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

ICTY CASES

Cases in Pre-trial

Hadžić (IT-04-75)

Cases at Trial

Haradinaj et al. (IT-04-84)

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)

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Tolimir (IT-05-88/2)

Cases on Appeal

Đorđević (IT-05-87/1)

Gotovina et al. (IT-06-90)

Lukić & Lukić (IT-98-32/1)

Perišić (IT-04-81)

Popović et al. (IT-05-88)

Šainović et al. (IT-05-87)

Prosecutor v. Mladić (IT-09-92)



Alphons Orié

On 11 May, the Defence filed a motion to disqualify Judge Alphons Orié because of the appearance of bias and to stay the proceedings until a decision on the motion was made. It was argued that Judge Orié has

a vested personal interest to preserve the findings of previous judgements handed down to former subordinates of Mladić as he was the presiding judge in these trials. As a Dutch national, Judge Orié has a “national interest” in the case since a Dutch court has established the responsibility of the Dutch State for the Srebrenica crimes, the motion states. Moreover, the Defence saw the Judge siding with the Prosecution in several instances prior to the beginning of the trial as well as in a conflict of interest due to his involvement in the case against Dusko Tadić. Judge Orié previously referred to Mladić as “Mr Tadić”, the Defence argued. The motion was denied, however, with ICTY President Theodor Meron stating that the Defence failed to prove that a “reasonable observer, properly informed, would reasonably apprehend bias” of Judge Orié.

Three days later, the Defence submitted its sixth motion to postpone the start of the trial due to disclosure errors by the Prosecution. Nevertheless, the trial against former Bosnian Serb military leader Ratko Mladić began as scheduled on 16 May 2012, closely followed by media from around the globe. Mladić is charged with 11 counts of war crimes, crimes against humanity and genocide.

ICTY NEWS

- Mladić: Start of trial
- Karadžić: Rule 98 *bis* hearing scheduled
- Stanišić & Simatović: Defence case continues
- Haradinaj: Prosecution rests its case
- Đorđević: Status conference
- Gotovina et al.: Appeals hearing
- Lukić & Lukić : Status conference
- Šainović et al.: Status conference

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During the opening statement, Prosecutor Dermot Groome stated his intention to prove "beyond a reasonable doubt the hand of Mr Mladić in each of these crimes". Mladić previously rejected all charges laid against him; the court entered a not-guilty plea on his behalf.

The trial was scheduled to begin hearing evidence on 29 May 2012. However, Judge Orić stated that due to significant

disclosure errors by the Prosecution, the trial adjourned until further notice. According to the Prosecution, the failure to disclose all documents to the Defence was due to a "technical error" made several years ago.

Prosecutor v. Karadžić (IT-95-5/18-I)

After the Prosecution rested its case in the trial, a Rule 98 *bis* hearing was scheduled for 11 and 13 June 2012 in the trial of former Republika Srpska President, Radovan Karadžić. At this hearing, the Chamber can acquit the Defendant on any count where in their opinion insufficient evidence has been called to support a conviction.

In the meantime, Karadžić proposed a visit by the court to Sarajevo, Banja Luka and Belgrade for three weeks in the course of the defence case. He argued that this would facilitate calling witnesses living there or currently serving prison sentences in the local jurisdiction. Karadžić also

submitted that this could contribute to the people in the former Yugoslavia gaining a better understanding of the court. He thereby invoked Rule 4 of the Rules of Procedure and Evidence, which allows the Judges to exercise their function outside of the seat of the Tribunal if the Tribunal's President authorises it 'in the interest of justice'. Karadžić also asked the Trial Chamber to call on the governments of Bosnia and Herzegovina, Republika Srpska and Serbia whether they welcome his initiative.

The Prosecution opened its case on 13 April 2010. 196 witnesses were called. The Defence case is scheduled to begin on 16 October 2012.

Rule 4 *Meetings away from the Seat of the Tribunal*

(Adopted 11 Feb 1994)

A Chamber may exercise its functions at a place other than the seat of the Tribunal, if so authorised by the President in the interests of justice.

Prosecutor v. Stanišić & Simatović (IT-03-69)

The trial against Jovica Stanišić and Franko Simatović continued on 8 May 2012 with the cross-examination of Defence witness Milan Milošević, a police expert. When questioned about the oversight of the Serbian State Security Service's (DB) operation, the witness claimed that there was "self-control" in place. According to the law, a parliamentary commission should have also overseen the Security Service, the witness said. Milošević further argued that for historical reasons "there was a culture of non-interference in politics and avoiding the use of secret methods without a valid reason" in the DB.

The witness agreed to the Defence's claims that reports deemed not relevant may not have reached DB Chief Stanišić, even if they described war crimes. Stanišić may not have been aware about the salaries paid to the personnel and logistical support within the DB, including the issuing of weapons, the witness confirmed.



Dejan Plahuta

The following day, the creation of the DB special unit, the so-called Red Berets, was discussed. Milošević contended that the unit was first established in August 1993, whereas the Prosecution insisted that the unit was formed in the early 1990's. In contrast to the indictment and to Prosecution claims that Simatović was the commander of the Red Berets, Milošević argued that the unit did not have a commander until 1996. Instead, Simatović had a "low-ranking position" in the DB as senior inspector in the Second Administration.

After Milošević's cross-examination, Defence witness Dejan Plahuta, former soldier of the Yugoslav Army and the Serbian State Security Service's Special Operations Unit, briefly took to the stand on 10 May 2012. He described the attack of the Army of Bosnia and Herzegovina on the area of Skelani and Bajina Basta in 1993. On the same day, the decision to grant provisional release to Stanišić was unsealed. Simatović's motion for provisional release has already been granted.

During the testimony of the Defence witness Dejan Plahuta, former soldier of the Yugoslav Army and the Serbian State Security Service's Special Operations Unit, it was discussed

whether the Serbian police had entered the territory of Bosnia. Plahuta was not aware of the statements by the Prosecution due to the low-level rank he held in the army. The Prosecution

showed several documents to prove their statements, but these documents were unknown to the witness.

Prosecutor v. Haradinaj et al. (IT-04-84)



Ramush Haradinaj

On 20 April 2012, the Prosecution rested its case in the partial retrial of Ramsuh Haradinaj, Idriz Balaj and Lahi Brahimaj.

On 1 May, the Defence teams of all three Defendants announced that they will not present a defence case, as in their view the Prosecution has failed

to prove beyond reasonable doubt the Defendants' guilt for the crimes they are charged with in the indictment.

At the status conference the following day, the Trial Chamber decided that closing arguments will take place on 25 and 26 June, thereby following the schedule proposed by the Defence in their motion of 27 April. The final briefs have to be submitted by 11 June.

Prosecutor v. Đorđević (IT-05-87/1)

On 11 May 2012, a status conference in the appellate proceedings against Vlastimir Đorđević took place. It was announced that the appellate hearing will likely be held in late 2012 or early 2013. Đorđević said he does not have any health problems.

Đorđević was sentenced to 27 years imprisonment in February 2011 for his role in a joint criminal enterprise in Kosovo in

1999. The Defence requests the Appeals Chamber to reverse the judgement or impose a milder sentence in 19 grounds of appeal. The Prosecution presented two grounds of appeal and would like to see a stronger sentence imposed.



Vlastimir Đorđević

Prosecutor v. Gotovina et al. (IT-06-90)



Mladen Markač

The Defence denied the unlawful attack on civilians during the appellate hearing. It was argued that there was no evidence suggesting that the attacks had reached installations or residences of civilian purpose. The Prosecution estimates that Ante Gotovina's part in these events

was inaction (lack of investigation). The Defence argues that this has not been proved.

Similar were the arguments of the Defence regarding Mladen Markač. The Defence claimed that the shelling during Operation Storm in 1995, was not unlawful and that once this is proved, their charge of joint criminal enterprise will have no validity. The Prosecution's claim that Serbs were expelled due to orders coming from Markač was disputed by the Defence. With this the appellate hearing was closed and the case awaits an appeals judgement.

Prosecutor v. Lukić & Lukić (IT-98-32/1)



Sredoje Lukić

A status conference in the appellate proceedings against Milan Lukić and Sredoje Lukić took place on 24 May 2012. The cousins were sentenced to life imprisonment and 30 years imprisonment, respectively, in July 2009. During the status conference, the Chamber noted that the Appeals Judgement will likely be pronounced after the 2012 summer recess. Milan Lukić referred to health problems concerning his eyes and was advised to submit a request to the commanding officer, pursuant to Rule 80 and 81 of the Rules of Detention.

Prosecutor v. Šainović et al. (IT-05-87)



Vladimir Lazarević

On 16 May 2012, a status conference was held in the appellate proceedings against Nikola Šainović, Dragoljub Ojdanić, Nebojša Pavković, Vladimir Lazarević and Sreten Lukić. They were convicted in the first instance of crimes committed by Serbian forces in Kosovo in 1999 and sentenced to prison sentences ranging from 15 to 22 years. No major issues were discussed apart from Lazarević's health problems. He previously submitted a request to the authorities in the Detention Unit but received no answer. A council of specialist doctors from Serbia are going to visit and consult with him on this matter shortly.

Complaints

Rule 80

(A) Each detainee on admission shall be provided in a language which he understands the Regulations for the Establishment of a Complaints Procedure for detainees.

(B) Each detainee may make a complaint to the Commanding Officer at any time.

Rule 81

A detainee, if not satisfied with the response from the Commanding Officer, has the right to make a written complaint, without censorship, to the Registrar, who shall inform the President.

NEWS FROM THE REGION



Bosnia and Herzegovina

Trial against Sarić started

The trial against Goran Sarić began on 8 May 2012. Sarić was the Chief of the Serb Public Safety Station in Centar, Sarajevo in June 1992 and allegedly participated in an attack against the civilian population in Nahorevo, Poljine and other parts of Sarajevo. Sarić was arrested in November 2011 and held in custody since. At the start of the proceedings, the Prosecution emphasised that Sarić made decisions in 1992 "about who deserves to live" in the Sarajevo neighbourhood of Nahorevo.



Goran Sarić

BiH

- Sarić: Trial begins
- Stevanović: Guilty verdict
- Kos et al.: Closing arguments
- Dronjak: Closing arguments
- Ilić: Trial scheduled for June

Kosovo

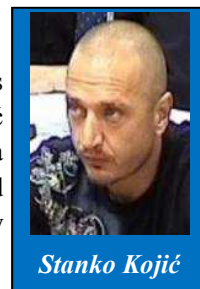
- Limaj: Acquittal

Guilty Verdict for Foča War Crimes

On 17 May 2012, the District Court in Trebinje, Republika Srpska, found Ranko Stevanović guilty of war crimes committed in Foča, southeastern Bosnia and Herzegovina, in 1992 and sentenced him to 14 years in prison. He has the right to appeal to the Supreme Court of Republika Srpska.

Closing arguments in trial against Kos et al.

During closing arguments on 14 May 2012 in the trial against former Army of Republika Srpska soldiers Franc Kos, Stanko Kojić, Zoran Goronja and Vlastimir Golijan, the Prosecution asked that Kos, Kojić and Goronja each be sentenced to 45 years in prison and Golijan to 20 years for their role in the Srebrenica genocide. In a plea hearing in 2010, Kos, Kojić and Goronja pleaded not guilty whereas Golijan pleaded guilty. A day later, the Defence for Franc Kos noted that although Kos participated in the killings in July 1995, he did not know about the plan to exterminate a group of Bosniaks in eastern Bosnia.



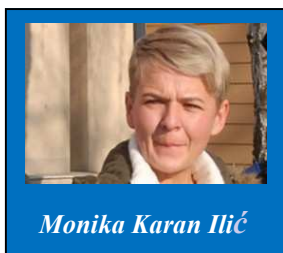
Stanko Kojić

Closing arguments in the trial against Ratko Dronjak

During closing arguments on 10 May 2012 in the trial against Ratko Dronjak, a former warden of the detention camps in “Slavko Rodić” school and Kamenica, the Prosecution asked for a minimum of 30 years imprisonment. Dronjak is charged with taking part in the ethnic cleansing of non-Serb civilians and the illegal imprisonment of Bosniak and Croat civilians from the territory of the Autonomous Region of Krajina. According to the Prosecution it has been proven that Dronjak tortured, beat and forced the prisoners to carry out hard labour and that there are no extenuating circumstances for the defendant. The Defence argued that the indictment is imprecise and asked the Court to release Dronjak. The verdict will be delivered in June this year.

Trial of Monika Karan Ilić scheduled to begin in June

The trial of Monika Karan Ilić, who is charged with crimes against Bosniak civilians in Brcko, is due to begin in June 2012. According to the indictment, containing eight counts, Ilić, a Bosnian Serb civilian, faces charges of having participated in torture, inhumane treatment and causing severe suffering to civilians in the Luka detention camp and the police station in Brcko from May to July 1992. Former Luka camp detainees claim that Ilić was the girlfriend of Goran Jelisić, the camp commander, who was sentenced by the ICTY to 40 years in prison in 2001.



Monika Karan Ilić

Kosovo

Former ICTY-indictee Limaj acquitted

Former ICTY indictee, Fatmir Limaj was found not guilty of war crimes allegedly committed during the conflict in Kosovo. On 2 May, a mixed panel of EULEX and local judges at Pristina District Court acquitted Limaj and three further defendants of all charges laid against them. On 30 March, the court had already acquitted the six other accused in the so-called Klecka case.

The ten former KLA fighters had been indicted on suspicion of committing war crimes against Serbs and Albanians at the Klecka detention centre in 1999. In 2005, the ICTY cleared Limaj of charges relating to crimes allegedly committed at the Llapushnik KLA prison camp.

Much of the recent prosecution's case was based on the testimony and diaries of Agim Zogaj, a former prison guard for the KLA. He was sent to Germany under a witness protection scheme and was found dead there in September 2011. Apparently, he had killed himself after repeatedly receiving threats. After his death, the court dismissed Zogaj's evidence. The EULEX prosecutor from Kosovo's Special Prosecution Office has announced that he will appeal the rulings.



Fatmir Limaj

NEWS FROM OTHER INTERNATIONAL COURTS



Special Court for Sierra Leone

The views expressed herein are those of the author(s) alone and do not necessarily reflect the views of Special Court for Sierra Leone (SCSL).

SCSL

- Taylor's sentencing submission

Charles Taylor Sentencing Submissions

The former Liberian President, Charles Taylor, was convicted on 26 April 2012 of aiding and abetting in all 11 counts charged against him, for his actions in supporting the Revolutionary United Front (RUF) and Armed Forces Revolutionary Council (AFRC) rebels in Sierra Leone from November 1996 to January 2002. As is customary, the judges at the Special Court for Sierra Leone (SCSL) heard oral submissions on sentencing from the Prosecution and the Defence on 16 May 2012.

The Chief Prosecutor at the tribunal, Brenda Hollis, submitted that its requested 80 year jail sentence was appropriate given the “gravity of crimes and the specific conduct of the accused”. She referenced the extreme nature of the crimes, which included slavery and the use of child soldiers, to support the Prosecution’s requested jail sentence, which would undoubtedly be a life sentence for the 64-year old Charles Taylor. She also pointed to Taylor’s role in the planning of attacks on various towns in Sierra Leone in 1998 and 1999, where rebels declared the attacks as “operation no living thing”.

The Defence for Charles Taylor, led by Courtenay Griffiths, submitted that the guilty verdict entered against the Defendant on 26 April actually represents a “modest version” of the Prosecution’s allegations of Taylor’s involvement in the Sierra Leone conflict. Griffiths further submitted what he argued were four mitigating factors that his client should benefit from. These four mitigating factors were: a short offending period for most of the crimes in the indictment, with the exception of enslavement and the use of child soldiers; Charles Taylor’s involvement in the Sierra Leone peace process; his

resignation from the Liberian presidency in 2003; and his advanced age at 64 years old. The Defence did not offer a specific number of years as such, but it requested the Court to use rea-



Charles Taylor

sonable judgement in the decision and to consider that a sentence should always leave some hope for the Defendant.

Charles Taylor himself also got the opportunity to address the Court during the sentencing hearing, having been given 30 minutes to speak on his own behalf. He began by stating that his submissions would not be exclusively limited to the legal issues of the case. He made the argument, one which has been made before in this case, that he was tried not for legal reasons, but for political ones. More specifically, he pointed to the United States’ alleged desire to have him removed from the presidency in Liberia as the reason why he was charged. He also reinforced the argument that he had simply been playing the role of a peacemaker in the Sierra Leone conflict, telling the court “What I did to help bring peace to Sierra Leone was done with honour”. At the conclusion of his statement, Charles Taylor expressed sadness and sympathy for the people of Sierra Leone who suffered from crimes and atrocities. This was the last hearing in the case before the judges go into deliberations and come back with their sentencing verdict on 30 May 2012.

LOOKING BACK...

International Criminal Tribunal for the Former Yugoslavia

5 years ago...

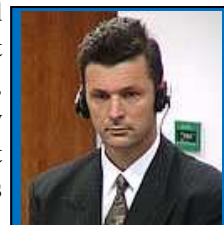
On 9 May 2007, the Prosecution proposed a Second Amended Indictment against Mićo Stanišić under charges of Crimes Against Humanity and Violations Of The Laws Or Customs Of War. Stanišić, Minister of the Ministry of Internal Affairs in Republika Srpska from April 1992 onwards, surrendered and was transferred to the ICTY in March 2005. The trial commenced in September 2009, closing arguments are scheduled to take place from 29 May to 1 June 2012.



Mićo Stanišić

10 years ago...

On 27 May 2002, the Prosecution issued the Amended Joinder Indictment against Vidoje Blagojević, Dragan Obrenović, Dragan Jokić and Momir Nikolić. They were charged with Crimes Against Humanity and Violations Of The Laws Or Customs Of War, amongst others, and later sentenced to 15, 17, nine and 20 years imprisonment respectively.



Dragan Obrenović

Special Court for Sierra Leone

5 years ago...

On 29 May 2007, the Prosecution issued the second amended indictment against Charles Taylor under charges of Crimes Against Humanity, Violations Of Article 3 Common To The Geneva Conventions And Of Additional Protocol II and Other Serious Violations Of International Humanitarian Law.

International Court of Justice

10 years ago...

On 3 May 2002, Benin and Niger transmitted a Special Agreement to the Registrar, agreeing to submit to the Court a dispute concerning “the definitive delimitation of the whole boundary between them”. In particular, the ICJ was asked to a) determine the course of the boundary between the Republic of Benin and the Republic of Niger in the River Niger sector; b) specify which State owns each of the islands in the said river, and in particular Lété Island; and c) determine the course of the boundary between the two States in the River Mekrou sector. The Court issued its decision in July 2005, awarding Niger 16 out of 25 disputed islands.

BLOG UPDATES

- Barnaby Phillips, **In court with Ratko Mladic**, 17 May 2012, available at: <http://blogs.aljazeera.com/europe/2012/05/17/court-ratko-mladic>
- Antoine Buyse, **Sejdic and Finci - Lack of Bosnian Progress**, 16 May 2012, available at: <http://echrblog.blogspot.com/2012/05/sejdic-and-finci-lack-of-bosnian.html>
- Kevin Jon Heller, **The Special Court for Sierra Leone Jumps Three Sharks and a Turtle**, 22 May 2012, available at: <http://opiniojuris.org/2012/05/22/the-special-court-for-sierra-leone-jumps-three-sharks-and-a-turtle/>
- Anna Bonini, **Security Council Power of Referral Undermines ICC Authority**, 21 May 2012, available at: <http://ilawyerblog.com/security-council-power-of-referral-undermines-icc-authority/>
- salmayusuf, **Russia calls on ICC to consider NATO air campaign in Libya**, 19 May 2012, available at: <http://internationallawobserver.eu/2012/05/19/russia-calls-on-icc-to-consider-nato-air-campaign-in-libya/>
- Alexandra Huneeus, **Chávez vs. Inter-American human rights system**, 21 May 2012, available at: <http://www.intlawgrls.com/2012/05/chavez-vs-inter-american-human-rights.html>
- David Prater, **The Transitional Justice Function of Multicultural Policies in Sri Lanka**, 15 May 2012, available at: <http://www.thehumanrightsblog.com/?p=1248>

PUBLICATIONS AND ARTICLES

Books

Morten Bergsmo (Ed.) (2012) *Thematic Prosecution of International Sex Crimes*, Torkel Opsahl Academic EPublisher

Dr. Annemieke van Verveeld (2012) *Mistake of Law - Excusing Perpetrators of International Crimes*, T.M.C. Asser Press

Ilse Derluyn, Cindy Mels, Stephan Parmentier and Wouter Vandenhoele (Eds.) (2012) *Re-Member: Rehabilitation, Reintegration and Reconciliation of War-Affected Children*, Intersentia

Edda Kristjánsdóttir, André Nollkaemper and Cedric Rynjaert (Eds.) (2012) *International Law in Domestic Courts: Rule of Law Reform in Post-Conflict States*, Intersentia

Richard Zajac Sannerholm (2012) *Rule of Law after War and Crisis: Ideologies, Norms and Methods*, Intersentia

Articles

Scott T. Johnson (2012) "Book Review: Jarinde Temminck Tuinstra, *Defence Counsel in International Criminal Law*", *Journal of International Criminal Justice*

Gentian Zyberi (2012) "The Transitional Justice Process in the Former Yugoslavia: Long Transition, Yet Not Enough Justice", *Oxford Transitional Justice Research Working Paper Series*

Stefan Sottiaux and Stefan Rummens (2012) "Concentric democracy: Resolving the incoherence in the European Court of Human Rights' case law on freedom of expression and freedom of association", *International Journal of Constitutional Law* 10(1), p. 106-126

Ahmad Ali Ghouri (2012) "Determining Hierarchy Between Conflicting Treaties: Are There Vertical Rules in the Horizontal System?" *Asian Journal of International Law*

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WE'RE ON THE WEB!

WWW.ADCICTY.ORG

GOODBYE

The ADC-ICTY would like to express its appreciation and thanks to Kushtrim Zymberi for his hard work and dedication to the Newsletter over the past year. Kushtrim is the longest-standing member of the Newsletter Team to date. We wish him all the best for the future.

**EVENTS****New Perspectives on the Law of Non-International Armed Conflict**

Date: 30 May 2012

Venue: T.M.C. Asser Instituut, R.J. Schimmelpennincklaan 20-22, The Hague

More info: http://www.asser.nl/events.aspx?id=294&site_id=9

Pluralism v. Harmonization: National Adjudication of International Crimes

Date: 14-15 June 2012

Venue: VU University Amsterdam, Trippenhuis (KNAW), Kloveniersburgwal 29, 1011 JV Amsterdam

More info: <http://www.commoncivility.org/events/upcoming-events/pluralism-harmonization>

Summer Law Program on International Criminal Law

Date: 4-30 June 2012

Venue: T.M.C. Asser Instituut, R.J. Schimmelpennincklaan 20-22, The Hague

More info: http://www.asser.nl/events.aspx?id=281&site_id=1

OPPORTUNITIES**Translator/ Revisor (French) - Conference, Management, Language (P4), The Hague, Netherlands**

International Criminal Tribunal for the Former Yugoslavia (ICTY)

Closing date: 10 June 2012

Appeals Counsel (P4), The Hague, Netherlands

International Criminal Court (ICC)

Closing date: 10 June 2012

Commanding Officer (P4), The Hague, Netherlands

International Criminal Tribunal for the Former Yugoslavia (ICTY)

Closing date: 14 June 2012