International Law, Volume 28 Issue 3, 2015.

Joyce, Markus. **"Duress: From Nuremburg to the International Criminal Court, Finding Balance Between Justification and Excuse".** Leiden Journal of International Law, Volume 28 Issue 3, 2015.

CALLS FOR PAPERS

The Joint Conference of the European Society of International Law, the Higher School of Economics in Moscow, and Jessup Russia calls for papers on the Evolutionary Interpretation of Treaties.
Deadline for Submission: 15 November 2015 More Info: http://tinyurl.com/pgwx82m

The Cambridge Public Law Conference calls for papers on the theme "The Unity of Public Law?"
Deadline for Submission: 30 November 2015 More info: http://tinyurl.com/p2suhbo

The 12th Annual Conference of the European Society of International Law calls for papers on "How International Law Works in Times of Crisis".
Deadline for Submission: 31 January 2016 More Info: http://tinyurl.com/oazc5y3

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For more info visit:

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

or email:

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The ADC-ICTY would like to express its sincere appreciation and gratitude to Fabio Maurer and Jaymie Wink for their contribution to the Newsletter. We wish them all the best for the future!

EVENTS

HILAC Lecture on Cultural Heritage in Armed Conflict: Protection and Prosecution
Date: 19 November 2015
Location: TMC Asser Institute, The Hague
More Info: http://tinyurl.com/oqm6r5r

SLC Lecture: Inside Law Commission: Towards a Convention on Crimes Against Humanity
Date: 16 December 2015
Location: TMC Asser Institute, The Hague
More Info: http://tinyurl.com/one7805

IBA Conference: Legal Challenges of Modern Warfare
Date: 30 to 31 January 2016
Location: Peace Palace, The Hague
More Info: http://tinyurl.com/ng65ldl

Athens Institute Annual Conference on International Law
Date: 11 to 14 July 2016
Location: Athens Institute, Athens
More info: http://tinyurl.com/pztzeyw

OPPORTUNITIES

Certification Officer (P-3)
Residual Mechanism for International Criminal Tribunals
Court Special Services Section, Registry, The Hague
Closing Date: 13 November 2015

Legal Officer (P-3)
Residual Mechanism for International Criminal Tribunals
Office of the Prosecutor, The Hague
Closing Date: 14 November 2015

Associate Appeals Counsel (P-2)
International Criminal Tribunal for the former Yugoslavia
Office of the Prosecutor, The Hague
Closing Date: 15 November 2015

Legal Officer
European and Developing Countries Clinical Trials Partnership (EDCTP), The Hague
Closing Date: 24 November 2015

Seconded National Experts in Legal Service
Eurojust, The Hague
Closing Date: 17 January 2016