ADC-ICTY Newsletter, Issue 12

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ICTY Cases

Cases in Pre-trial

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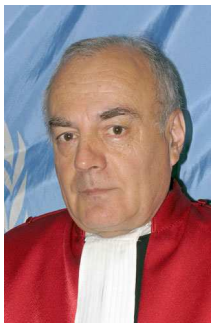
ICTY News

* 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.

The Prosecutor v. Šešelj (IT-03-67)



Judge Antonetti

On 4 May 2011, the Trial Chamber rendered its decision under Rule 98*bis* in the trial of Vojislav Šešelj. The judges denied Šešelj's motion for acquittal following the closing of the Prosecution case and the 98*bis* hearing held on 7-9 March 2011. The Chamber concluded by majority that the evidence presented so far was capable of sustaining a conviction on all nine counts in the indictment. There was a separate dissenting opinion of the presiding Judge Jean-Claude Antonetti.

Antonetti noted the possibility of an acquittal due to lack of evidence from the prosecution and believed a partial or full acquittal could be granted. He stated that some crimes in the indictment were sufficiently proven, while others were not. In a reading session that took up almost two days, Judge Antonetti stated he agreed with the other judges on counts 1, 10 and 11 of the indictment, while he would have acquitted the Accused on other counts.

In particular, the judges concluded that sufficient evidence existed to prove that Šešelj instigated his supporters to voluntarily join combat activities in support of his nationalist ideology and the creation of a Greater Serbia. They asserted that the Accused was also aware that the volunteers of the Serbian Radical Party and Serbian Chetnik Movement committed crimes due to influence the Accused exercised on them, but despite that fact, he continued with speeches against non-Serbs. The Chamber concluded that Šešelj, as a "doctor of law" must have known that spreading of hatred on confessional, national and racial grounds was punishable under international law and laws of the SFR Yugoslavia.

Judge Antonetti found, however, that Šešelj did not participate in a joint criminal enterprise with Slobodan Milošević, Radovan Karadžić and others. He also contested the prosecution's claims that the Accused simultaneously instigated and committed crimes. From his point of view, it was not possible to be instigator and perpetrator at the same time. Antonetti further declared that the evidence did not establish a causal nexus between the instigating statements of the Accused and the charges contained in the indictment, namely deportation and forcible transfers. He also argued that Šešelj lacked the political and military power to give orders, thus could not be held responsible for all of the crimes charged in the indictment. He added that only one form of liability was possible in a judgment, that a person could not be accomplice and aid and abet a crime at the same time. Having given a detailed overview of the evidence presented by the prosecution, the Judge also noted that continuing the trial with incomplete evidence after the prosecutor's office had so much time for investigation put in question the fairness of the trial.

Rule 98 *bis*

Judgement of Acquittal

At the close of the Prosecutor's case, the Trial Chamber shall, by oral decision and after hearing the oral submissions of the parties, enter a judgement of acquittal on any count if there is no evidence capable of supporting a conviction.

After the completion of the Rule 98*bis* oral decision, it will be up to the Accused to inform the Chamber whether he intends to present a defence case or not. In the history of the ICTY, no accused has yet been acquitted pursuant to Rule 98*bis*.

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

On 5 May 2011, Trial Chamber II rendered its oral decision under Rule 98*bis* dealing with the motion for acquittal of one of the accused in Stanišić & Simatović. While Jovica Stanišić chose not to make any Rule 98 bis submission, the defence of Franko Simatović orally requested on 7 April 2011 that the Trial chamber acquit the accused on all the counts contained in the indictment.

However, despite the Defence's submissions to the contrary, Trial Chamber II found that the evidence presented by the Prosecution sufficiently established the intention of Simatović to commit the crimes charged. Simatović is charged, together with Stanišić, with four counts of crimes against humanity and one count of violations of the laws or customs of war. As commander of the Special Operations Unit of the Security Service of the Republic of Serbia ("DB"), the accused allegedly helped to establish training camps for special units in April 1991, including the JSO and Scorpions. These units allegedly committed persecution, murder, including at Srebrenica, deportation and forcible transfer in Croatia and Bosnia. It is alleged that the crimes were committed together with other Serb Forces, as part of a joint criminal enterprise with the objective of permanently removing non-Serb populations from areas of Croatia and Bosnia, until 31 December 1995. On 5 May 2011, the Trial Chamber also found that there was sufficient evidence capable of establishing that Simatović intended to commit the crimes charged.

The Trial will therefore continue in relation to all the counts and, unless the Trial Chamber grants the defence its request for additional time to prepare, the defence will start to present its case on 15 June 2011.

Prosecutor v. Tolimir (IT-05-88/2)

Momir Nikolić initially appeared before the ICTY in 2002. In 2003, a plea agreement was reached and he pleaded guilty to Count 5 of the indictment, crimes against humanity. Nikolić is currently serving his 20 years sentence in Finland.

Momir Nikolić

The Tolimir trial has seen a number of key prosecution witnesses during the past few weeks. In early April, Momir Nikolić , former Assistant Chief of Security and Intelligence for the Bratunac Brigade of the Drina Corps testified. Nikolić testified about the functioning of the security and intelligence service and the chain of command. Nikolić also described in detail the VRS operation Krivaja 95 and its aftermath in Srebrenica in July 1995. During cross-examination Tolimir stated that the prosecution had blamed Nikolić and others for things that they were not responsible for. Nikolić agreed with Tolimir that the break-up of Yugoslavia was caused by external influences and that Serbs and Muslims could have lived in harmony in Bratunac if it were not for these influences.

Following, Zoran Čarkić , former security officer in the VRS Rogatica Brigade testified. In a similar manner to Momir Nikolić, Čarkić emphasised that the causes of war were imported from outside. He claimed that Bosniaks abused the status of protected areas as they launched attacks from places, including Srebrenica.

The Chamber also heard the testimony of Esma Palić, wife of the late Avdo Palić, war commander in Žepa, who was killed following the take-over of Žepa. Esma Palic recounted the last time she saw her husband in Žepa in July 1995. The Republika Srpska authorities did not release the identification of Avdo Palić until eight years after his death resulting in much of Esma Palić grief and bereavement.

Last week, retired VRS colonel Petar Salapura, began his testimony. During the war in BH, Salapura was chief of the Intelligence Administration in the VRS Main Staff. During direct examination, Salapura denied ever knowing about any wrongdoing throughout the conflict in the former Yugoslavia, such as an order given Radovan Karadzic and carried out by Ratko Mladić in regards to the VRS objectives in Srebrenica and Žepa. Salapura stated that he only learned about the events in Srebrenica on 12 July 1995.

Petar Salapura

Mladen Bajagić is a former member of the national Security Service of the Republika Srpska MUP and currently professor at the Police Academy in Belgrade.

Prosecutor v. Stanišić and Župljanin (IT-08-91)

There have been two recent developments in the case on procedural matters. First, on 15 April 2011, the Trial Chamber partially granted the request of Jovica Stanišić for access to confidential material in this case. The initial motion was made on 27 September 2010 by the legal defence of Jovica Stanišić. The defence of Mićo Stanišić and Stojan Župljanin did not seem to object to the motion as they did not file a response. The Chamber ordered the release of all transcripts and testimony heard in closed or private session and all confidential trial exhibits. While this was not a full release as requested by Jovica Stanišić, the Chamber left the door open for the release of more confidential material in the future by noting that the Defence "should not be prevented from accessing filings, submissions, decisions, and hearing transcripts which may relate to such confidential evidence."

Mladen Bajagić

The Defence continued to present its case by calling an expert witness on Bosnian Serb Police. The witness is Mladen Bajagić, who drafted a report for the Tribunal titled, 'RS MUP – the beginnings, scope, jurisdiction, organisation and management from 1990 to 1993'. Some of the sources used to create this report, were legal instruments of the former Yugoslavia and Republika Srpska, documents from the interior ministries and even the report drafted by prosecution police expert Christian Nielsen. Bajagić is an important witness to testify about the relationship between the police and the army in the Republika Srpska. His focus on subordination, cooperation and coordination makes his testimony particularly relevant to the case.

Bajagić is also quite effective in offering the historical context or background leading up to the formation of the Serb MUP. He illustrates the role that the three national parties in Bosnia and Herzegovina played in the interworking of state authorities. For example, he noted that the Democratic Action party tried to have 'a dominant role in the personnel policy decisions in the MUP, thereby violating interparty agreements,' arming activists and sending them to Croatia for secret training. He also testified to the fact that the Croatian Democratic Union was responsible for declaring Herceg Bosna in parts of the Bosnia and Herzegovina territory in as early as 1990. The actions of the Serbian Democratic Party are better understood with the clarity of knowing what was happening around it. In essence, its decision to establish Serbian autonomous regions was responsive to events unfolding at the time.

News from International Courts and Tribunals

International Criminal Court

The Prosecutor v. Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali (ICC-01/09-02/11)

Decision on the "Prosecution's Application for Leave to Appeal the 'Decision on the Prosecutor's Application for Summonses to Appear for Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohamed Hussein Ali'

Thomas John Obhof, Intern, Office of Public Counsel for the Defence, ICC

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The Pre-Trial Chamber II (PTC II) delivered an opinion pursuant to a request filed by the Office of the Prosecutor (OTP) asking for a grant of leave to appeal on the two issues arising from the decision given on 8 March 2011.

Judge Ekaterina Trendafilova immediately commented on the importance of Article 82(1)(d) and its stringent application when deciding whether an appeal may be lodged by a party following a decision of the Court. Noting a plethora of jurisprudence, the Single Judge emphasized the definition of an "issue" when considering a request for an appeal under Article 82(1)(d). She stated that "an issue is an identifiable subject or topic requiring a decision for its resolution, not merely a question over which there is a disagreement or conflicting opinion. An issue is constituted by a subject, the resolution of which is essential of the determination of matters arising in the judicial cause under examination" (emphasis added).

In reference to the events in Kisumu and Kibera, the Single Judge stated that the OTP overlooked PTC II's finding that the deficiency in evidence provided by the OTP did not rise to the level of proof needed to summon Muthaura, Kenyatta or Ali before the Court. Due to the fact that the decision emerged over a disagreement and/or a conflicting opinion on the sufficiency of evidence, not an identifiable subject or topic, the Single Judge denied the OTP's request.

Judge Trendafilova

On the allegations made regarding the events occurring in Nakuru and Naivasha, the Single Judge clarified PTC II's position by reminding the OTP that a "person cannot be charged with establishing, participating in or contributing to a policy but can only be charged with the crimes committed in the context of a widespread and systematic attack against the civilian population carried out pursuant to or in furtherance of a State or organizational policy" (emphasis in original). The Single Judge stressed the knowledge requirement of the aforementioned plan and the immateriality of whether a suspect was a State actor when determining whether an issue of impunity would arise from the 8 March 2011 decision. Finally, the Single Judge clarified that by ruling as such in this stage of the proceedings, it does not affect the fairness of the proceedings or the outcome of the trial. It remains incumbent on the OTP to present sufficient evidence to substantiate alleged crimes against the suspects.

The OTP asserted that the PTC II improperly qualified the allegation of forced circumcisions as "other inhuman acts" instead of "acts of sexual violence". The Single Judge affirmed the PTC II deci-

ARTICLE 82 (1)(d)

Appeal against other decisions

1. Either party may appeal any of the following decisions in accordance withthe Rules of Procedure and Evidence:

(d) A decision that involves an issue that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, and for which, in the opinion of the Pre-Trial or Trial Chamber, an immediate resolution by the Appeals Chamber may materially advance the proceedings.

ARTICLE 61 (7)

Confirmation of charges before trial

7. The Pre-Trial Chamber shall, on the basis of the hearing, determine whether there is sufficient evidence to establish substantial grounds to believe that the person committed each of the crimes charged. Based on its determination, the Pre-Trial Chamber shall:

(a) Confirm those charges in relation to which it has determined that there issufficient evidence, and commit the person to a Trial Chamber for trial on the charges as confirmed;

(b) Decline to confirm those charges in relation to which it has determined that there is insufficient evidence;

(c) Adjourn the hearing and request the Prosecutor to consider:

(i) Providing further evidence or conducting further investigation with respect to a particular charge; or

(ii) Amending a charge because the evidence submitted appears to establish a different crime within the jurisdiction of the Court.

sion because it was "grounded on the evidence and the information submitted to the Chamber…[and this finding] does not preclude the Chamber from accepting the Prosecutor's allegation to that effect, if supported by sufficient evidence to meet the evidentiary standard as required by Article 61(7) of the Statute" (emphasis added). Moreover, the OTP did not sufficiently demonstrate that the PTC II's decision unduly burdened or hampered the OTP's ability to conduct a fair and expeditious proceeding or significantly affect the outcome of the trial. Finally, while the Court has previously held that Article 58 proceedings are inherently ex parte, the PTC II recognised the Defence's standing to reply to an Article 82(1)(d) request before the initial appearance took place.

Decision on Variation of Summons Conditions

Lucie van Gils, Intern, Office of Public Counsel for the Defence, ICC

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Muthaura, Kenyatta and Ali

In her judgment, Judge Ekaterina Trendafilova, acting as a Single Judge on behalf of the Pre-Trial Chamber, had to decide whether a condition restricting the liberty of the three suspects set out in the Chamber's earlier "Decision on the Prosecutor's Application for Summonses to Appear for Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali" was justified. The particular condition read that the three men were "to have no contact directly or indirectly with any person who is or is believed to be a victim or a witness of the crimes for which Francis Kirimi Muthaura, Uhuru Muigai Kenyatta and Mohammed Hussein Ali have been summoned".

The Defence challenged the condition on the ground that the broad wording used by the Chamber would cause disproportionate interference with the right to a fair trial and the ability of the suspects to prepare their cases, as the condition would also prevent the suspects from contacting defence witnesses who could support their case.

In her judgment Judge Trendafilova first identified the competing interests at stake, namely on the one hand the fundamental right of the suspects to prepare their defence, which includes the right to approach witnesses who might provide favourable accounts, and on the other hand the interests of the witnesses themselves who must be protected from any exposure to risks or threats.

After having considered the above, the Judge confirmed the legality of the condition and held that the suspects are indeed barred from contacting anyone who is or is believed to be a victim or witness. She then continued by stressing that in principle, suspects may approach anyone willing to give an account of events. This implies that the suspects are free to approach anyone as long as those questioned have not already been listed as a witness or victim, as otherwise the suspects would act in breach of the reaffirmed condition. However, she ruled that this right is subject to an obligation resting on the Defence to communicate the contact details of any potential witnesses to the Victims and Witnesses Unit (VWU) before questioning them. The VWU must then in its turn advise the Defence within two weeks about which security arrangements, if any, the Defence should obey in order to secure the safety of the said witnesses.

Although it is clear that the court had a very delicate balance to strike between two fundamental but competing principles, it is arguable that the two week gap between informing the VWU and getting the 'green light' might seriously impede the evidence gathering process. The Defence has therefore challenged the requirement to inform the VWU as part of the filed request to appeal.

Extraordinary Chambers in the Courts of Cambodia

David Fagan, Legal Intern, Defence Support Section

RULE 74 (3)

Grounds for Pre-Trial Appeals

3. The Charged Person or the Accused may appeal against the following orders or decisions of the Co-Investigating Judges:

a) confirming the jurisdiction of the ECCC;

b) refusing requests for investigative action allowed under these IRs;

c) refusing requests for the restitution of seised items;

d) refusing requests for expert reports allowed under these IRs;

e) refusing requests for additional expert investigation allowed under these IRs;

f) relating to provisional detention or bail;

g) refusing an application to seise the Chamber for annulment of investigative action;

h) relating to protective measures or

i) declaring a Civil Party application admissible.

Case 002 - Nuon Chea, Ieng Sary, Khieu Samphan and Ieng Thirith

On 1 April, in response to a Trial Chamber (TC) order requiring defence teams to provide a list of the documents already on the Case File that they intend to put before the Chamber, the Ieng Sary defence team submitted a list of all of the documents on the Case File for Case 002. The team argued that there was no requirement in Cambodian criminal law or procedure or in the ECCC Internal Rules for defence teams to set out prior to trial all the material from the Case File that they intended to rely upon, nor was this required of the Defence in Case 001. They further argued that limiting the ability of defence teams to rely upon any document on the Case File was neither reasonable nor just. In compliance with the same TC order, the team, on 19 April, submitted a further list of new documents (not on the Case File) that it intended to put before the TC, reserving the right to supplement this document list at a later stage. On 19 April the Nuon Chea defence team submitted a notice of joinder indicating an adoption by the team of the submissions set out by the Ieng Sary defence team in the filing of 1 April. On 19 April the Ieng Thirith defence team submitted its list of documents to be relied upon at trial, also reserving the right to supplement this list.

On 11 April 2011, the Pre-Trial Chamber (PTC) issued a decision on Ieng Sary's appeal against the Co-Investigating Judges' (CIJs) Closing Order of 16 September 2010. The PTC noted that under ECCC Internal Rule 74(3)(a) charged persons may appeal against decisions of the CIJs confirming the jurisdiction of the ECCC. However, it held that such appeals only raise admissible jurisdiction challenges where there is a challenge to the very existence in law of a crime and its elements, or of a form of responsibility, during the temporal jurisdiction of the ECCC. Challenges relating to the specific contours of a substantive crime or form of responsibility are matters to be addressed at trial. Of the 11 grounds of appeal the PTC ruled that five grounds were inadmissible, four were admissible in whole and two were admissible in part.

The People`s Revolutionary Tribunal in Phnom Penh in 1979

Of the six grounds of appeal found to be admissible in whole or in part only one ground was accepted. Grounds one and two related to the trial in absentia of Ieng Sary by the People's Revolutionary Tribunal (PRT) in 1979 and a subsequent royal pardon and amnesty accorded to Ieng Sary by the Royal Government of Cambodia in 1996. The PTC found that the sentence handed down by the PRT did not preclude further prosecution under the principle of *ne bis in idem* because the proceedings were not conducted by an independent and impartial tribunal with regard to due process of law. The royal pardon and amnesty related to the PRT sentence and immunity from prosecution under the 1994 Law on the Outlawing of the Democratic Kampuchea Group, which created offences different to those under the ECCC Law, and thus did not bar prosecution at the ECCC.

Under ground three of the appeal the PTC held that the ECCC Law did not violate the principle of legality by retroactively criminalising conduct which was not criminal in 1975-1979. The PTC found that the offences found in the ECCC Law existed and were applicable in Cambodia between 1975 — 1979. Under ground five of the appeal the PTC found that the prosecution of national crimes was not

RULE 68 (3)

Effects on Provisional Detention and Bail Orders

3. In any case, the decision of the Co-Investigating Judges or the Pre-Trial Chamber to continue to hold the Accused in Provisional Detention, or to maintain bail conditions, shall cease to have any effect after 4 (four) months unless the Accused is brought before the Trial Chamber within that time.

On 7 September 2009, the Co-Investigating Judges were requested by the international Co-Prosecutor to initiate investigation of a further five suspected persons. These submissions have been divided into Case files 003 and 004.

barred by the Cambodian statute of limitations because this did not begin to run until at least 1993, when a judicial system began to take shape again following the dismantling of the judiciary by the Khmer Rogue. The extension of the period covered by the statute of limitations by the National Assembly in 2001 and then 2004 were thus legitimate acts that give the ECCC jurisdiction to try national crimes committed between 1975 and 1979.

The PTC upheld ground seven of the appeal in part by adding the existence of a nexus to an armed conflict as a chapeau requirement for the proof of crimes against humanity and holding that rape was not a crime against humanity in its own right during the period 1975-1979, though it could be considered under the residual category "any other inhumane act". The PTC dismissed ground 11 of the appeal, holding that command responsibility did exist in international customary law as a form of responsibility between 1975 and 1979. Grounds four, six, eight, nine and ten were held to be inadmissible. The PTC confirmed that Ieng Sary was to remain in provisional detention to ensure his presence at trial, protect his security and preserve public order.

On the 13 and 19 April respectively, the Ieng Sary and Nuon Chea defence teams filed notification of the legal issues each defence team intended to raise at the Initial Hearing for Case 002.

On 26 April 2011, the Ieng Sary defence team filed a motion submitting that statements of Kaing Guek Eav alias Duch should not be admitted unless Duch appears in court as a witness. The motion also requested disclosure by the Office of the Co-Prosecutors (OCP) and TC of all instances in which they found Duch to be untruthful in his statements. The team argued that Duch's statements should not be admissible unless made in court as a witness under oath and subject to cross examination. Further, the team argued that a Prosecutor should never knowingly offer evidence which he or she knows to be untruthful and that disclosure of statements considered by the OCP and TC to be untruthful was necessary to protect Ieng Sary's right to adequate facilities for the preparation of his defence.

On 4 May 2011, Ieng Sary appeared before the TC in a public hearing held pursuant to ECCC Internal Rule 68(3), which provides that a decision of the PTC to continue to hold an Accused in provisional detention will cease to have effect after four months unless the Accused is brought before the TC. The Ieng Sary defence team argued at the hearing that their client should be released from provisional detention and instead detained under house arrest until the trial commences. The Co-Prosecutors opposed the request, arguing that Ieng Sary posed a risk to flight. A decision of the TC is to follow in due course.

Ieng Sary

Case 003 – Unnamed Suspects

On 29 April 2011, the Co-Investigating Judges declared that the judicial investigation initiated by the Introductory Submission dated 20 November 2008 has been concluded.

Defence Rostrum

Two Senior Rwandan Rebel Leaders on Trial in Germany


Ignace Murwananshyaka

Ignace Murwanashyaka (47) the head of the Democratic Forces for the Liberation of Rwanda (FDLR), and his deputy Straton Musoni (49) were arrested in Germany in November 2009 on the suspicion of having masterminded and ordered mass killings and rapes in the eastern Democratic Republic of Congo (DRC) from Germany with a third man living in France, Callixte Mbarushimana, who was extradited to the International Criminal Court earlier this year. On 4 May 2011, the hearing of evidence for 26 counts of crimes against humanity and 39 counts of war crimes, allegedly committed by militias under Murwanashyaka and Musoni's command between January 2008 and November 2009, commenced.

Murwanashyaka, who studied in Bonn and is married to a German woman, has been a resident of Germany for two decades, currently living in the city of Mannheim. Musconi, who became his right-hand man in 2004, has been living in Germany since 1994.

The Prosecutors state that Murwananshyaka allegedly ordered around 200 killings and a large number of rapes. Moreover, he supposedly instructed his militias to use civilians as 'human shields' and children as soldiers. In interviews with the German media in 2008 and 2009 he is said to have claimed to have been the president and supreme commander of the FDLR since 2001 and therefore knew 'exactly what was happening' in the DRC.

Murwananshyaka was arrested in Germany in 2006 after his assets were frozen by the UN in 2005 on suspicion of involvement in war crimes. He was later released due to the lack of witnesses on the prosecution side. This time, Musconi and he will face trial in Stuttgart. It will be the first trial of this kind in Germany under its Code of Crimes Against International Law (2002), integrating the crimes of the ICC statute into German criminal law. Due to their sheer gravity and according to this Code, Germany is allowed to investigate and prosecute these crimes wherever they are committed in the world under the universal jurisdiction principle.

UN Secretary Ban Ki-moon stated in January that 'this cooperative burden-sharing in prosecuting individuals for serious international crimes will greatly advance the fight against impunity'. The UN refers to this trial as a breakthrough after having repeatedly called member states to bring FDLR commanders living abroad to justice.

Peter Erlinder Withdrawn as Ntabakuze's Lead Counsel at the ICTR

Peter Erlinder, law professor at William Mitchell Law School in Minnesota, long time human rights advocate and Lead Defense Counsel at the International Criminal Tribunal for Rwanda, was arrested by Rwandan authorities on 28 May 2010 on charges of 'genocide denial.' He was released 24 June 2010, after being hospitalised four times in three weeks for various illnesses.

During his detention, the UN Office of Legal Affairs "advised the ICTR to formally assert immunity for Professor Erlinder without delay and request his immediate release accordingly". Rwandan Prosecutor General Martin Ngoga stated that Erlinder's arrest was "not at all related to his assignments at the ICTR". However, during an appearance before the High Court, the Prosecution made specific references to Erlinder's previous statements before the ICTR, in conjunction with his case. In the Note *Verbale* sent to Rwandan officials by the Office of the Registrar on 15 June 2010, the ICTR supported Erlinder's release, stating, "[t]he ICTR hereby notifies the Rwandan authorities that Professor Erlinder enjoys immunity and requests therefore, his immediate release".

In a decision issued by the Appeals Chamber on 21 April 2011, Erlinder was withdrawn as lead counsel in the Ntabakuze case.

On 24 February 2011, Ntabakuze sought to have Erlinder participate in the appeal hearing by video-conference, as Erlinder considered it unsafe to travel outside the United States and had received threats after his release. Ntabakuze argued that a video-conference would avoid a conflict of interest between his, as a client, and his Lead Counsel's personal safety. On 15 March 2011, the Appeals Chamber denied Ntabakuze's request. Ten days later, Erlinder informed the Appeals Chamber that he would not appear at the appeal hearing due to his medical condition.


Peter Erlinder

On 21 April 2011, the Appeals Chamber stated that "...[Erlinder's] multiple efforts to avoid traveling to Arusha suggest that he had no intention of appearing at the appeal hearing". The Appeals Chamber also opined that Erlinder's "conduct amounts to a failure to act diligently and in good faith and does not demonstrate the highest standards of professional conduct". As a result, the Appeals Chamber refused Erlinder audience at the Tribunal and instructed the Registrar to "replace Peter Erlinder as Ntabakuze's Lead Counsel as soon as possible", an order which the Registrar fulfilled on 27 April 2011.

Blog Updates

- Thijs Bouwknegt, **ICC to Seek Three Libya Atrocity Indictments**, 4 May 2011, available at: http://www.rnw.nl/international-justice/article/icc-seek-three-libya-atrocity-indictments

- Deirdre Montgomery, **ECCC Co-Investigating Judges Conclude Investigations in Case 003**, 4 May 2011, available at: http://www.internationallawbureau.com/blog/?p=2777

- International Justice Desk, **Sandor Kepiro: One of the Last Nazis to Face Justice**, 4 May 2011, available at: http://www.rnw.nl/international-justice/article/sandor-kepiro-one-last-nazis-face-justice

- Adam Wagner, UK **Would Have Been Obliged to Use Torture Evidence to Find Bin Laden**, 3 May 2011, available at: http://ukhumanrightsblog.com/2011/05/03/uk-would-have-been-obliged-to-use-torture-evidence-to-find-bin-laden/

- Geraldine Coughlan, **US: Bin Laden—A License to Kill?** 2 May 2011, available at: http://www.rnw.nl/international-justice/article/us-bin-laden-a-license-kill

- Richard Walker, **Bangladesh Tribunal: Is Name-Calling Contempt of Court?** 29 April 2011, available at: http://www.rnw.nl/international-justice/article/bangladesh-tribunal-name-calling-contempt-court

On 28 and 29 April 2011, the American University in Washington organized a conference entitled 'The Obama Administration and Human Rights' . The invited speakers included significant human rights figures, government officials, civil society leaders and academics, such as Adotei Akwei, Managing Director for Government Relations (AI), Diane Orentlicher, Deputy of the State Department Office for War Crimes Issues and Joe Stork, Deputy Director of the Middle East and North Africa Division (HRW). The conference can be re-viewed at: http://www.american.edu/provost/human-rights/obama-conf/streams/

Publications

Books

Kevin Jon Heller, 2011. *The Nuremberg Military Tribunals and the Origins of International Criminal Law*. Oxford: Oxford University Press

The late Bert Swart, Alexander Zahar and Göran Sluiter (eds.), 2011. *The Legacy of the International Criminal Tribunal for the Former Yugoslavia*. Oxford: Oxford University Press

Tracy Isaacs, Richard Vernon, 2011. *Accountability for Collective Wrong-Doing*. Cambridge: Cambridge University Press

Kate Parlett, 2011. *The Individual in International Law*. Cambridge: Cambridge University Press

Sanja Kutnjak Ivkovich, John Hagan, 2011. *Reclaiming Justice. The ICTY and Local Courts*. Oxford: Oxford University Press

Articles

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Upcoming Events

Course on 'Inside International Justice'
'From Nuremberg to The Hague: reporting on International Justice'
Date: 23-27 May 2011
Venue: The Hague
Organiser: TMC Asser Instituut and RNTC

Terrorists on Trial: Performative Perspectives
Date: 26-27 May 2011
Venue: NIAS, Meijboomlaan 1, 2242 PR Wassenaar, The Netherlands
Organiser: Netherlands Institute for Advanced Study in the Humanities and Social Sciences (NIAS) and the International Centre for Counterterrorism (ICCT)

The European Union's Shaping of the International Legal Order
Date: 27 May 2011
Venue: University Foundation, Brussels
Organiser: TMC Asser Instituut and the Centre for the Law of EU External Relations (CLEER)

South Eastern Circuit Bar Mess Foundation Advanced International Advocacy Course
Date: 29 August—3 September 2011
Venue: Keble College, Oxford, UK
Organiser: Keble College
Download Application Form at: http://www.barcouncil.org.uk/news/events/401.html

Call for Papers:

SHARES Conference on Foundations of Shared Responsibility in International Law (17-18 November 2011)
DEADLINE: 15 May 2011
MORE INFO: http://www.haguejusticeportal.net/smartsite.html?id=12562&utm_source=Hague

Opportunities

PhD / Postdoctoral Researcher in European Private Law
University of Amsterdam, Faculty of Amsterdam
Closing Date: Monday, 16 May 2011

Legal Officer, The Hague, Netherlands (P-3)
Special Court for Sierra Leone (SCSL) - Appeals Chamber
Closing Date: Wednesday, 18 May 2011

Legal Officer, The Hague, Netherlands (P-3)
International Criminal Tribunal for the Former Yugoslavia, Registry/Chambers
Closing Date: Wednesday, 18 May 2011

Legal Officer, The Hague, Netherlands (P-4)
International Criminal Tribunal for the Former Yugoslavia, Registry/Chambers—Legal Support Section
Closing Date: Wednesday, 18 May 2011