

# ADC-ICTY Newsletter, Issue 22

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17 November 2011

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## ICTY News

\* The views expressed herein are those of the author(s) alone and do not necessarily reflect the views of the International Tribunal for the Former Yugoslavia or the Association of Defence Counsel Practicing before the ICTY.

### Prosecutor vs. Stanišić & Simatović (IT-03-69-T)

In the week beginning 7 November 2011 the Stanišić Defence called witness Vlado Dragicević to testify. In late 1992, Dragicević became special advisor to the Chief of Service of the DB and accordingly had a close working relationship with Stanišić.

Dragicević testified on the establishment and expansion of ties between the DB and Foreign State Security Services under the leadership of Stanišić. Serbia raised its contact with foreign services from around 40 to 60 states during this period. The witness and the Accused were two of only a handful of people permitted to travel outside Yugoslavia. Information was shared between these organizations, often via the witness or Stanišić, with a view towards facilitating peace.



**Jovica Stanišić**

The witness also described the participation of Stanišić in resolving the hostage crisis that occurred in Bosnia and Herzegovina in 1995. Stanišić was responsible for the negotiations that saw over 450 UN soldiers released and transferred to safety within Serbia. Similarly, the witness described the role of Stanišić in liberating

French pilots captured in Republika Srpska. Whilst participating in the Dayton Peace Agreement negotiations, Stanišić received information outlining the location where the pilots were being held, and 2-3 days later they were freed.

According to Dragicević, Stanišić was a professional who did not belong to any political party. He directed the work of the Service towards combating every kind of nationalism, especially the Serb one, and never expressed discriminatory behavior in the Service. Stanišić insisted that rules, especially procedure regarding approvals for measures such as phone tapping and surveillance, be obeyed. Dragicević believed that the cause of Stanišić's dismissal was a clash with Milosević: a relationship that Dragicević described as being perpetually characterised by mistrust.

### Vojislav Šešelj Contempt Judgement

On 31 October 2011, Trial Chamber II convicted Vojislav Šešelj for contempt of the Tribunal and sentenced him to 18 months imprisonment, backdated to 24 July 2009. Šešelj was found guilty of disclosing information identifying protected witnesses by publishing the information in a book he authored.

**Ramush Haradinaj**, the commander of the Kosovo Liberation Army, was born 3 July 1968 in Gloňane in Kosovo. Haradinaj surrendered on 9 March 2005 and was transferred to the ICTY on the same day. The initial indictment was made public on 4 March 2005. Haradinaj was charged on the basis of individual criminal responsibility, Article 7(1) of the Statute, with: persecutions, cruel treatment, murder, torture and rape. On 14 March 2005 and 1 March 2007 he pleaded not guilty to all charges. The Trial Chamber found him not guilty on 3 April 2008. On 21 July 2010 a partial re-trial was ordered.

The contempt proceeding is part of a larger proceeding under which Šešelj is alleged to have committed war crimes and crimes against humanity, as leader of the Serbian Radical Party from 1991 to 1994.

In early 2010, the Chamber issued an order in lieu of an indictment and directed the Registrar to appoint an Amicus Curiae Prosecutor. Šešelj chose to represent himself. He did not enter a plea at the initial appearance, and a plea of not guilty was entered on his behalf at the second appearance.

The Chamber found that, while the Tribunal's power in respect of contempt is not "expressly articulated" in the Statute of the Tribunal, the Tribunal possesses an inherent power to deal with conduct interfering with the administration of justice. The Chamber held that Šešelj's conduct was a violation of protective measures issued by the Trial Chamber and constituted a serious interference with the administration of justice.

In sentencing, the Chamber took into account the following considerations: the nature of the disclosure, a lack of remorse, indication of an intention to engage in similar conduct, and the need to "reiterate the public confidence in the effectiveness of orders and decisions" as being vital to the success of the work of the Tribunal.

Šešelj will serve the sentence concurrently with a previous sentence for contempt. The maximum penalty for contempt of the Tribunal is a term of imprisonment not exceeding seven years, or a fine not exceeding 100,000 Euros, or both.

#### **Prosecutor v. Karadžić (IT-95-5/18-I)**

The Prosecution case continued with the testimony of witness Mirsad Mujadžić on 31 October and 1 November 2011. The witness was a former member of the Bosnian parliament during the relevant period and head of the Bosniaks' Democratic Action Party (SDA), in Prijedor, north western Bosnia. He also testified in the trial of the former president of the Prijedor municipal assembly, Milomir Stakić, who was convicted in 2006 and sentenced to 40 years imprisonment. He testified about Serb forces taking control of Prijedor in April of 1992, at which point he spent several months in hiding before moving Bihac, an area controlled by the Bosnian army.

He described hearing a Serb member of parliament, Radoslav Brdjanin, say that there were too many Muslims in north western Bosnia and suggesting they be "reduced to two per cent, or maybe three". In his cross-examination, Karadžić suggested that Brdjanin's statement must have been a joke; otherwise someone "would have brought it up before the parliament". Karadžić also pointed out that the SDA played a major part in the conflict, "even fighting the Muslim Fikret Abdić" and suggesting that the SDA "caused the whole conflict".



**Radovan Karadžić**

The witness that followed on 1 and 2 November was KDZ-163, testified in closed session about the "Manjača" camp during the relevant period. The next witness called by the Prosecution on 3 November, Milan Komljenović, was former president of the Crisis Staff and the Municipal Assembly in Knezevo. In cross-examination, the witness agreed with Karadžić that the massacre of about 200 Croats and Muslims at Koricanske Stijene in 1992 was not motivated by ethnic or religious reasons, but rather for looting and material gain. He confirmed that the crime was committed by Prijedor police under the command of Simo Drljaca, who has been sentenced to 17 years in prison for his role. The witness also agreed with Karadžić that Serb authorities evacuated the civilian population in combat zones in an organised manner and for their own safety. He further testified that the actions of the Serb authorities were simply in response to the actions of the SDA.

The proceedings continued the following week, starting on the week of 7 November. The Prosecution called as a witness Ed Vulliamy, a British journalist who was invited by Karadžić himself to visit the

Omarska and Trnopolje camps in the Prijedor region in August of 1992, along with a group of other foreign journalists. Karadžić referred to Vulliamy's book in his cross-examination to demonstrate that he was "anti-Serb" and not neutral. The witness responded by saying "I don't want to be neutral if I have to make judgments about prisoners and their guards..." Karadžić challenged the claim that there were mass murders in the camps, pointing out that Prosecution witnesses have testified to only seeing one murder in Omarska. The witness also agreed that the camp in Trnopolje could not be appropriately considered a "concentration camp" but it was used to house large groups of civilians before transferring them out of territory held by Bosnian Serbs.

## News from International Courts and Tribunals

### Extraordinary Chambers in the Courts of Cambodia

Kirsty Sutherland, Legal Intern, Defence Support Section

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#### Case 002 – Nuon Chea, Ieng Sary, Ieng Thirith, Khieu Samphan

Exclusion of Armed Nexus Requirement from the Definition of Crimes Against Humanity:

On 15 February 2011, the ECCC Pre-Trial Chamber amended the Case 002 Closing Order adding an 'armed conflict nexus' requirement to crimes against humanity charges for events falling within the temporal jurisdiction of the ECCC. On 15 June 2011, the Co-Prosecutors' requested the ECCC Trial Chamber to exclude this requirement. The motion was opposed by all Defence teams.



**Khieu Samphan**

The Ieng Thirith, Khieu Samphan and Ieng Sary Defence Teams all countered that the Co-Prosecutors' Motion was inadmissible as it constituted a preliminary objection for which the deadline has long passed, amounting to a disguised attempt to appeal the Pre-Trial Chamber's decision of 15 February, which is prohibited under the ECCC Internal Rules. The Ieng Thirith and Khieu Samphan Defence Teams also submitted that the Motion is inadmissible as Rule 98 pertains solely to the legal re-characterisation of facts and does not permit modification of the legal definition of the crimes over which the Trial Chamber has jurisdiction.

The Ieng Sary Defence Team vigorously opposed the view that customary international law at the relevant time did not contain an armed conflict nexus requirement, and the Khieu Samphan Defence Team submitted that the negotiations leading to the establishment of the International Criminal Court demonstrate the retention of the armed conflict nexus requirement during the period from 1975-1979.

All of the Defence Teams contended that the principle of *in dubio pro reo* is an established principle of international criminal law and should resolve this issue.

On 26 October 2011 the Trial Chamber ruled that pertinent state practice and *opinio juris* between 1945 and 1975 demonstrate that from their earliest conception there was a significant tendency to delink crimes against humanity from armed conflict. The Trial Chamber noted that the definition of crimes against humanity in Article 5 ECCC Law does not include a nexus with armed conflict, and held that the Pre-Trial Chamber erred in referring to the principle of *in dubio pro reo*. Affirming its earlier finding in Case 001, the Trial Chamber held that the armed conflict nexus was not part of the definition of crimes against humanity within customary international law between 1975 and 1979.

On 2 November 2011, the Ieng Sary Defence Team submitted a Request for a Stay of Execution of the "Decision on Co-Prosecutors' Request to Exclude Armed Conflict Nexus Requirement from the Definition of Crimes Against Humanity."

#### Vojislav Šešelj

is of Serbian descent and was born in Sarajevo on 11 October 1954. He was elected as a member of the Assembly of the Republic of Serbia in June 1991. He is the founder and President of the Serbian Radical Party and was vice-president of Serbia between 1998 and 2000. Šešelj was indicted by the ICTY for alleged war crimes including, murder, torture, cruel treatment, destruction and and is suspected of being involved in crimes against humanity including persecutions on political, racial or religious grounds, and inhumane acts. He surrendered voluntarily in February 2003 and his trial began four years later in November 2007.

## Article 5

The Extraordinary Chambers shall have the power to bring to trial all Suspects who committed crimes against humanity during the period 17 April 1975 to 6 January 1979.

Crimes against humanity, which have no statute of limitations, are any acts committed as part of a widespread or systematic attack directed against any civilian population, on national, political, ethnical, racial or religious grounds, such as:

- murder;
- extermination;
- enslavement;
- deportation;
- imprisonment;
- torture;
- rape;
- persecutions on political, racial, and religious grounds;
- other inhumane acts.

### Oral Testimony of the Accused at Trial:

On 24 October 2011, Ieng Sary submitted notice to the Trial Chamber that he will not testify during trial.

On 3 November 2011, Ieng Thirith's Defence Team notified the Trial Chamber that it is unable to take instructions from the Accused due to her mental state. The Team noted that Ieng Thirith's mental incapacity renders her: unable to contribute in any meaningful way to the preparation of her case or its presentation; unable to understand questions posed and respond in a rational and coherent manner; and unable to provide information on her activities and role during the period relevant to the indictment. Ieng Thirith will therefore not be making any statement during the opening stage of the trial, nor will she be in a position to testify in the trial in the exercise of her fair trial rights. The Ieng Thirith Defence Team noted finally that it gave this indication to the Trial Chamber without the ability to have any meaningful discussion with the Accused on the matter.

### Refusal to Grant Temporary Stay of Proceedings:

The Trial Chamber has declared that it considers there to be no basis to grant a temporary stay of proceedings in Case 002 as per Nuon Chea's Defence Team's request. The Nuon Chea Defence Team had requested a temporary stay of proceedings in Case 002 until both its pending appeal to the Supreme Court Chamber against the Trial Chamber's decision not to investigate the allegedly unfair character of the Case 002 judicial investigation, and Nuon Chea's international lawyers' criminal recent complaint to the Phnom Penh Municipal Court have been decided upon, as well as the completion of "an independent assessment of the Tribunal's ability to deliver justice".



**Ieng Thirith**

### Decision on Ieng Sary's Preliminary Objections Concerning Amnesty/Pardon and *Ne Bis in Idem*:

In August 1979, Ieng Sary was tried by the People's Revolutionary Tribunal and convicted in absentia of genocide and other crimes. King Sihanouk issued a Royal Decree granting the Accused amnesty/pardon in respect of the People's Revolutionary Tribunal's sentence of death and confiscation of property and the 1994 Law on the Outlawing of the Democratic Kampuchea Group.

As a Preliminary Objection pursuant to Rule 89 of the Internal Rules, the Ieng Sary Defence Team submitted that the ECCC lacks jurisdiction over Ieng Sary due to the 1996 Royal Decree, which granted him both an amnesty and a pardon. As a consequence of his pardon, Ieng Sary submitted that he should not serve any sentence for any acts at issue in the 1979 trial. He further submitted that an amnesty under the 1994 Law protects him from ECCC proceedings. With respect to *ne bis in idem*, the Ieng Sary Defence Team argued that since there is no exception to the rule under the Cambodian Penal Code or the International Covenant on Civil and Political Rights, the flaws of the People's Revolutionary Tribunal are irrelevant. The Team also argued that as the 1979 trial was not a sham trial designed to allow Ieng Sary to evade justice, Article 20(3)(b) of the ICC Statute dictates that the principle of *ne bis in idem* continues to apply.

On 3 November 2011, the Trial Chamber dismissed Ieng Sary's preliminary objection. It found that the sentences pronounced by the 1979 People's Revolutionary Tribunal could not be subject to pardon and has declared the amnesty contained in the Royal Decree to be inapplicable to charges of grave breaches of the Geneva Conventions, genocide and crimes against humanity in the Closing Order of Case 002. The Trial Chamber concluded that the 1996 pardon and the principle of *res judicata* do not debar its jurisdiction under Cambodian law. It has found that the procedural deficiencies in the 1979 trial were so significant that the decision resulting from the trial cannot be characterised as a genuine and enforceable judicial decision, and therefore could not be subject to a pardon.

The Trial Chamber also ruled that the *ne bis in idem* principle is limited in proceedings before internationalised tribunals. It stated that "where an international tribunal has jurisdiction over offences

previously tried by domestic proceedings with manifest shortcomings, the *ne bis in idem* principle has been balanced against the interest of the international community and victims in ensuring that those responsible for the prosecution of international crimes are properly prosecuted”.



King Sihanouk

The Trial Chamber noted that a number of treaties to which Cambodia is a party impose an absolute duty to prosecute certain international crimes. In consequence of Cambodia’s treaty obligations in respect of grave breaches of the Geneva Conventions, genocide and torture, the Trial Chamber shall not construe the 1996 Royal Decree as granting immunity for these crimes. Although no international treaty expressly prohibits amnesties in relation to the remaining international crimes charged in the Closing Order, including crimes against humanity, the Trial Chamber cited *opinio juris* and state practice to determine that a customary norm does require their prosecution. The Trial Chamber has accordingly decided to give no weight to the amnesty, which it con-

siders contrary to developing customary international law and to Cambodia’s international obligations.

## Special Tribunal for Lebanon

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### Trial in absentia

The first hearing on trials in absentia under international law took place before the Special Tribunal for Lebanon (“STL”) on 11 November 2011. On this day the Defence and Prosecution began presenting their arguments on moving into absentia proceedings. The STL is the only international court which allows trials in absentia, marking a departure from current practice and procedure in relation to international law.

Article 22 of the STL Statute makes trials in absentia mandatory providing certain threshold steps have been satisfied. The crucial issue for the Tribunal is whether ‘all reasonable steps’ required by Article 22, have been taken to fully inform the suspects about the cases against them. Despite efforts to locate the fugitives, their current whereabouts and whether they are aware of the proceedings in The Hague remains unclear.

On 11 November 2011, Prosecutors asked the court to summon Lebanese officials to The Hague to hear from them about their powers in the implementation of arrest warrants against the four suspects in ex-Premier Rafik Hariri’s assassination. During a hearing held at the STL, Prosecution trial lawyer Iain Morley told three judges and two alternate judges, that “there is an opportunity to assist Lebanese authorities to hearing from them as to what their powers are”. Lebanese General Prosecutor Saeed Mirza has said in his report that security forces had delivered arrest warrants to the last known addresses of Salim Ayyash, Mustafa Badreddine, Hussein Oneissi and Assad Sabra, but those efforts were deemed “not sufficient” by the STL president.

The Prosecution’s representative also asked judges for more time before starting with in absentia proceedings. They stated that a five-month period is a very short timeframe to reach a definitive conclusion. Morley said that ‘A trial in absentia should be a last resort and not a first choice’.

Although it does not allow trials in absentia, the International Criminal Court does provide for confirmation of charges in absentia.

If a trial in absentia does take place and at a later stage the accused is found there is a right to request a re-trial.

## Article 22

### Trials in absentia

1. The Special Tribunal shall conduct trial proceedings in the absence of the accused, if he or she:

(a) Has expressly and in writing waived his or her right to be present;

(b) Has not been handed over to the Tribunal by the State authorities concerned;

(c) Has absconded or otherwise cannot be found and all reasonable steps have been taken to secure his or her appearance before the Tribunal and to inform him or her of the charges confirmed by the Pre-Trial Judge.

## Defence Rostrum

### Rwandan cannot be tried in Denmark for Genocide

A Copenhagen appeals court ruled on 26 October 2011 that Denmark's law on genocide cannot be used to prosecute a Rwandan man charged with killing Tutsis during the 1994 genocide and dismissed his case. The Danish Eastern High Court held that the 1955 Danish Act Concerning the Punishment of Genocide cannot be used to prosecute genocide extraterritorially because the wording of the law does not show there was "intention to give the law extraterritorial jurisdiction". The court also pointed out that the United Nations' convention on genocide does not oblige countries to prosecute alleged genocide perpetrated outside their national territories. The court therefore dismissed part of the case against Emmanuel Mbarushimana, with the accused staying on remand on the subsidiary charge of murder. While dropping the genocide charges, the court ruled that the accused should remain in custody on charges of murder. It remained unclear when his murder trial would be held.



**Prosecution Spokesperson Augustin Nkusi**

Emmanuel Mbarushimana is accused of killing an unknown number of people after throwing grenades into a crowd of refugees as they tried to flee. He is also charged with setting up two road blocks resulting in the alleged deaths of 20,000 Tutsis.

Mbarushimana was arrested in December 2010 in Roskilde where he had been living in exile under a false name since 2001. He is charged with participating in killings during the 1994 genocide and was handed a life sentence in absentia in Rwanda in 2008. No date has yet been set for the murder trial.

### Croatian soldiers convicted by Zagreb court for BiH crimes

Five former Croatian soldiers have been sentenced by Zagreb County Court to 21 years in prison for war crimes committed in BiH. Five out of the seven originally accused were found guilty of shooting and executing six prisoners of war, and two were acquitted of all charges. While Emil Crncec and Goran Gaca were released, Tihomir Šavorić and Nenad Jurinac were sentenced to six years each, Antun Novačić was sentenced to five years and Robert Precehtjel and Robert Berak were sentenced to two years in prison each. The two individuals who were acquitted have been released from custody and the convicted soldiers are able to appeal to the Croatian Supreme court. The verdict signals the end of the first trial against Croatian army soldiers for war crimes in Bosnia between 1992 and 1995.



**Emil Crncec**

The convicted soldiers were accused of killing the prisoners of war during military operation "Maestral", launched by Croatian army in September 1995 near the village of Mliniste in Bosnia. The soldiers were members of the Croatian Professional Seventh Guardian Brigade, known as the "Pumas". The indictment alleges that the commander of the brigade, Ivan Korade, ordered the soldiers to execute the prisoners of war after they were captured. Korade committed suicide during a police raid in the northern part of Croatia where he lived after the war in the spring of 2008. The trial started in March this year. Judge Marijan Garac stated that, "there's no doubt that the members of Seventh Croatian Guardian Brigade killed members of Republica Srpska army during the international armed conflict," while explaining the verdict. The testimony of approximately 40 witnesses was heard in the court and the war diary of the brigade was read out. As the convicted soldiers are able to appeal to the Croatian Supreme Court, the judgement is not yet final.

### Court of BiH convicts former soldiers of genocide

On 31 October, the Trial Panel of the Section 1 of Bosnia and Herzegovina's war crimes court found two Bosnian Serb military commanders guilty of involvement in the 1995 Srebrenica genocide in which about 8,000 Bosnian Muslim men and boys were killed.

Judge Ljubomir Kitic stated that the two accused were guilty of playing a part in the detention and killing of at least 1,000 Bosnian Muslim men from the eastern enclave of Srebrenica, after it fell to Bosnian Serb forces.



**Judge Ljubomir Kitic**

Kitic stated that "Peric and Pelemis took part in a joint criminal enterprise with other members of the Bosnian Serb army and police, having a common plan and purpose to permanently and forcibly transfer the entire Muslim population from Srebrenica".

The judge said Peric and Pelemis ordered soldiers in their battalion to guard the detainees from where they were taken blindfolded and handcuffed to places of execution. The prisoners' bodies were later thrown into mass graves and subsequently reburied to hide the traces of the crimes, said the judge. The Zvornik brigade was one of 13 brigades of the Bosnian Serb army that comprised the Drina corps, commanded by General Radislav Krstić, who was sentenced to 35 years by the ICTY in The Hague over the Srebrenica genocide.

The court sentenced 43-year-old Slavko Peric to 19 years and 61-year-old Momir Pelemis to 16 years. Both men were commanders in the first battalion of the Zvornik brigade.

### **ICC seeks to prevent Gaddafi's son from fleeing Libya**

Luis Moreno-Ocampo, the ICC's chief prosecutor, has said that his office has information that former Libyan leader Muammar Gaddafi's son Saif Al-Islam Gaddafi may try to flee Libya with the help of mercenaries. In a statement to the UN Security Council, Moreno-Ocampo said the court is pressing nations to assist in the prevention of Saif Al-Islam Gaddafi from leaving Libya. He stated that the ICC is receiving information that Gaddafi's son may be recruiting the help of mercenaries to facilitate his escape from Libya.

The ICC is conducting an investigation into war crimes committed during the eight-month long conflict in Libya. Moreno-Ocampo assured the Security Council that an allegation of NATO forces committing crimes during the uprising would be objectively looked into.

In June, the ICC had issued arrest warrants in conjunction with the attacks made against protesters during the pro-democracy movement that arose against the regime earlier this year, for Gaddafi, his son and Libya's intelligence chief Abdullah Al Sanoussi.



**Luis Moreno-Ocampo**

The office of the chief prosecutor stated that they are in indirect contact with Al-Islam Gaddafi regarding his possible surrender and they are exploring the possibility of intercepting any plane within the airspace of a State party to make an arrest in the event of an attempted escape.

Besides collecting evidence against Al-Islam and Al Sanoussi for their eventual trial, the prosecutor's office is also continuing its investigations into gender crimes in Libya, particularly the use of rape as a weapon by Libyan forces during the conflict.

The ICC will present a comprehensive report on the crimes committed in Libya its third briefing to the UN Security Council in May 2012.

### **Uruguay revokes 'Dirty War' amnesty**

Uruguay's Congress last week revoked an amnesty for military officials charged with human rights abuses. This ended a deal that for 25 years has prevented prosecutions for crimes against humanity.

After 12 hours of debate, 50 of Uruguay's 90 deputies voted to overturn the amnesty on 27 October 2011, following a similar vote in the Senate. The measure went to President Jose Mujica for final approval who was required to sign it into a law before 1 November 2011 which is when the statute of limitations on crimes committed under the dictatorship is currently due to expire. The President signed the measure into a law on 1 November 2011 abolishing the 25-year-old amnesty law.

The new law would allow victims time to file criminal complaints for human rights violations committed during the 12-year dictatorship.

The Uruguayan public has voted twice to keep the amnesty in place, first in 1989 and then in 2009. However, the law has been



**President Jose  
Mujica**

ruled unconstitutional by Uruguay's Supreme Court. Repealing the law would bring Uruguay closer in line with the Inter-American Court of Human Rights' instructions to investigate dictatorship-era crimes.

An estimated 7,000 political prisoners were held during the 12 years of military rule and it has been alleged that many were tortured. Yet a presidential commission established in 2000 found that 38 people were executed or tortured to death under the dictatorship.

Among the first complaints filed following the revocation of the amnesty came from 28 women who say they were sexually abused in detention facilities during the same period. This was followed by a filing from the Institute of Legal and Social Studies of Uruguay (IELSUR) against some 100 troops in the name of 90 people detained during the war.

The plaintiffs allege "torture, cruel, degrading and inhuman treatment during the entire period of their detention," said IELSUR lawyer Jorge Pan.

### **International Criminal Expert Framework Concluding Conference in The Hague**

On 27 and 28 October 2011, the two day concluding Conference for the International Criminal Procedure Framework (IEF) was held at the Peace Palace in The Hague. In 2007, The Hague Institute for the Internationalization of Law and the Amsterdam Center for International Law launched a project intended to identify a guiding framework for international criminal procedure and practice, entitled: "General Rules and Principles of International Criminal Procedure".

The project was split up in eleven subjects, which were dealt with separately by three to four international experts and scholars. The eleven working groups of the project concerned (1) the general framework in which international tribunals and courts operate, (2) the initiation of investigations and the selection of cases, (3) the investigation, coercive measures, arrest and surrender, (4) the charges and the confirmation of charges, (5) the trial process, (6) appeals, reviews and reconsiderations, (7) the law of evidence, (8) the deliberation, potential dissents and the judgments, (9) defence issues, (10) victim issues and finally (11) negotiated judges.

At the concluding conference, the results of these working groups were presented by their respective members, amongst others by Prof. Göran Sluiter, Ms Helen Brady, Mr Fergal Gaynor, Dr. Till Gut, Ms Melinda Taylor, Prof. Thomas Weigend and Mr. Håkan Friman. Subsequently, expert discussants such as Prof. Elies van Sliedregt, Mr. Alain Grellet, Justice David Baragwanath, Mr. Mark Harmon, Prof. Maximo Langer, Mr. Norman Farell and Mr. Morten Bergsmo, provided a critical review of the working group's results and chapters. This was followed by questions and feedback from the audience to the panel.

The results of working group 9 on defence issues were presented by Ms. Melinda Taylor (ICC, Office of Public Counsel for the Defence) and Dr. Till Gut (University of Cologne). Their main conclusion was that defence issues have been neglected in international criminal law and that closer attention must be paid to this crucial subject. The working group outlined controversial issues such as 'self-representation', 'equality of arms' and 'legal aid' and summarised that the STL's model for a defence office is preferable. However, the experts also stated that an in-house public defence office would be unsuitable as it is essential that the defence remains independent to allow it to function best in the client's interest. These results were discussed by Mr. Rupert Skilbeck (Open Society Justice Initiative) who highlighted the importance of human rights law in international criminal procedure and practice. The discussion was concluded with an agreement between the experts, the discussant and the participating audience that issues such as the remuneration of defence counsel and legal officers must receive increased attention in the future.

At the end of the conference, a high-level panel discussion was held with Hon. Justice Stefan Trechsel (ICTY), Hon. Justice Motoo Noguchi (ECCC), Hon. Justice Ines Weinberg de Roca (UN Appeal Tribunal), Hon. Justice Fatoumata Dembele Diarra (ICC) and Hon. Justice Erik Mose. The conference was finally concluded by Prof. Kai Ambos, Prof. Claus Kress and Prof. Göran Sluiter. The final and amended report of this working group will be published in 2012.

The website of the conference is the following: <http://ief2011.hiil.org/>

The summary report of the conference can be downloaded here: [http://ief2011.hiil.org/assets/1999/Summary\\_Report\\_031111\\_IvdZ.pdf](http://ief2011.hiil.org/assets/1999/Summary_Report_031111_IvdZ.pdf)



**The Hague Institute for  
the Internationalization  
of Law**



## Blog Updates

- Deirdre Montgomery, **ICTR Grants Convict Early Release for First Time in its History**, 26 October 2011, available at: <http://www.internationallawbureau.com/blog/?p=3413>
- Amber Charles, **Justice Delayed? Jean Claude Duvalier and the Case for Prosecution**, 27 October 2011, available at: <http://intlwgrrls.blogspot.com/2011/10/justice-delayed-jean-claude-duvalier.html>
- David Bosco, **Foreign Policy: Was Killing Gadhafi A War Crime?** 24 October 2011, available at: [http://ijcentral.org/blog/foreign\\_policy\\_was\\_killing\\_gadhafi\\_a\\_war\\_crime/](http://ijcentral.org/blog/foreign_policy_was_killing_gadhafi_a_war_crime/)
- Beth Van Schaack, **Independent Panel on ICC Judicial Elections**, 1 November 2011, available at: <http://intlwgrrls.blogspot.com/2011/11/independent-panel-on-icc-judicial.html>
- Jaya Ramji-Nogales, **A fair trial in Rwanda?** 31 October 2011, available at: <http://intlwgrrls.blogspot.com/2011/10/fair-trial-in-rwanda.html>
- Richard Falk, **Libya After Muammar el-Qaddafi's Execution**, 30 October 2011, available at: <http://richardfalk.wordpress.com/2011/10/30/libya-after-muammar-el-qaddafi%E2%80%99s-execution/>
- Seth Engel, **Judge Selection at the International Criminal Court**, 6 November 2011, available at: <http://sethsupdates.blogspot.com/2011/11/judge-selection-at-international.html>



The former dictator of Guatemala, Oscar Mejia Victores, has been deemed too ill to stand trial for genocide and war crimes. It has been concluded by specialists that the 80-year-old has an "organic medical disorder" making it difficult for him to express himself and limiting him to understanding. Doctors said that as Mejia has also lost the movement in his legs, given his physical and mental failings, he was "incapable of facing a trial." An arrest warrant accusing Victores of war crimes and genocide was issued against him on 10 October.

## Publications

### Books

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Tom Rees (ed.) 2011. Archbold: Criminal Appeal Cases Index, Sweet & Maxwell

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**HEAD OF OFFICE**

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**WE'RE ON THE WEB!**

**WWW.ADCICTY.ORG**

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## Call for papers

Utrecht Journal of International and European Law:  
'European Security Law'

Deadline: 31 November 2011

Contact information: [merkourios@urios.org](mailto:merkourios@urios.org)

More info: [www.merkourios.org](http://www.merkourios.org)

## Upcoming Events

### Contemporary Issues in International Criminal Prosecutions

**Date:** 30 November 2011, from 5:30 to 7:30 pm

**Venue:** Georgetown University Law Center, Hart Auditorium, 600 New Jersey Ave. NW, United States (guests to sign in at the 2nd Street entrance)

**RSVP:** Please contact Marie Greenman at [mlg84@law.georgetown.edu](mailto:mlg84@law.georgetown.edu)

### Shabtai Rosenne Memorial Lecture

**Date:** 24 November 2011

**Organiser:** Brill, with support from the Israeli Ministry of Foreign Affairs, the Israeli Embassy in The Hague.

**Venue:** Academy Hall, Peace Palace, The Hague

**More info:** <http://www.haguejusticeportal.net/smartsite.html?id=12923>

### International Conference The Holocaust and Other Genocides - Uses, Abuses and Misuses of the Holocaust Paradigm

**Date:** 27 November 2011 - 28 November 2011

**Organiser:** The conference is organised on the occasion of the Dutch chair of the ITF in 2011.

**Venue:** Peace Palace, The Hague

**More info:** [http://www.niod.knaw.nl/documents/ITF\\_flyer.pdf](http://www.niod.knaw.nl/documents/ITF_flyer.pdf)

## Opportunities

### Investigator, Leidschendam, Netherlands

Special Tribunal for Lebanon (STL)

Closing Date: Saturday 31 December 2011

### Legal Officer, Leidschendam, Netherlands

Special Tribunal for Lebanon (STL)

Closing Date: Saturday 31 December 2011

### Assistant/Associate Case Manager, Leidschendam, Netherlands

Special Tribunal for Lebanon (STL)

Closing Date: Saturday 31 December 2011