

NEWSLETTER

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ICTY CASES

Cases at Trial

Hadžić (IT-04-75)

Karadžić (IT-95-5/18-I)

Mladić (IT-09-92)

Prlić et al. (IT-04-74)

Šešelj (IT-03-67)

Stanišić & Simatović (IT-03-69)

Cases on Appeal

Đorđević (IT-05-87/1)

Popović et al. (IT-05-88)

Šainović et al. (IT-05-87)

Tolimir (IT-05-88/2)

Stanišić & Župljanin (IT-08-91)

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

ICTY NEWS

- Karadžić: Defence continues
- Mladić: Prosecution continues

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domination", he added.



prisoners were not abused, Sarajevo, Galić stated. tortured or humiliated in the complained about it

as well as UNHCR, did. He further stated that prisoners in the Kravica warehouse on 13 July 1995. Karadžić had supported the Bosnian and victims.

The forme Prime Minister of Republika Srpska, Dušan Kozić., stated that after the Republika Srpska Army had occupied the enclave in July 1995, the Muslims themselves requested to be evacuated thus every possible form of transport was mobilized by the Bosnian Serb Army.

On 11 April, Kosta Čavoški, a retired law professor from Belgrade stated that the Bosnian Muslim leader Alija Izetbegović was responsible for the war because he first accepted and then rejected José Cutileiro's plan. Once the US, British and German confidential files are declassified then the truth about the Yugoslavia break-up will be known in 30 years, he added. Čavoški argued that because the Serbs foresaw war breaking out they formed crisis staff which were established in accordance with the Law on All People's Defense.

whether he accepts or denies that mass crimes were On 15 April, Stanislav Galić, former Sarajevocommitted against Muslims and Croats, he replied Romanija Corps commander stated that the Sarajevothat crimes were committed on all three sides. Romanija Corps of the Republika Srpska Army, only Furthermore, Dodik argued that the Bosnian war was opened fire in Sarajevo on military targets in caused by the "unilateral secession" by the Party of response to attacks by the Army of Bosnia and Democratic Action led by Alija Izetbegović, the first Herzegovina. Galić said that because not all members President of Bosnia and Herzegovina. Izetbegovic's of ABiH wore uniforms and some did not even have aim to create a unified Bosnia and Herzegovina under weapons it was hard to differentiate between civilians his party was intended to lead to "Muslim 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 On 10 April, Soniboj Škiljević to foreign officials that the Serbs created hell for the continued his evidence stating Bosniaks the ABiH opened fire just to provoke the that prisoners of war and other SRC reaction whenever foreign officials visited

Kula prison in the period from On 16 April, before Galić continued his evidence, the 1992 to 1995. The prisoners Former President of the Bratunac municipality were taken to other locations to Ljubisav Simic testified that he did not see any perform forced labor, none busses with thousands of Muslim detainees in and Bratunac on 13 July 1995. Simić claimed he did not prisoners actually volunteered to go, he added. When hear anything about the killings in the Vuk Karadžić asked who was reunited with whom, Škiljević replied School. Simić further argued that Miroslav Deronjić to the Prosecutor that he did not deal with those informed 'those at the top' without specifying their issues, but the exchange commissions of RS and BiH, names, about the execution of more than 1,000

government's decision to collect information about all Later that day, Stanislav Galić, contended that the crimes irrespective of the ethnicity of the perpetrators 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 difficult because there was no denied responsibility for the attack. Furthermore, detailed information to verify where the shell had been fired from was a finding that the allegations, he added. the '10 NATO commissions' could not establish, he On 24 April, The chief United added.

On 22 April, Galić explained that the people used the stated that he was upset with busses and trams, went to markets during the siege in Karadžić because he was Sarajevo to live a normal live. He denied that fire was telling him one thing and saw was under his command.

Karadžić trying to seize control over the army in quo. August 1995 by removing Mladić, however he failed because some generals resisted the move. He denied On 25 April, Akashi continued his evidence stating

Nations envoy for the former Yugoslavia, Yasushi



opened from the VRS position, because no orders another on the ground in Gorazde. Akashi argued that were received to 'harass, terrorize and attack' Karadžić's generalisation that "they attacked and we civilians. Galić said that at his own trial he learned defend ourselfs, then they start crying" claim does not about the incidents at the time and thus was not apply to all situations. Akashi stands by his aware of them. Galić replied that the VRS had a lot of conclustion that the Markale1 incident's shell could problems with out-of-control paramilitaries when have been fired either from the VRS or the ABiH Karadžić asked him whether every Serb with a rifle positions. Akashi heard that General MacKenzie and Briquemont mentioned that the Bosnian side in Sarajevo opened fire from public and vulnerable On 23 April, Galić stated that both Karadžić and facilities to provoke the Serb side into responding. He Ratko Mladić were his superiors and would follow argued that the reason why the Serbs wanted a longboth their orders even if they differed, however the term cease fire was because they held 70percent of the principle of single command made Mladić his BiH territory at the beginning of the war, while the immediate superior. Galić stated he remembered Bosnian government was against freezing the status

the Prosecutors allegation that as a tool to terrorize that he was accused of showing 'inappropriate the population the VRS would cut off the electricity, cordiality and courtesy' toward Karadžić when he had water and gas supply to the city. Galić replied to send him several letters. Akashi stated that he 'tried Karadžić that there were no any epidemics and people to maintain the trust of all three sides' in BiH. Akashi on both sides did not get sick, given the poor living wrote in his book "In the Valley between War and conditions. When one Prosecutor told Galić that Peace" that the Bosnian Serb leadership 'occasionally UNPROFOR did protest to him about the sniper and made wrong judgments'. He said that Karadžić and artillery attacks on the city, Galić replied that they Mladić just laughed when Akashi warned Slobodan only complained about the mortar attacks. It was Milosević that NATO was about to launch a largescale operation against the Bosnian Serbs.

Prosecutor v. Ratko Mladić (IT-09-92)



continued with the testimony of es killed Muslims by firing squad. protected witness RM-346 on

fter a one-month break, mony after the removal of Mladić from the courtroom the trial of Rakto Mladić and explained to the court how the Bosnian Serb forc-

10 April 2013. The withness On 18 April, a Dutch former UNPROFOR battalion was a survivor from Srebenica. officer in Srebrenica, Pieter Boering testified about a Mladić's lawyer stated that meeting which took place at the Hotel Fontana on 11 Mladić claimed that the witness and 12 July 1995 and what Mladić told to the comwas "making things up" and mander of the Blue helmets and the representatives of "lying" by providing to the Court a regurgitating testi- the Srebrenica Muslims. Boering further testified mony "learnt by heart". Mladić was removed from the about how the men were separated from women and court. The protected witness continued with his testi- children and then executed. Boering qualified

Mladić's attitude when he claimed "you can survive or the Defence about whether or perish" as a "pure threat". During the cross examina- not the Dutch troops decided to tion by Miodrag Stojanović, Defence Counsel for "fight" Serb troops, Rave stated Mladić, Boering confirmed that a Muslim group dis- that the attack that the blue armed and took the blue helmets hostage in February helmets had to undergo was 1995 in an area known as the "Bandera Triangle". comparable "as if they were at According to Boering, "many men were carrying war themselves". Rave testified arms" and some arms were imported illegally between that they thus tried to do their Zepa and Srebrenica.

On 19 April, Erin Gallagher, an investigator in the Office of the Prosecutor of the ICTY, resumed her On 25 April, Leendert van Duijn, a former soldier thanks to other video extracts. Finally, when presentwas able to identify the location and persons.



The map collection was strongly contested by the defence. Dra-

us".

Evert Rave, a former UNPROFOR/Dutchbat member On 26 April, the French inspector Jean René Ruez in Srebrenica was the next witness to testify on 23 and resumed his testimony from 12 April. As the former 24 April. As Boering did, Rave described the threat- chief Hague investigator in charge of the Srebrenica ful behaviour of Mladić in his subsequent meetings events, he testified to the court that during his investiwith him at the Hotel Fontana in Bratunac. Rave degation, he tried to "gather information that could eiscribed the fall of the enclave in July 1995 and the ther charge someone or prove them innocent". Reseparation of men.

best to protect themselves and



the civilian population of the enclave.

testimony from 1 March this year in the Mladić trial. who served in the UN Dutch Battalion in Srebrenica A video compilation was played during the examina- testified that he has been told that the captured Bostion in chief and was turned into evidence. Gallagher niak men would no longer need their personal docuwas able to identify victims of the Scorpions units ments. Van Duijn said that "it was clear that a dark destiny was awaiting them". Van Duijn was told by ed with a collection of maps of Srebrenica, Gallagher 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".

gan Ivetić, Legal Consultant for During cross examination, Van Duijn confirmed that Mladić stated "these maps are Sebrenica was not demilitarised and that it was imtrying to establish accusations possible for UNPROFOR soldiers to delimitarise the and allegations as determined enclave as weapons were in the possession of memfacts, and therefore cannot be bers of the Army of Bosnia and Herzegovina. "There used to illustrate the objective was no other solution" than to evacuate civilians from situation on the ground, but Potocari and "many of them expressed a wish to leave rather the allegations of the as they lacked water and food" said the witness. Van prosecution, and that is why they are unacceptable to Duijn confirmed that he did not see any men who were abused in the "white house".

sponding to the defence statement according to which only soldiers were buried in the graves, Ruez testified During cross examination, answering the question of that it is not correct by urging the judges and the de-



NEWS FROM THE REGION

Bosnia and Herzegovina

Serb Prisoners were physically and mentally abused in the Dretelj camp

uring 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,1 754 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-

pecially 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 EULEX 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 Stanišić former Head or Chief of the State Security Service (DB) of the Ministry of the Internal Affairs and Franko Simatović 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.

Stanišić and Simatović's trial began on 28 April 2008; suspended sine die on 16 May 2008; re-commenced on 9June 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.

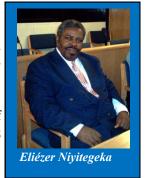
International Criminal Tribunal for Rwanda

Ten years ago...

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

Eliézer 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 refu-



gees 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

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Ihristine Van Judge at ICC in the case doing so. against the President of Kencourt was already too great.

Just before the withdrawal,

that she had doubts the prosecution had carried out ecution's failures were not weighty enough to warrant proper investigations into charges against Uhuru Ken- a referral to the Pre-trial Chamber or withdrawal of yatta and William Ruto, she said that even though the charges against Kenyatta. And there was no suggesprosecution faced challenges, it had not justified how tion her resignation was linked to her criticism of the so many witnesses were interviewed after charges prosecution. against Kenyatta were confirmed.

cutors for failing to tell Kenyatta's defence lawyers a the trial set for July 9 this year. crucial witness was not present at a meeting where

den prosecutors alleged acts of violence were planned, Wyngaert, Trial Chamber saying the prosecution made a "grave mistake" in not

ya, Uhuru Kenyatta, asked to The loss of that witness's testimony contributed to the be withdrawn from the case, acquittal earlier this year of Francis Muthaura, Kenarguing her caseload at the ya's former head of the civil service who was Kenyatta's co-accused. Similar charges still stand against Kenyan deputy president William Ruto.

Van Den Wyngaert stated in her concurring opinion, However, Van der Wyngaert explained that the Pros-

In a majority decision the trial chamber agreed that Van Den Wyngaert's colleagues also criticised prose- charges against Kenyatta will remain as confirmed for



The Extraordinary Chambers in the Courts of Cambodia

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

bail. The motion argued that the continued provision- cused will present a coherent defence. Khieu Samal detention of the accused was excessive and violated phan's Defence argued that the Trial Chamber should his fundamental right to a fair and expeditious trial. It issue an individual severance for him due to the further contended that Khieu Samphan had never health conditions of other co-accused which substanattempted to flee and always participated in the pro-tially delay proceedings. ceedings. The Trial Chamber heard oral arguments on April 11 and issued a decision on April 26 rejecting the The Trial Chamber stated that the charges in the Case weigh these concerns.

Defence Teams differed in their arguments. The Nuon and the interests of justice. Chea Defence opposed the severance, although it had

n late March the Khieu Samphan Defence filed a initially supported it, arguing that hearing Case 002 motion for the immediate release of the accused on in its entirety is the only just way to ensure that ac-

application, concluding that the provisional detention 002/01 will be limited to the alleged crimes against is not excessive but required due to the late stage of humanity arising from the movement of the populathe proceedings and that the undertakings by the Ac- tion from Phnom Penh and later from the other recused to appear in the Court are not sufficient to out- gions, and execution of Khmer Republic soldiers at Tuol Po Chrey execution site immediately after the Khmer Rouge takeover in 1975. The main reasons Also on April 26, the Trial Chamber issued its reagiven were the complexity of the Closing Order in soned decision on the severance of Case 002. The Case 002/01, the health conditions of the co-accused,

BLOG UPDATES AND ONLINE LECTURES

Blog Updates

David Tolbert, **Can International Justice Foster Reconciliation?**, 17 April 2013, available at: http://ilawyerblog.com/can-international-justice-foster-reconciliation/

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/

William A. Schabas, Chemical Weapons: Is it a Crime?, 29 April 2013, available at: http://

<u>humanrightsdoctorate.blogspot.nl/2013/04/chemical-weapons</u>-is-it-crime.html

Rosalind English, **How can the courts manage the Face-book phenomenon?**, 24 April 2013, available at: http://ukhumanrightsblog.com/2013/04/24/how-can-the-courts-manage-the-facebook-phenomenon/

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

Michael N. Schmitt (2013), Tallinn Manual on the International Law Applicable to Cyber Warfare, Cambridge University Press

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

Telford Taylor (2013), *The Anatomy of the Nuremberg Tri*als: A Personal Memoir, Skyhorse Publishing

James P. Terry (2013), *The War on Terror: The Legal Dimension*, Rowman & Littlefield Publishers

Sonja Snacken (2013), European Penology, Hart Publishing

Articles

Anjali Pathmanathan (2013), ""Round Peg, Square Hole?" The Viability of Plea Bagaining in Domestic Criminal Justic e Systems Prosecuting International Crimes", International Criminal Law Review, Volume 13, Issue 2

Olivier Corten and Vaios Koutroulis (2013), "The Illegality of Military Support to Rebels in the Libyan War: Aspects of jus contra bellum and jus in bello", Journal of Conflict and Security Law, Volume 18, Issue 1

Mika Hayashi (2013), "Suspension of Certain Obligations of the CFE Treaty by NATO Allies: Examination of the Response to the 2007 Unilateral Treaty Suspension by Russia", Journal of Conflict and Security Law, Volume 18, Issue 1

Kevin T. Jackson (2013). "The Normative Logic of Global Economic Governance: in Pursuit of Non-Instrumental Justification for the Rule of Law and Human Rights", Minnesota Journal of International Law, Volume 22, Issue 1

Jay Milbrandt (2013), "Tracking Genocide: Persecution of the Karen in Burma", Texas International Law Journal, Volume 48, Issue 1

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Any contributions for the newsletter should be sent to Dominic Kennedy at dkennedy@icty.org

WE'RE ON THE WEB!

WWW.ADCICTY.ORG

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

More info:

http://thehagueinstituteforglobaljustice.org/index.php?

page=Events-Events-Upcoming events-

Train-ing: Peacebuilding and Local Governance&pid=123&id=99#.U

YOjhaJTCOQ

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