



VOJISLAV ŠEŠELJ



ISSUE 116

Head of Office: Dominic Kennedy**Assistants:** Görkem Türer & Manon Verdiesen**Contributors:** Lilla Ozoráková & Jelena Trifunović

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MICT News

Prosecutor v. Šešelj (MICT-16-99)

On 18 September 2017, the Appeals Chamber issued an [Order in Relation to the Appeal Hearing](#). The Appeals Chamber noted that they had previously been informed by Vojslav Šešelj that he had no intention of returning to the MICT or The Hague and would not be taking part in proceedings any longer. In light of this the Appeals Chamber, in this Order, informed Šešelj that should he refuse to take part in the Appeal Hearing then the Appeals Chamber would have to appoint a standby counsel to ensure that Šešelj's procedural rights were safeguarded. The Appeals Chamber stated that although Šešelj had a right to self-representation this must be limited to the minimum extent necessary to

protect the Mechanism's interest in a reasonably expeditious resolution of the appeal before it.

If a counsel was appointed by the Appeals Chamber their mandate would be strictly limited to ensuring that Šešelj's procedural rights at the hearing were protected and would not extend to making a response on Šešelj's behalf on the substance of the Prosecution's appeal.

If Šešelj does not attend the hearing, he will be given an opportunity to respond in writing to the oral arguments of the Prosecution within 10 days of the receipt of the B/C/S version of the transcripts of

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the hearing and the Prosecution will have an opportunity to reply within five days of the receipt of the English translation of the written response.

Šešelj was given 10 days from the receipt of the B/C/S version of the Order, to clarify his position regarding attending the appeal hearing. Šešelj acknowledged receipt of the Order on 19 September 2017.

Media outlets in Serbia reported that Šešelj had stated that he would not be appearing for the appeal hearing. No date has yet been scheduled for the hearing.

Prosecutor v. Ngirabatware (MICT-12-29-R)

On 18 September 2017, the Defence filed a request for a Status Conference to allow Ngirabatware to address issues related to his mental and physical condition and for the parties to discuss issues related to the Review Hearing which was ordered by the Appeals Chamber on 19 June 2017.

The Defence stated that the review had already been delayed due to the detention of Judge Akay by the Republic of Turkey and that for an innocent man like Dr. Ngirabatware it is particularly painful. A Status Conference would inquire into his wellbeing, as well as to advance the preparations for the review hearing and the Defence holds that this would be consistent with the goals of Rule 69 and humanitarian principles.

The Prosecution filed its response on 22 September 2017 stating that there was no need for a Status Conference as it is not provided for in the MICT Rules and at the

present time Ngirabatware is serving his sentence after conviction and therefore any issues with his detention or health should be directed to the Commander of the prison where he is held.

Prosecutor v. Stanišić and Simatović (MICT-15-96)

The case of Prosecutor v. Stanišić and Simatović resumed on 29 August 2017, with the testimony of Marko Miljanić. Miljanić was called by the Prosecution to testify about the attack carried out by combined Serb forces on the village of Škabrnja on the 18 and 19 November 1991. Previously, Miljanić was a JNA Officer until May 1991. However, after resigning due to the fact that JNA sided with the Serb side against Croats, Miljanić joined the Croatian MUP in Zadar and was assigned to take charge of the defence of Škabrnja. Miljanić explained that he did not personally eye-witness the killings of civilians during the attacks on Škabrnja, but he rather described what he knew and learned from other survivors. Therefore, the Prosecution's examination-in-chief mainly focused on working with reports (i.e. reports of the forensic pathology service in Zadar), on which Miljanić was asked to comment on and confirm whether the information contained in these reports matches with what he heard about the manner in which particular people were killed during the attack on Škabrnja.

During the cross-examination of Miljanić by Iain Edwards, Co-Counsel for Stanišić, he was asked questioned about the participants in the attack on Škabrnja. Miljanić was particularly asked whether this attack was



MARKO MILJANIĆ

conducted by three groups: the JNA, paramilitary groups and local volunteers. Although Miljanić confirmed that it was the

JNA and MUP, though he was not sure if they were from Serbia or from Krajina, he did not know about the volunteers, as he only heard rumours about it. During cross-examination by Vladimir Petrović, Co-Counsel for Simatović, Miljanić was asked multiple times about the quantity of ammunition that was in the depots in the territory of Zadar. While Miljanić claimed that it was a military secret which he did not know of, Petrović was not convinced by this answer and asked Miljanić again to give at least an estimate of the quantity of weapons and ordnance in the depots. Miljanić explained that apart from each soldier having his personal weapon, "they also had artillery in common, guns, Howitzers, weapons mounted on vehicles." Miljanić further added that he could not tell exactly the number, but he knew which unit was armed with what approximately.

Next to take a stand was Luka Brkić, a Croat from Škabrnja, who experienced the 18 November 1991 attacks on Škabrnja by the JNA and Chetniks. The Prosecution's examination-in-chief as well as the cross-examinations by both defence teams were



LUKA BRKIĆ

concerned with his capture and detention in the JNA barracks in Benkovac. During the 18 November attacks, Brkić was hiding in his brother's cellar with 17 or 18 others, he was captured and first detained in Benkovac and then taken to Knin. He was detained in the Knin barracks and Martić's prison for approximately six months. His testimony included a description of circumstances of his capture and detention, such as the inhumane conditions and several beatings he and the other detainees were subjected to.

The last to testify on the week from 29 to 31 August was a witness with protective measures of a pseudonym, voice and video distortion. Much of his testimony was given in a private session. The witness was a young Croat who lived in Saborsko and while the Prosecution's examination-in-chief related to the events in the town of Saborsko on 12 November 1991, neither of the defence teams had any questions.

The re-trial resumed again on the week from 5 to 7 September 2017, during which two witnesses testified through video link. Both of these witnesses had protective measures of pseudonym and their testimony was given entirely in closed session.

Furthermore, during the week from 12 to 14 September, witness Borivoje Savić was examined. Savić established the Vukovar Municipal Board of SDS, and he appointed Goran Hadžić as its President and he himself was Secretary. The examination of the witness started with the Prosecution discussing the different political parties which were active in Croatia and Serbia at the time. The witness further testified that in the area from Erdut to Almas, the Croats and Hungarians who stayed were liquidated. He stated that all members of the government were aware of this, and that it was even considered "heroic" at the time, hence no one tried to cover it up.

During the week from 19 to 21 September, witness RFJ-151 who was provided with protective measures of pseudonym, voice and face distortion, came to provide evidence of events occurring between 1991 and 1995 in the region of Baranja within the territory of the SBWS. The Prosecution asked the witness questions regarding the crimes against non-Serbs who resided in Baranja, as well as questions about non-Serbs leaving Baranja, which resulted in some objections from the Stanišić Defence. Furthermore, the Defence of both Stanišić and Simatović had multiple objections during the examination about the take-over of Bilje. The Stanišić Defence proceeded to ask the witness questions regarding the distribution of weapons in villages in Baranja, to which the witness mainly stated that he was not aware what the criteria for distribution was. Later on, he stated that he was not sure whether the arming was supervised by the members of the intelligence agencies of the JNA as an official

decision of the JNA, or whether the weapons were smuggled by individuals from the agency. During cross-examination by the Simatović Defence, the witness was asked about the movement of people from Baranja. The Simatović Defence also brought up the crossing of the Batina bridge by the 36th Armored Brigade of the JNA, which, the witness confirmed, had weapons, tanks and armored carriers.

During the week of 26 to 28 September, the re-trial continued with the examination of witness RFJ-113. Particularly interesting was the point when Mihajlo Bakrač Defence Counsel for Simatović called into question the reliability of the witness. The Simatović Defence showed that Ražnjatović was not close to Ilija Kojić at the time, and while the witness confirmed that he saw Kojić and Ražnjatović together once, he did not know what their relationship was like. Bakrač mentioned to the witness that in February 1993 Ražnjatović participated in an attempt to remove Kojić from his position, which was illustrated that there was no relationship of cooperation between the two.

The re-trial will continue until 19 October when there will be a recess for 10 days.



BORIVOJE SAVIĆ

ICTY News

Prosecutor v. Mladić (IT-09-92)

On 27 September 2017 the Defence of Ratko Mladić filed a public redacted version of their "[Urgent Motion to Compel Registrar and United Nations Detention Unit to Provide Medical Records](#)" wherein it was alleged that medical records sought in January 2017 still had not been provided to the Defence, despite repeated requests and medical consent forms signed by Mladić and submitted by his counsel under the relevant Guidelines of the UNDU that require that such requests be answered within 14 days of receipt. The Defence argued that salient medical records, including diagnostic testing and imagery had not been given to the Defence despite affirmations from UNDU officials that the sought documents existed and had not been previously provided, and would be provided to the Defence. The Defence Motion was supported by several annexes of redacted communications with various UNDU and Registry officials dated from January 2017 to present which the Defence termed as demonstrating that they have exhausted all reasonable attempts to gain cooperation of the UNDU

medical officials and obtain the records. The Defence sought (from the President, Trial Chamber and Registrar) a binding order against impugned Registry and UNDU staff compelling them to provide the sought documentation that was outstanding for 9 months already, or in the alternative that they be held in contempt due to interference with the administration of justice. Alternatively, the Defence called on President Aguis to "give a waiver of the immunity of the ICTY in order to allow the filing of a medical malpractice claim wherein the sought medical records can be received and dealt with in another forum more appropriate for the type of malfeasance demonstrated."

Further, the Defence Motion revealed that these records were needed for review by Doctors that were scheduled to see Mladić under Rule 31 of the Rules of Detention in the second half of October 2017.

On 4 October 2017 the Registrar filed a [Public filing](#) in response, wherein it did not

dispute that these records had not been given to the defence counsel as of yet, and that the sought diagnostic imagery had only been given to Mladić on 26 September 2017, while the UNDU Medical Service was following up with all institutions which treated Mladić to determine if any additional missing records existed "out of an abundance of caution".

Additionally, earlier this week, the government of the Republic of Serbia announced that it had issued state guarantees in support of Mladić's provisional release to that state in order for him to be medically evaluated and treated, in light of concerns over his deteriorated health and reported problems with his treatment at the UNDU. These guarantees were issued after another UNDU Accused, Stojan Župljanin, was reported in the Serbian media (citing his son as the source of its reporting) to have suffered multiple strokes in the care of the UNDU Medical Office that went mis-diagnosed and mis-treated for over a month before he was transferred to a hospital for treatment.



RATKO MLADIĆ AND DEFENCE COUNSELS, BRANKO LUKIĆ AND DRAGAN IVETIC



Extraordinary Chambers in the Courts of Cambodia

Mathilde Cayol and Alexander Wood, Ao An Defence Team

The views expressed herein are those of the author alone and do not reflect the views of the ECCC.

Nuon Chea:

During August and September, the Nuon Chea Defence Team prepared amendments to their closing trial brief in Case 002/02 in light of revisions made to trial transcript content following a comprehensive, ongoing review by the Transcription Unit.

Khieu Samphân:

In August and September 2017, the KHIEU Samphân Defence Team continued to prepare its amended closing brief in Case 002/02 following the transcript review process by the Transcription Unit.

Meas Muth:

The Meas Muth Defence filed several submissions to the Co-Investigating Judges and the Pre-Trial Chamber, each of which has been classified as confidential. The Defence continues to review material on the Case File and to prepare submissions to protect Meas Muth's fair trial rights and interests.

Im Chaem:

In August, the Defence has been preparing for the response to the Appeal against the Closing Order (Reasons) filed by the International Co-Prosecutor as well as another response to a confidential appeal.

The Defence also filed a confidential request regarding the Appeal against the Closing Order (Reasons) and a confidential response to a request from civil party applicants before the Pre-Trial Chamber.

In September, the Defence responded to the International Co-Prosecutor's Appeal against the Closing Order (Reasons) and filed a confidential response to the Appeal against the Decision on the Redactions of the Closing Order (Reasons) before the Pre-Trial Chamber.

The Defence endeavours to safeguard IM Chaem's fair trial rights and interests throughout the remaining proceedings of the pre-trial stage of Case 004/1.

Ao An:

In August and September, the Ao An Defence team filed to the Office of the Co-Investigating Judges an urgent request for disclosure of documents in the Case File and a request to establish a schedule for the Response to the two Final Submissions separately submitted by the two Co-Prosecutors. The Defence also continues to review all materials on the Case File and to prepare other filings to safeguard AO An's fair trial rights.

Yim Tith:

In August and September, the Yim Tith Defence continued to analyse the content of the Case File in order to participate in the investigation, prepare Yim Tith's defence and endeavour to protect his fair trial rights.



FROM TOP LEFT: NUON CHEA, KHIEU SAMPHÂN, MEAS MUTH, YIM TITH, IM CHAEM AND AO AN

ICL News Round-up

A Former ICC Chief's Dubious Links, *Der Spiegel*

Luis Moreno Ocampo hunted the world's worst war criminals and brought them to trial at the International Criminal Court. But internal documents show that he allowed himself to be exploited by a Libyan to protect him from investigation and that he took money from the billionaire.

Luis Moreno Ocampo was wearing a shiny black academic gown when he took the oath as the first chief prosecutor of the International Criminal Court at the Peace Palace in The Hague. He looked attractive, determined and sophisticated, like George Clooney playing the role of a law professor, when he raised his hand on June 16, 2003, solemnly swearing "to perform my duties in an honorable fashion and never to abuse my power as chief prosecutor. ... [Read more.](#)

Dutch Govt Challenges Ruling on Srebrenica Deaths, *Balkan Transitional Justice*

The Dutch government will challenge [the ruling holding it liable for the deaths of the 300 Bosniaks from Srebrenica in July 1995](#), media reported on Wednesday.

But the lawyers representing the families of some of the Bosniaks who were killed told BIRN that they will also appeal to the Dutch Supreme Court, asking it to find the Netherlands liable for many more deaths. One of the lawyers, Marco Gerritsen, who is acting for the Mothers of Srebrenica

Supreme Court to pronounce the Dutch authorities guilty of "the death of a group much bigger than 350 boys and men." ... [Read more.](#)

Burundi officials should be tried for "crimes against humanity": UN commission, *IRIN*

Burundians "at the highest level of the state" and in its security services should face trial at the International Criminal Court for crimes against humanity, a UN panel investigating more than two years of human rights abuses in the central African state said today. The three-member Commission of Enquiry said it had "reasonable grounds to believe that crimes against humanity have been committed and continue to be committed in Burundi since April 2015." ... [Read more.](#)

Are Myanmar's Rohingya facing genocide or ethnic cleansing?, *Justice Info*

Muslim Rohingya fleeing their homes in Myanmar are facing "ethnic cleansing" but whether they are victims of genocide remains unclear, international justice experts told AFP. About 422,000 refugees from the stateless Muslim minority have fled Myanmar's westernmost Rakhine state to Bangladesh since August 25, alleging torture and rape by Myanmar troops and Buddhist militias. Their plight has sparked UN accusations of military-led ethnic cleansing, but French President Emmanuel Macron has said the attacks amount to genocide ... [Read more.](#)

Belgrade Jail Warden Faces Retrial for Milosevic 'Kidnap', *Balkan Transitional Justice*

A Belgrade court on Saturday overturned the verdict declaring former Central Prison warden Dragisa Blanus a not guilty of kidnapping Milosevic by allowing him to be sent to The Hague Tribunal in 2001, and ordered a retrial. The court accepted an appeal from Milosevic's family because the first-instance court's verdict "contains violations of procedural rights", Serbian media reported. ... [Read more.](#)

Justice Delayed in Afghanistan: A failure of OTP preliminary examination?, *Amnesty International*

Amnesty International lobbied hard for the creation of the International Criminal Court. We believe that the Rome Statute system is the best opportunity to ensure access to justice for victims of crimes under international law. The Court has often been accused of being biased against Africa and while the truth is more complicated than that, it is true that the OTP appears to be less concerned about the right to justice of victims of crimes committed outside Africa than they are about the rights of victims of anti-government armed groups in Africa. So as we launch our Human Rights in International Justice project we ask, will the court meet the demands for justice that we see from all over the world – from Palestine to Colombia; from Mexico to Georgia; from

Libya to Cote D'Ivoire; from Afghanistan to the Philippines? ... [Read more.](#)

U.N. team to collect evidence of Islamic State crimes in Iraq, Reuters

UNITED NATIONS (Reuters) - The United Nations Security Council on Thursday approved the creation of a U.N. investigative team to collect, preserve and store evidence in Iraq of acts by Islamic State that may be war crimes, crimes against humanity or genocide. The 15-member council unanimously adopted a British-drafted resolution, after a year of negotiations with Iraq, that asks Secretary-General Antonio Guterres to establish a team "to support domestic efforts" to hold the militants accountable. British Minister of State for the Middle East Alistair Burt said Britain would provide some \$1.3 million to help establish the team ... [Read more.](#)

How To Use Facebook And Fake News To Get People To Murder Each Other, BuzzFeed News

JUBA, South Sudan — While Americans grapple with the impact of fake news on the election of Donald Trump, in South Sudan, fake news and online hate speech have helped push the country toward genocide amid a three-year civil war, according to independent researchers and the United Nations. South Sudan's war has divided the country along ethnic lines, pitting followers of President Salva Kiir, who are mostly from the Dinka ethnic group, against fighters under command of former Vice President

Riek Machar, who are mostly from the Nuer tribe. In the last year, militia from various other tribes in the country's southern Equatoria region have also taken up arms against Kiir's government ... [Read more.](#)

UN report: Russia state agents committing abuses in Crimea, Jurist

[JURIST] The UN Office of the High Commissioner for Human Rights reported [text, PDF] on Monday that human rights violations have significantly increased in Crimea since Russia began occupation over the territory in March 2014, with many violations committed by Russian state agents. The most significant change Russia made in Crimea is the implementation of Russian citizenship. ... [Read more.](#)

Passing of M. Cherif Bassiouni, "the Godfather of International Criminal Law", Coalition for the ICC

The Coalition for the International Criminal Court would like to share in expressing our profound sadness at the passing of Professor M. Cherif Bassiouni. "Cherif was truly one of the world's greatest experts of international law and justice. He was a true champion of the International Criminal Court and long-time supporter of the Coalition for the International Criminal Court," said William R. Pace, Coalition Convenor. Cherif Bassiouni was a founding member of both the prestigious Siracusa International Institute for Criminal Justice and Human Rights (ISISC) and DePaul's International Human Rights Law Institute ... [Read more.](#)

Independent investigation will look into human rights abuses in Yemen, The Guardian

The UN has agreed to set up an independent investigation into all alleged abuses of human rights in Yemen by all sides in the three-year civil war. The decision by the UN human rights council is a setback for Saudi Arabia, although the kingdom – a key participant in the conflict – has fended off a full-scale UN international commission of inquiry that could have led to referrals to the international criminal court. The compromise came after intensive talks between the Saudis, the Arab League, the Netherlands, the UK, France and the US ... [Read more.](#)

'Philippines risks ICC intervention if it snubs human rights recommendations', ABS CBN News

MANILA - The Philippines risks international erosion of trust in its institutions and the intervention of the International Criminal Court if it doesn't act on the alleged human rights violations raised by other nations, an analyst said Monday. Unless the Philippines shows that it respects human rights and investigates seriously and impartially these deaths, the international court may step in and begin preliminary investigation, said International Center for Transitional Justice's Reparative Justice Program Director Ruben Carranza. ... [Read more.](#)

Blog Updates and Online Lectures

Blog Updates

"The Kampala Amendments on the Crime of Aggression Before Activation: Evaluating the Legal Framework of a Political Compromise (Part 1)", Astrid Reisinger Coracini. Blog available [here](#).

The Law Applied by the UN Syria Commission to the Al-Jinah Strike is Correct – And Reflects US Doctrine: A Reply to LTC Reeves and Narramore", Elvina Pothelet. Blog available [here](#).

"Fifteen ways to avoid prosecution at the ICC", Tjitske Lingsma. Blog available [here](#).

Publications and Articles

Books

Gerhard Werle & Moritz Vormbaum. (2017). **The African Criminal Court: a Commentary on the Malabo Protocol**, T. M.C. Asser

Leonie Steinl. (2017). **Child Soldiers as Agents of War and Peace A Restorative Transitional Justice Approach to Accountability for Crimes Under International Law**, T.M.C. Asser Press.

Paul A.L. Ducheine & Frans P.B. Osinga. (2017). **Netherlands Annual Review of Military Studies 2017 - Winning Without Killing: The Strategic and Operational Utility of Non-Kinetic Capabilities in Crises - NL ARMS Netherlands Annual Review of Military Studies**, T.M.C. Asser Press.

Calls for Papers

The International Committee of the Red Cross has issued a call for papers on "**Digital Technology and War**". Deadline: 31 January 2018, for more information click [here](#).

Japanese Society of International Law has issued a call for papers on "**Changing Actors in International Law**". Deadline: 1 December 2017, for more information click [here](#).

Online Lectures and Videos

"Emerging weapons and IHL", by Australian Red Cross. Lecture available [here](#).

"Drafting history of the 1949 Geneva Conventions", by the ICRC. Lecture available [here](#).

"When War Comes to Cities", by Jenny McAvoy & Sahr Muhammedally. Lecture available [here](#).

Articles

Dragan Ivetić and Stefano Ricci. (2017). "**Should International Organisations Like the UN be Responsible to Individuals within Their Custody as to Human Rights?**", The IBA Human Rights Law Committee Newsletter, Volume 1, Issue 1, pp. 33-38.

Marieke de Hoon. (2017). "**The Future of the International Criminal Court: On Critique, Legalism and Strengthening the ICC's Legitimacy**", International Criminal Law Review, Volume 17, Issue 4, pp. 591-614.

René Urueña. (2017). "**Prosecutorial Politics: the ICC's Influence in Colombian Peace Processes, 2003-2017**", American Journal of International Law, Volume 111, Issue 1, pp. 104-125.

Events

How Local Humanitarian Organisations Experience

Localisation

Date: 12 October 2017

Location: Humanity House, The Hague

For more information, click [here](#).

The Story of Defense Counsel practising before the ICTY: Experiences from the Frontlines Defending Justice

Date: 19 October 2017

Location: Leiden University, The Hague

For more information, click [here](#).

Ledi Bianku, Judge European Court of Human Rights

Date: 25 October 2017

Location: Leiden University, Leiden

For more information, click [here](#).

All Rise: Journeys to a Just World

Date: 31 October 2017

Location: T.M.C. Asser Institute, The Hague

For more information, click [here](#).

Opportunities

Associate Legal Officer (P-2)

UN Office on Drugs and Crime, Vienna

Deadline: 12 October 2017

For more information, click [here](#).

Associate Legal Officer (P-2)

ICC, The Hague

Deadline: 21 October 2017

For more information, click [here](#).

W1 – Professor for Global Governance and Humanitarian Action

The Institute for International Law of Peace and Armed Conflict
(IFHV) of the Ruhr University Bochum

Deadline: 15 October 2017

For more information, click [here](#).

DRC Coordinator – Program on Sexual Violence in Conflict Zones

Physicians for Human Rights, Bukavu

Deadline: Ongoing

For more information, click [here](#).

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