**ICTY NEWS**

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**Prosecutor v. Radovan Karadžić (IT-95-5/18-1)**

On 8 April, Milorad Skoko, former director of the RS power company Elektroprivred testified for the Karadžić defence that there was sufficient electricity throughout Sarajevo during the war. Skoko stated that the distribution of power was an internal matter. Furthermore, when presented documents by the Prosecution, Skoko replied that he did not believe the reports and argued that the Serbs did not systematically obstruct the provision of vital supplies, but that this was done by citizens acting of their own accord.

The next witness was the former warden of the Butmir Correctional and Penal Facility in Sarajevo, as known as the Kula prison. Soniboj Škiljević stated that Muslims were brought to the prison ‘for the purpose of family unification’ and ‘voluntary’ transfer from other parts of BH to Sarajevo. Škiljević replied to the Prosecution that the women detainees were doing same jobs as other detainees because while waiting for the family unification they were bored and had requested to work in the prison.

On 9 April, Milorad Dodik, the President of Republika Srpska denied that there was a joint criminal enterprise by the Serb leadership to forcibly and permanently remove Muslims and Croats from Bosnian territory that had been designated for a new Serb-dominated state. Dodik stated Karadžić never ordered crimes and never participated in them and demanded paramilitaries who committed crimes face justice. When asked by the Prosecution...
whether he accepts or denies that mass crimes were committed against Muslims and Croats, he replied that crimes were committed on all three sides. Furthermore, Dodik argued that the Bosnian war was caused by the “unilateral secession” by the Party of Democratic Action led by Alija Izetbegović, the first President of Bosnia and Herzegovina. Izetbegović’s aim to create a unified Bosnia and Herzegovina under his party was intended to lead to “Muslim domination”, he added.

On 10 April, Soniboj Škiljević continued his evidence stating that prisoners of war and other prisoners were not abused, tortured or humiliated in the Kula prison in the period from 1992 to 1995. The prisoners were taken to other locations to perform forced labor, none complained about it and prisoners actually volunteered to go, he added. When asked who was reunited with whom, Škiljević replied to the Prosecutor that he did not deal with those issues, but the exchange commissions of RS and BiH, as well as UNHCR, did. He further stated that Karadžić had supported the Bosnian Serb government’s decision to collect information about all crimes irrespective of the ethnicity of the perpetrators and victims.

On 15 April, Stanislav Galić, former Sarajevo-Romanija Corps commander stated that the Sarajevo-Romanija Corps of the Republika Srpska Army, only opened fire in Sarajevo on military targets in response to attacks by the Army of Bosnia and Herzegovina. Galić said that because not all members of ABiH wore uniforms and some did not even have weapons it was hard to differentiate between civilians and the soldiers. He added that there were no complaints made to him by the UN military observers about artillery being misused. Furthermore, to show to foreign officials that the Serbs created hell for the Bosniaks the ABiH opened fire just to provoke the SRC reaction whenever foreign officials visited Sarajevo, Galić stated.

On 16 April, before Galić continued his evidence, the Former President of the Bratunac municipality Ljubisav Simić testified that he did not see any busses with thousands of Muslim detainees in Bratunac on 13 July 1995. Simić claimed he did not hear anything about the killings in the Vuk Karadžić School. Simić further argued that Miroslav Deronjić informed ‘those at the top’ without specifying their names, about the execution of more than 1,000 prisoners in the Kravica warehouse on 13 July 1995. Later that day, Stanislav Galić, contended that the attack on the Presidency Building and the HQ of the UNPROFOR Ukrainian Battalion was a setup to blame the Serbs for it because everyone would think that the Serbs were responsible for an attack on the BH Presidency. Galić argued that the Bosniaks had their own pathologists who performed ‘post-mortems’ and confirmed that the rounds had indeed come from the VRS positions. He further stated that the ABiH with 35,000 soldiers, was superior to the VRS with 10,000 strong.

On 18 April, Galić said that the VRS proposed that a joint commission investigated the Markale market incident which killed 66 and wounded more than 140, but the Muslim side and UNPROFOR refused the proposal. Galić denied that more than 200 people could get killed and injured by a 120 mm grenade. He added that there was something abnormal in that finding. Galić stated that he never
ordered his troops to commit these crimes thus he denied responsibility for the attack. Furthermore, where the shell had been fired from was a finding that the ‘10 NATO commissions’ could not establish, he added.

On 22 April, Galić explained that the people used the busses and trams, went to markets during the siege in Sarajevo to live a normal life. He denied that fire was opened from the VRS position, because no orders were received to ‘harass, terrorize and attack’ civilians. Galić said that at his own trial he learned about the incidents at the time and thus was not aware of them. Galić replied that the VRS had a lot of problems with out-of-control paramilitaries when Karadžić asked him whether every Serb with a rifle was under his command.

On 23 April, Galić stated that both Karadžić and Ratko Mladić were his superiors and would follow both their orders even if they differed, however the principle of single command made Mladić his immediate superior. Galić stated he remembered Karadžić trying to seize control over the army in August 1995 by removing Mladić, however he failed because some generals resisted the move. He denied the Prosecutors allegation that as a tool to terrorize the population the VRS would cut off the electricity, water and gas supply to the city. Galić replied to Karadžić trying to seize control over the army in August 1995 by removing Mladić, however he failed because some generals resisted the move. He denied the Prosecutors allegation that as a tool to terrorize the population the VRS would cut off the electricity, water and gas supply to the city. Galić replied to Karadžić that there were no any epidemics and people on both sides did not get sick, given the poor living conditions. When one Prosecutor told Galić that UNPROFOR did protest to him about the sniper and artillery attacks on the city, Galić replied that they only complained about the mortar attacks. It was difficult because there was no detailed information to verify the allegations, he added.

On 24 April, The chief United Nations envoy for the former Yugoslavia, Yasushi Akashi stated that he was upset with Karadžić because he was telling him one thing and saw another on the ground in Gorazde. Akashi argued that Karadžić’s generalisation that “they attacked and we defend ourselves, then they start crying” claim does not apply to all situations. Akashi stands by his conclusion that the Markale1 incident’s shell could have been fired either from the VRS or the ABiH positions. Akashi heard that General MacKenzie and Briquemont mentioned that the Bosnian side in Sarajevo opened fire from public and vulnerable facilities to provoke the Serb side into responding. He argued that the reason why the Serbs wanted a long-term cease fire was because they held 70 percent of the BiH territory at the beginning of the war, while the Bosnian government was against freezing the status quo.

On 25 April, Akashi continued his evidence stating that he was accused of showing ‘inappropriate cordiality and courtesy’ toward Karadžić when he had send him several letters. Akashi stated that he ‘tried to maintain the trust of all three sides’ in BiH. Akashi wrote in his book “In the Valley between War and Peace” that the Bosnian Serb leadership ‘occasionally made wrong judgments’. He said that Karadžić and Mladić just laughed when Akashi warned Slobodan Milosević that NATO was about to launch a large-scale operation against the Bosnian Serbs.

Prosecutor v. Ratko Mladić (IT-09-92)

A fter a one-month break, the trial of Ratko Mladić continued with the testimony of protected witness RM-346 on 10 April 2013. The witness was a survivor from Srebrenica. Mladić’s lawyer stated that Mladić claimed that the witness was “making things up” and “lying” by providing to the Court a regurgitating testimony “learnt by heart”. Mladić was removed from the court. The protected witness continued with his testimony after the removal of Mladić from the courtroom and explained to the court how the Bosnian Serb forces killed Muslims by firing squad.

On 18 April, a Dutch former UNPROFOR battalion officer in Srebrenica, Pieter Boering testified about a meeting which took place at the Hotel Fontana on 11 and 12 July 1995 and what Mladić told to the commander of the Blue helmets and the representatives of the Srebrenica Muslims. Boering further testified about how the men were separated from women and children and then executed. Boering qualified
Mladić’s attitude when he claimed “you can survive or perish” as a “pure threat”. During the cross examination by Miodrag Stojanović, Defence Counsel for Mladić, Boering confirmed that a Muslim group disarmed and took the blue helmets hostage in February 1995 in an area known as the “Bandera Triangle”. According to Boering, “many men were carrying arms” and some arms were imported illegally between Zepa and Srebrenica.

On 19 April, Erin Gallagher, an investigator in the Office of the Prosecutor of the ICTY, resumed her testimony from 1 March this year in the Mladić trial. A video compilation was played during the examination in chief and was turned into evidence. Gallagher was able to identify victims of the Scorpions units thanks to other video extracts. Finally, when presented with a collection of maps of Srebrenica, Gallagher was able to identify the location and persons.

The map collection was strongly contested by the defence. Dragan Ivetić, Legal Consultant for Mladić stated “these maps are trying to establish accusations and allegations as determined facts, and therefore cannot be used to illustrate the objective situation on the ground, but rather the allegations of the prosecution, and that is why they are unacceptable to us”.

Evert Rave, a former UNPROFOR/Dutchbat member in Srebrenica was the next witness to testify on 23 and 24 April. As Boering did, Rave described the threatful behaviour of Mladić in his subsequent meetings with him at the Hotel Fontana in Bratunac. Rave described the fall of the enclave in July 1995 and the separation of men.

During cross examination, answering the question of the Defence about whether or not the Dutch troops decided to “fight” Serb troops, Rave stated that the attack that the blue helmets had to undergo was comparable “as if they were at war themselves”. Rave testified that they thus tried to do their best to protect themselves and the civilian population of the enclave.

On 26 April, the French inspector Jean René Ruez resumed his testimony from 12 April. As the former chief Hague investigator in charge of the Srebrenica events, he testified to the court that during his investigation, he tried to “gather information that could either charge someone or prove them innocent”. Responding to the defence statement according to which only soldiers were buried in the graves, Ruez testified that it is not correct by urging the judges and the de-

On 25 April, Leendert van Duijn, a former soldier who served in the UN Dutch Battalion in Srebrenica testified that he has been told that the captured Bosniak men would no longer need their personal documents. Van Duijn said that “it was clear that a dark destiny was awaiting them”. Van Duijn was told by Mladić during their meetings that “in ten years, he and his soldiers would be in the Netherlands in order to help the Dutch protect themselves from other races and Muslims”.

During cross examination, Van Duijn confirmed that Srebrenica was not demilitarised and that it was impossible for UNPROFOR soldiers to delimitarise the enclave as weapons were in the possession of members of the Army of Bosnia and Herzegovina. “There was no other solution” than to evacuate civilians from Potocari and “many of them expressed a wish to leave as they lacked water and food” said the witness. Van Duijn confirmed that he did not see any men who were abused in the “white house”.

NEWS FROM THE REGION

Bosnia and Herzegovina

Serb Prisoners were physically and mentally abused in the Dretelj camp

During the trial of five Croatian Defence forces fighters, Prosecution witness Branislav Simić told the Court that prisoners in the Dretelj camp were regularly beaten and only Serbs were detained there.
“When they put us into the hangar, there were people already there. They were beaten, dirty, bruised. They were all silent. There was fear suspended in the air. It was really sad”, said Simić.

According to the indictment, Zelenika, Herceg, Buljubašić, Medić and Marina Grubišić-Fejzić, are former members of the Croatian Defence Forces. They are charged with crimes committed against imprisoned Serb civilians in 1992 in Dretelj.

The witness saw the defendants Ivan Zelinika and Edib Buljubašić at the camp but according to Simić, they did not physically abuse him. The witness however stated that Srečko Herceg and Ivan Medić were the Dretelj’s warden.

The trial is set to resume on 21 May.

Serbia

“On his knee, Serbian President Nikolić apologises for the crime of Sebrenica”

In an interview broadcasted by national television in Bosnia-Herzegovina, Serbian President Tomislav Nikolić declared that he was “begging” on his knees for a pardon for the July 1995 Sebrenica massacre in which approximately 8000 Muslims were killed by Bosnian-Serbs forces.

On behalf of Serbian people, the Head of State, Nikolić, declared the following: “It was a horrible crime perpetrated by members of my people. And I want them all to be punished”. Despite the critics about his denial to qualify the July 1995 Sebrenica crime as a genocide, the acknowledgment of Serbian involvement and of the fact that injustice was done and abuses were committed is a very important step on the road to peace and reconciliation in the region. This statement was positively welcomed by Zeljko Komsić, the Croat member of Bosnia’s tripartite Presidency who declared: “I believe this will improve relations in the region. It is about time that all countries in the region turn to a joint future and European integration, and continue to build good neighbourly relations”.

Nikolić also declared his intention to visit Srebenica in the future.

Kosovo

Justice will be done for all those whose bodies still haven’t been found

Resolving the fate of missing persons is one of the most crucial and sensitive issues that is to be addressed in Kosovo. During the annual ceremony commemorating the missing persons, Kosovo’s President Atifete Jahjaga declared the following: “We will never stop until all those criminals are brought to justice. There is and there will be no amnesty for them. There is no place they can hide”.

In Kosovo, 1754 persons allegedly remain missing. Nysrete Kumnova, the head of the Missing Persons Association in Gjakova/Djakovica explains: “for 14 years, families of missing persons have been living in anxiety and waiting for any news related to the fate of the missing”.

The head of the government’s missing persons commission Prenk Gjetaj provided a message of hope saying that “the number of missing persons could decrease in 2013 as there is more evidence about mass graves, es-
especially in the north of Kosovo”.

The European Union’s rule of law mission in Kosovo (EULEX) has already elucidated the fate of 255 missing persons, who remains were given to their families. It is thus fundamental to keep hope alive even if, as EU-Lex chief Bernd Borchardt highlighted, “much work remains to be done”.

**LOOKING BACK...**

**International Criminal Tribunal for the former Yugoslavia**

*Ten years ago...*

On Thursday 1 May 2003, Judge Carmel Agius confirmed an Indictment against Jovica Stanisic former Head or Chief of the State Security Service (DB) of the Ministry of the Internal Affairs and Franko Simatovic former Head of the Special Forces of State Security of the Serbian Ministry of Internal Affairs. The Indictment stated that both participated in a joint criminal enterprise, the objective of which was the forcible and permanent removal of the majority of non-Serbs from large areas of Croatia and Bosnia and Herzegovina (BiH). In addition, the Indictment stated that the persecutions were committed on discriminatory grounds and included the murder, forcible transfer and deportation of Croats, Bosnian Muslims, Bosnian Croats and other non-Serbs.

Stanisic and Simatovic’s trial began on 28 April 2008; suspended sine die on 16 May 2008; re-commenced on 9 June 2009 The Prosecution rested its case on 5 April 2011. The Defence case commenced on 15 June 2011 and was officially closed on 17 September 2012. The closing arguments took place between 29 and 31 January 2013.

The Trial Judgement is expected later this year.

**International Criminal Tribunal for Rwanda**

*Ten years ago...*

On 15 May 2003 the ICTR delivered two decisions in one day.

Eliezer Niyitegeka, The Minister of Information of Rwanda’s Interim Government in 1994 was convicted of genocide and crimes against humanity, and sentenced to imprisonment for the remainder of his life.

Laurent Semanza, former Bourgmestre of Bicumbi commune, was found guilty of complicity to commit genocide and crimes against humanity, and sentenced to 25 years’ imprisonment. Niyitegeka was convicted for his prominent role in events that took place in Kibuye region from April to June 1994. He had procured an attack on Tutsi hiding inside Mubuga Church, led armed attackers in two attacks on Tutsi refugees at Muyira Hill, and had incited people to exterminate members of the Tutsi population. Semanza was convicted for incitement of a crowd in Gikoro commune to rape Tutsi women before killing them.

The court reasoned that the rape of the first victim constituted torture as it caused severe mental suffering, and because the victim was targeted on the basis of her ethnic identity.
NEWS FROM OTHER INTERNATIONAL COURTS

International Criminal Court

The views expressed herein are those of the author(s) alone and do not necessarily reflect the views of International Criminal Court (ICC).

Christine Van den Wyngaert, Trial Chamber Judge at ICC in the case against the President of Kenya, Uhuru Kenyatta, asked to be withdrawn from the case, arguing her caseload at the court was already too great.

Just before the withdrawal, Van Den Wyngaert stated in her concurring opinion, that she had doubts the prosecution had carried out proper investigations into charges against Uhuru Kenyatta and William Ruto, she said that even though the prosecution faced challenges, it had not justified how so many witnesses were interviewed after charges against Kenyatta were confirmed.

Van Den Wyngaert's colleagues also criticised prosecutors for failing to tell Kenyatta's defence lawyers a crucial witness was not present at a meeting where prosecutors alleged acts of violence were planned, saying the prosecution made a "grave mistake" in not doing so.

The loss of that witness's testimony contributed to the acquittal earlier this year of Francis Muthaura, Kenya's former head of the civil service who was Kenyatta's co-accused. Similar charges still stand against Kenyan deputy president William Ruto.

However, Van der Wyngaert explained that the Prosecution’s failures were not weighty enough to warrant a referral to the Pre-trial Chamber or withdrawal of charges against Kenyatta. And there was no suggestion her resignation was linked to her criticism of the prosecution.

In a majority decision the trial chamber agreed that charges against Kenyatta will remain as confirmed for the trial set for July 9 this year.

The Extraordinary Chambers in the Courts of Cambodia

The views expressed herein are those of the author(s) alone and do not necessarily reflect the views of the Extraordinary Chambers in the Courts of Cambodia (ECCC)

by Mateusz Gawalkiewicz, an intern on the Nuon Chea defence team

In late March the Khieu Samphan Defence filed a motion for the immediate release of the accused on bail. The motion argued that the continued provisional detention of the accused was excessive and violated his fundamental right to a fair and expeditious trial. It further contended that Khieu Samphan had never attempted to flee and always participated in the proceedings. The Trial Chamber heard oral arguments on April 11 and issued a decision on April 26 rejecting the application, concluding that the provisional detention is not excessive but required due to the late stage of the proceedings and that the undertakings by the Accused to appear in the Court are not sufficient to outweigh these concerns.

Also on April 26, the Trial Chamber issued its reasoned decision on the severance of Case 002. The Defence Teams differed in their arguments. The Nuon Chea Defence opposed the severance, although it had initially supported it, arguing that hearing Case 002 in its entirety is the only just way to ensure that accused will present a coherent defence. Khieu Samphan’s Defence argued that the Trial Chamber should issue an individual severance for him due to the health conditions of other co-accused which substantially delay proceedings.

The Trial Chamber stated that the charges in the Case 002/01 will be limited to the alleged crimes against humanity arising from the movement of the population from Phnom Penh and later from the other regions, and execution of Khmer Republic soldiers at Tuol Po Chrey execution site immediately after the Khmer Rouge takeover in 1975. The main reasons given were the complexity of the Closing Order in Case 002/01, the health conditions of the co-accused, and the interests of justice.
BLOG UPDATES AND ONLINE LECTURES

Blog Updates


Diane Marie Amann, U.S. law & G8 call for donations to Rome Statute’s Trust Fund for Victims, 3 May 2013, available at: http://ilg2.org/2013/05/03/u-s-law-g8-call-for-donations-to-rome-statutes-trust-fund-for-victims/


Online Lectures

What is the difference between the Defence Office and Counsel for the Defence?, 1 May 2013, published by Special Tribunal of Lebanon:

http://www.youtube.com/watch?v=45K3B3NUc20

Online Course: Introduction to International Criminal Law, start as of 1 May 2013, published by Case Western Reserve University:

https://www.coursera.org/course/intlcriminallaw

Online Course: Justice, start as of 12 May 2013, published by Havard University:

https://www.edx.org/courses/HarvardX/ER22x/2013_Spring/about

PUBLICATIONS AND ARTICLES

Books


Caroline Fournet (2013), Genocide and Crimes Against Humanity, Hart Publishing

Lindsey Cameron and Vincent Chetail (2013), Privatizing War: Private Military and Security Companies under Public International Law, Cambridge University Press

Mikael Rask Madsen and Gert Verschraegen (2013), Making Human Rights Intelligible, Hart Publishing


Sonja Snacken (2013), European Penology, Hart Publishing

Articles


EVENTS

Making Legal Remedies in EU Criminal Justice more efficient
Date: 16-17 May 2013
Location: Brussels
More info: https://www.era.int/upload/dokumente/14565.pdf

Training: Peacebuilding and Local Governance
Date: 27 May - 7 June 2013
Location: The Hague

OPPORTUNITIES

Senior Legal Officer
International Residual Mechanism for Criminal Tribunals
Closing date: 24 May 2013

Legal Officer
International Residual Mechanism for Criminal Tribunals
Closing date: 12 May 2013

Humanitarian Affairs Officer
Office of the Coordinator of Humanitarian Affairs
Closing date: 30 June 2013

Legal Officer
The Permanent Bureau of the Hague Conference on Private International Law (HCCH)
Closing date: 31 May 2013