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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.

Prosecutor v. Goran Hadžić (IT-04-75)

On 27 August, Geert Ahrens, a former member of the European Union Monitoring Mission (ECMM) in Croatia and the International Conference on the former Yugoslavia (ICFY), also called "the Carrington Conference", was cross-examined by Goran Hadžić's Defence Team. The German diplomat was in the Republic of Serbian Krajina for the purpose of implementing various peace initiatives during Hadžić's Presidency of the region from 1992-1994.

Ahrens recalled speaking to Hadžić several times about the human rights abuses in the region and stated that Hadžić was "more approachable" than other Serb officials. He confirmed that Hadžić never told him that non-Serbs should be evicted or segregated from Serbs, neither that non-Serbs were forced to leave. Hadžić's Defence explained to him that the Vance Plan, which sought to demilitarise the region, meant that the Republic of Serbian Krajina (RSK) was unable to prevent war crimes from being committed in Croatia. On 29 August Fred Noseworthy, another former member of the ECMM gave his testimony.

On 2 September, the Prosecution called former Yugoslav People's Army (JNA) officer Aleksandar Vasiljević to the stand. Regarded as an instrumental figure in Yugoslav military counter-intelligence during the 1990s wars, Vasiljević testified that civilian authorities, not military bodies, were in charge of prosecuting criminals for crimes committed in the Serb-held parts of Croatia. Vasiljević's testimony concentrated on the powers and roles of the Yugoslav army, of civilian authorities and of Hadžić as President of the RSK.

ICTY CASES

Cases at Trial

Hadžić (IT-04-75)

Karadžić (IT-95-5/18-1)

Mladić (IT-09-92)

Šešelj (IT-03-67)

Cases on Appeal

Dorđević (IT-05-87/1)

Popović et al. (IT-05-88)

Prlić et al. (IT-04-74)

Šainović et al. (IT-05-87)

Stanišić & Simatović (IT-03-69)

Stanišić & Župljanin (IT-08-91)

Tolimir (IT-05-88/2)

ICTY NEWS

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- [Hadžić: Prosecution Case Continues](#)
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“All the information we had, we forwarded to the local police and authorities, to Serbia as well. Local authorities were informed about paramilitary units’ war crimes”, Vasiljević stated. The military officer further claimed that the JNA was aware of its jurisdiction and operated within it. He did not know why action was not taken by local authorities after they were forwarded information about the paramilitary units’ war crimes. During cross-examination, Vasiljević’s objectivity was questioned by Hadžić’s Defence Counsel, given that Vasiljević had often described himself as a “proud member” of the JNA.

On 5 September, Mladen Lončar was called to the stand, a doctor from the Croatian town of Ilok, which was occupied by the Yugoslav People’s Army and Serb paramilitaries in 1991. Lončar testified that he was repeatedly arrested and abused by the Serb police because they believed he had a “hospital for Croat soldiers”. Along with other Croat prisoners, Lončar was detained in the Begejci prison camp that was established in early 1991 allegedly by Serbian authorities in cooperation with Croatian Serbs. The Prosecution alleges that Hadžić was responsible for the torture of Lončar and other non-Serbs in these camps.

Prosecutor v. Ratko Mladić (IT-09-92)

On 23 August, the Mladić trial continued with Dr. Robert Donia testifying about the content of his report on the siege of Sarajevo. Defence Counsel challenged Donia regarding his conclusions about the involvement of the JNA in the war in Croatia. Near the end of the day, the court adjourned due to the defendant feeling dizzy and suffering pain in the right side of his body. Doctors confirmed that he was suffering from low blood pressure, however Mladić refused to let the trial continue in his absence. Judge Orić adjourned the hearing until Monday, awaiting a further health assessment.



Robert Donia

On Monday 26 August, Branko Lukić, Mladić’s Defence Counsel, continued his cross-examination of Donia. Donia persisted in his opinion that Bosnian Serbs had actively worked to break up Bosnia Herzegovina, through the actions of the Serbian Democratic Party (SDS).

The Defence claims that Serbs in Sarajevo were virtual hostages. This was dismissed by Donia, as he stated that Serbs were still free to leave, although under significant obstacles. Therefore, the Defence’s claim was not sufficient enough to class them as hostages.

The Defence submitted a request for a reduction of the work week from five days to four, in order to accommodate Mladić’s health issues.

The cross-examination of Donia continued on 27 August. Donia confirmed that Mladić as an Army Commander, should not have been allowed to vote, propose conclusions or in any way participate in the decision making process of the government. However, in practice, Mladić was able to present proposals and participate in debates. Additionally, his generals attended sessions which he was not able to attend.

The testimony of Emir Turkušić continued on 28 August and he maintained that grenades found after the Markale incident had been fired from 2,400 meters away. He was also consistent with where the Army of Republika Srpska (VRS) had been located. This conclusion was reached after investigations conducted by the Sarajevo police. Turkušić dismissed Defence claims that the Army of Bosnia-Herzegovina had targeted its own civilians using grenades.

On 29 August, Turkušić refuted Defence arguments that a mine thrower grenade used in the attack against Markale could have been used from a nearby building or from the ground.

Mladić gave up his right to be present at this hearing due to a family visit. On 30 August Mladić’s trial continued with a closed hearing for protected witness RM-021.

On 2 September, expert witness Pablo Baraybar discussed the number of bodies exhumed from mass graves around Srebrenica. Baraybar denied the line of questioning of Defence Counsel Stojanović, in which Stojanović stated that Baraybar’s findings had been influenced by the indictment. Baraybar claims that he



Richard Butler

had not read the indictment against Mladić prior to the exhumations.

The trial continued on 3 September, with military expert witness Richard Butler

, who claimed that the persecution of Bosnians and elimination of Muslim enclaves in Eastern Bosnia was a stated goal of the VRS.

The testimony of Butler continued on 4 September when he stated that it must have been Mladić who ordered the decision to kill captives due to the timing of the orders which occurred during VRS meetings. Recordings of Mladić in those meetings prove him stating that “Bosnians could either survive or disappear”.

On 4 September, the President of the Tribunal, Judge Theodor Meron, handed down the decision regarding the composition of the Appeals Chamber in the current case, in relation to the Defence’s motion “Seeking

Adjustment of the Trial Sitting Schedule Due to the Health Concerns of the Accused”. The bench should comprise of the following judges: Judge William Sekule; Judge Patrick Robinson; Judge Fausto Pocar; Judge Liu Daqun; and Judge Arlette Ramarosan.

On 5 September, the trial sitting was interrupted due to an evacuation drill, however, afterwards continued with the testimony of Butler. Butler estimated that 1,000 to 2,000 Bosnia men were killed in combat with the VRS and identified Lieutenant Colonel Ljubiša Beara as the key person in the organisation of the shooting.

On Friday 6 September, Butler confirmed that the crimes of Beara and Popović, who were both convicted for genocide in 2010, could not have been committed without the knowledge and permission of the top VRS officer, Mladić. Intercepted conversations were presented regarding Beara’s requests for assistance in providing 3,500 more parcels. Butler stated that in his interpretation of the conversations, the phrase ‘parcels’ referred to the captured citizens of Srebrenica.

Stanišić and Župljanin (IT-08-91) Status Conference

On 4 September, the Appeals Chamber convened a status conference in the case of *Mičo Stanišić and Stojan Župljanin*, Judge Meron presiding. Mičo Stanišić was not present, having waived his right to be, and was represented by his Defence Counsel, Slobodan Zečević.

Judge Meron noted that the parties filed their Notices of Appeal on 13 May and that the status conference in question was the first in this case. Judge Meron invited the parties to raise any issues with regard to the detention facilities or health conditions of the Appellants, both parties declining to raise any issues.

Judge Meron summarised the recent procedural his-

tory of the case, with Counsel for Stanišić seeking clarification with regard to a deadline. Judge Meron stated his intention to investigate this matter, before drawing proceedings to a close.



Stojan Župljanin and Mičo Stanišić

Šainović et al. (IT-05-87) Status Conference

On 4 September, a status conference was held in the case of *Šainović et al.* Nikola Šainović, Nebojša Pavković, Sreten Lukić and Vladimir Lazarević appeared before the Appeals Chamber, Judge Liu presiding. The hearing was brief with some matters being raised in relation to the health of Vladimir

Lazarević. Before adjourning, Judge Lee spoke about a matter of a reply brief for Lazarević, of which there is no publicly redacted version available. Judge Liu instructed Defence Counsel to file one by 15 October.

LOOKING BACK...

International Criminal Tribunal for the former Yugoslavia

Fifteen years ago....

On 24 August 1998, the proceedings against Milan Kovačević were terminated following his death on 1 August 1998 in his cell at the United Nations Detention Unit in Scheveningen.

On 27 August 1998, the final report of the internal inquiry into the circumstances surrounding the death of Kovačević stated that his death was the

Operation Tango

This NATO (SFOR)-sanctioned operation was launched on 10 July 1997 by the British Special Air Service in Bosnia. It was targeted at Serbian war criminal suspects, including Milan Kovačević and Simo Drljača.

result of the rupture of an abdominal aortic aneurysm.

Kovačević was indicted by the ICTY in 1997 on genocide, complicity to commit genocide and several counts of crimes against humanity, violations of laws of war and breaches of the Geneva Conventions of 1949. He was captured on 10 July 1997 in Stabilisation Force's (SFOR) 'Operation Tango'.

International Criminal Tribunal for Rwanda

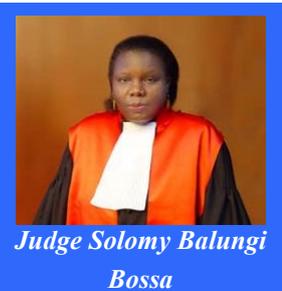
Ten years ago....

On 1 September 2003, the trial of Emmanuel Ndindabahizi, the former minister of Finance in the Interim Government of Rwanda, commenced before the International Criminal Tribunal for Rwanda (ICTR).

Judge Solomy Balungi Bossa from Uganda was an *ad litem* Judge in the trial. It was the first time that an

ad litem Judge was sitting before a trial in the Rwanda Tribunal.

Emmanuel Ndindabahizi was sentenced to life imprisonment on 15 July 2004.



Judge Solomy Balungi Bossa

Special Court for Sierra Leone

Five years ago....

On 1 September 2008, the Truth and Reconciliation Commission of Liberia requested an audience with the former President of Liberia Charles Taylor, who is an Accused before the Special Court for Sierra Leone (SCSL).

The Truth and Reconciliation Commission was informed by the SCSL that it had to comply with the procedure of the Special Court to take a statement

from a person in custody. Charles Taylor refused the request, maintaining the right to deny the request himself.

The object of the Truth and Reconciliation Commission of Liberia is to promote national peace, security, unity and reconciliation by investigating gross human rights violations and violations of international humanitarian law.



NEWS FROM THE REGION

Serbia & Croatia



Croatian-Serbian "Friendship Association"

On 12 September, the Croatian-Serbian Friendship Association was launched at the Serbian Consulate in Rijeka, Croatia. The aim of the association is to "turn negative signs into positive" ones, as Nikola Ivaniš stated, President of the association. It is expected that the association will encourage economic and cultural cooperation between the two nations and foster positive relationships between people. Rijeka is home to a great Serbian minority, which moved to this town during the 1990s wars.



Croatia

Croatia to Implement European Legislation Only in 2014

Prior to their admittance to the European Union, the Croatian authorities voted for a law stipulating that the European arrest warrant, which facilitates extradition between Member States, would apply only to crimes committed after 2002. Those committed during the Yugoslav era and during the Serbo-Croatian war (1991-1995) are therefore excluded.

On 28 August, and in response to the threat of sanctions, the Croatian Prime Minister wrote a letter to Jose Manuel Barroso, President of the European Commission, to promise that Croatia would transpose European legislation into its national law. However, Brussels recently found out that this would not be done before 15 July 2014. Commissioner for Justice, Viviane Reding, consequently addressed a letter to the Croatian Minister of Justice, Orsat Miljenić, on 4 September. She emphasised that Zagreb clearly violated its commitments regarding the country's conditions to become a EU Member State. Croatia was obliged to accept "fully and unconditionally" all the achievements in the field of justice.

The Commission is concerned because if the Zagreb authorities had raised these reservations before accession, this would have delayed or possibly prevented the admittance to the EU. In her letter the Commissioner announced that "appropriate actions" against Croatia would be taken to put Croatia in compliance with its accession treaty, such could include official sanctions.

NEWS FROM OTHER INTERNATIONAL COURTS



The International Criminal Court

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

On 5 September, the Kenyan Assembly approved the motion to withdraw Kenya from the Rome Statute that establishes the International Criminal Court (ICC). A bill is expected to be introduced in the next 30 days.

The withdrawal came a week before the start of the trial of Deputy President William Ruto, who has been charged with crimes against humanity. His trial has started on 10 September and Ruto and his co-accused Joshua Sang entered not guilty pleas to all of the charges against them. The charges against Kenya's current President Uhuru Kenyatta, his Deputy President Ruto and former radio personality Sang stem from the violence that broke out after the elections in 2007. Kenyatta's trial is due to start on 12 November.

According to Article 127 of the Rome Statute, Kenya's withdrawal would take effect at the earliest one year after the formal notification made to the UN Secretary-General. Additionally, the withdrawal does not exempt Kenya from its obligations under the Rome

Statute nor does it affect any cooperation with the Court or proceedings commenced prior to the date when the withdrawal becomes effective.

The question remains how this will affect the cases before the ICC after the withdrawal has become effective. Earlier in September two key witnesses in the case against Ruto and Kenyatta withdrew from the case recanting their testimonies and written statements. Ruto's Defence Counsel and ADC-ICTY member Karim Khan QC stated at the beginning of the trial that the case was "a very clear and glaring conspiracy of lies".

Article 127 (1) of the Rome Statute

A State Party may, by written notification addressed to the Secretary-General of the United Nations, withdraw from this Statute. The withdrawal shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.



The Special Court for Sierra Leone

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The Appeal Judgment in the case of the former Liberian President Charles Taylor is set to be given on Thursday 26 September, 17 months after the Trial Chamber judgment.

On 26 April 2012, Charles Taylor was unanimously found guilty of five counts of war crimes, five counts of crimes against humanity, and other violation of international law, concerning the use of child soldiers.

The Defence appealed against the judgment and sentence on 42 grounds. The Defence argued that the Trial Chamber had made systematic errors in evaluating the evidence and in the application of the law.

These errors were deemed sufficiently serious to reverse all findings of guilt that were entered against Charles Taylor and to vacate the judgment. The 50-year sentence was found as “manifestly unreasonable”.

DEFENCE ROSTRUM

TEDx Hague Academy

By Samie Blasingame

On 9 September, a TEDx conference (x = independently organised) on the Future of Peace and Justice was held at the Peace Palace in The Hague. The conference was divided into four sessions, each including three speakers.

The first session began with the need to break the culture of silence around sex in India. This was brought to light by Vithika Yadav, the founder of Love Matters, an Indian NGO that promotes conversations about sex. Michael Liu, founder and Secretary-General of the Chinese Initiative on International Criminal Justice, then explained how China is imperative in the fight for international justice. The session closed with a virtual TEDtalk by Leymah Gbowee who spoke on the need to create a space to ‘unlock’ the intelligence, passion and creativity of young girls in poor communities around the world.

The second session began with an account by Guatemalan activist, Iduvina Hernandez, who spoke of the genocide of thousands of Mayan people and her duty to tell their story due to being the sole survivor of her group of friends. ICTY President, Theodor Meron, spoke next about his life and his struggles throughout the Second World War. These experiences ultimately led him to a career in peace and justice. The session ended with a controversial TEDtalk brought to the room virtually and given by Dutch Army General, Peter Van Uhm. Uhm spoke of the many instruments

of peace and his choice to choose a gun as his instrument.

Hadi Marifat, co-founder of the Memory Box project – an NGO dedicated to promoting democracy and human rights in Afghanistan – started off the third session. Marifat spoke of the Afghan search for justice in their war-torn country and explained how it is time for the Afghan people to “reclaim their own life stories” on their paths to peace. Lebanese Marathon creator May El-Khalil followed with her inspirational talk on how her tragedy – being hit by a bus while running – inspired her to create the first and biggest marathon in Lebanon, an event that has brought the country’s many different people together to unite for the common cause of peace.

The session ended with a powerful talk by Nigerian lawyer and former professor of the University of New York Hauwau Ibrahim, who spoke on the Sharia Law and her struggles of defending two women sentenced to death by stoning for adultery. She captured the hearts and minds of the audience by explaining “the Power that unites us is in our Human Dignity”.

Sharia Law

Sharia law is the body of the Islamic law.

The term means “way” or “path”, and it is a legal framework within which the public and some private aspects of life are regulated for those living in a legal system based on Islam.

The fourth and final session began with American lawyer, Neal Katyal, who spoke on institutionalised dissent and the greatness of the US governmental system of checks and balances. In the question and answer session, Katyal stated that the reason the US has not signed the Rome Statute is because the American system can handle those sorts of problems itself. The session continued with Faisal Attrache, a film student from the University of California, who spoke about his experiences documenting the life of Syrian refugees on the Jordanian border. Attrache described the resilience of the Syrian people and their drive and motivation to survive and live better. The session was concluded with a powerful talk about forgiveness by Jean-Paul Samputu whose parents were murdered by a best friend in the Rwandan genocide of 1994. After nine years of alcohol abuse and a significant amount of soul-searching, Samputu came to the conclusion that “forgiveness is for you, not the offender”.

Keeping this in mind, he grew the courage to forgive the man who killed his parents and move on with his life.

The conference was organised by Micah Thorner who is based in The Hague, along with many other volunteers. The event was hosted by video blogger and journalist Ikenna Azuike and can be viewed online at: tedxhagueacademy.org.



Whose Truth, Whose Justice?

By Samie Blasingame

On 5 September, the Peace Palace hosted a conference on the role of media in conflict and justice. The morning began with an invitation to view the World Press Photo exhibition presented by the Carnegie Foundation. The photos depicted areas of the world that are fighting for peace and searching for justice.

The conference began with a talk by Kenyan Institute for War and Peace Reporting (IWPR) journalist, Nzau Musau, who spoke about his experiences in covering the post-election violence in Kenya in 2007-2008. Musau told how it was the first time genocide was spoken of in Kenya and therefore the media was unprepared on how to handle it. He raised the question of whether media should promote peace, or stick to reporting facts. Musau went on to explain that in this unprecedented time in Kenya, the media outlets stuck together and decided to run similar stories in promotion of peace and cooperation of both sides of the conflict so that the violence in their country would cease.

A panel debate was held next in which the panelist discussed many questions including: Does justice in The Hague equate justice on an international scale? Does this justice resonate with people in the countries that justice is being fought for? How does journalism help with this? Although the discussion flowed through many areas of thought, the panelists all

agreed that in order to promote peace and justice, journalists must commit to reporting in the correct context and being objective in every way in order to have an informed audience. It was also agreed on, however, that media is, at the end of the day, a business. This is a sad fact that has our media outlets dealing with the unfortunate consequence of obscuring the truth in exchange for higher ratings.

London-based IWPR reporter, Daniella Peled lead the discussion on Transitional Justice in Afghanistan. The group discussed the decisions faced by war-torn countries to either move on and leave the past behind or to find justice; would finding justice decrease or increase stability? Peled presented parts of an IWPR documentary of Afghans titled, “The Forgotten Victims”. In the film and through her research, Peled explains that justice for many people in Afghanistan is more about telling their forgotten stories. After years of foreign intervention in their country, Afghans somewhat distrust international organisations, and the majority do not believe that type of justice will serve their country well.

The conference ended with a writing workshop. Journalist Janet Anderson gave an interesting lecture on the structure of International Courts and Tribunals and gave the workshop attendees a chance to help create an easy-to-read flowchart entitled, “So you

want to send your country's former dictator to the International Criminal Court: How to find out if that is going to work". The flowchart will be disseminated to citizens of countries that may be in need of it. The conference was presented by a local NGO, the Institute for War and Peace Reporting and it was held in conjunction with events all month that are celebrating the 100th anniversary of the Peace Palace.



BLOG UPDATES AND ONLINE LECTURES

Blog Updates

Reka Hollos, **ICC: Ruto and Sang Trial Begins**, 10 September 2013, available at: <http://tinyurl.com/prw8m6x>.

Julian Ku, **White House Counsel Announces Syria Strike Would Not Violate International Law, But Doesn't Explain How**, 09 September 2013, available at: <http://tinyurl.com/ot7quhj>.

Julien Maton, **Netherlands Liable for Three Srebrenica Deaths**, 07 September 2013, available at: <http://tinyurl.com/q6uo4n7>.

Reka Hollos, **Momčilo Krajišnik Released Early From Prison**, 07 September 2013, available at: <http://tinyurl.com/potjhrb>.

Online Lectures

Lecture: Les Etats d'Afrique dans la jurisprudence internationale—Quelques éléments introductifs, published by UN Audiovisual Library of International Law: <http://tinyurl.com/oqoum6h>.

Course: Introduction to Environmental Law and Policy, starting 16 September 2013, published by the University of North Carolina: <http://tinyurl.com/ojp4q6g>.

Legally Speaking: In Search of Islamic Justice, 25 July 2013, published by University of California: <http://tinyurl.com/o2z9zop>.

Conversation: Why is it so important to study EU Law? 2 August 2011, published by Oxford University Press: <http://tinyurl.com/ozdc9jp>.

PUBLICATIONS AND ARTICLES

Books

Pinghua Sun (2013), *Human Rights Protection System in China*, Springer.

Jonathan Auburn *et al.* (2013), *Judicial Review: Principles and Procedures*, Oxford University Press.

Christoph Safferling, Thorsten Bonacker (2013) *Victims of International Crimes: an Interdisciplinary Discourse*, T.M.C ASSER PRESS.

Jonathan Crowe, Kylie Weston-Scheuber (2013), *Principles of International Humanitarian Law*, Edward Elgar Pub.

Tanel Kerikmäe (2013), *Protecting Human Rights Law in the EU: Controversies and Challenges of the Charter of Fundamental Rights*, Springer.

Articles

Tor Krevier (2013), "International Law: An Ideology Critique", *Leiden Journal of International Law*, Volume 26, No 3.

Itamar Mann (2013), "Dialectic of Transnationalism: Unauthorized Migration and Human Rights, 1993-2013", *Harvard International Law Journal*, Volume 52, No.2.

Alf Butenschøn Skre & Asbjørn Eide (2013), "The Human Right to Benefit from Advances in Science and Promotion of Openly Accessible Publications", *Nordic Journal of Human Rights*, Volume 31, No 3.

Timothy Webster (2013), "China's Human Rights Footprint in Africa", *Colombia Journal of Transitional Law*, Volume 51, No. 3.

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Any contributions for the newsletter
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WE'RE ON THE WEB!

WWW.ADCICTY.ORG

EVENTS

Public Lecture Prof. Zhang Weiwei "How to Understand China Today"

Date: 20 September 2013

Location: Clingendael Institute, Clingendael 7, The Hague

More Info: <http://tinyurl.com/nzpakow>

International Law in Practice

Date: 23 September 2013

Location: London, England

More Info: <http://tinyurl.com/kl4v2gz>

SCL Lecture "The Ombudsperson and the Security Council Al-Qaida Sanctions Committee"

Date: 26 September 2013

Location: Asser Institute, R.J. Schimmelpennincklaan 20-22, The Hague

More Info: <http://tinyurl.com/ow6dmtq>

OPPORTUNITIES

Case Analysis Assistant

EUROJUST

Closing date: 22 September 2013

Coordination and Planning Officer

Organisation for the Prohibition of Chemical Weapons (OPCW)

Closing date: 28 September 2013

Secretary to Judge

International Court of Justice (ICJ)

Closing date: 30 September 2013

Associate Legal Advisor

International Criminal Court (ICC)

Closing date: 02 October 2013