



MLADIĆ DEFENCE



ISSUE 112

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ICTY News

Prosecutor v. Mladić (IT-09-92)

The Defence team for General Ratko Mladić has filed a public redacted version of its [CONSOLIDATED RESPONSE TO THE REGISTRAR'S SUBMISSION CONCERNING THE DEFENCE MOTION OF 20 MARCH 2017 AND DEPUTY REGISTRAR'S SUBMISSION OF INDEPENDENT MEDICAL REPORT](#), dated 14 April 2017 but only made public 18 April 2017 by the Tribunal. This filing is in response to two confidential filings by the Registrar (First Filing) and Deputy Registrar (Second Filing) of the ICTY which relate to the Emergency Motion of 20 March 2017 for Provisional Release filed by the Defence, for which there is still no decision. Per this latest defence filing, the Registrar tried to rely on

the proclamations of the impaired accused, complimenting his medical treatment, rather than on the medical diagnoses and records themselves. The Defence asked that these medical diagnoses and records should be the thrust of the focus, given that the two Independent Medical Examiners have confirmed 90% of the medical findings and concerns expressed by the six doctors that were the basis of the Defence Motion for Provisional Release. Most notably, the Defence points out that the reports of the Registry Independent Medical Examiners confirm the "high risk" assessment of Mladić's risk of recurrent cerebral vascular

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incident, including a potentially fatal outcome. The only disagreement is whether someone with such a serious health condition should be hospitalised. Per Dr. Falke, in the First Filing, it is unsafe for Mladić to be treated at a Dutch hospital in his condition because the risk of infection in such a hospital environment is greater than the detention-jail facilities. Per the Defence, that supports its insistence that Mladić be transferred to a non-Dutch facility, specifically the facility in Russia suited with specialists to deal with his condition. It should be recalled that the Russian Federation has issued guarantees to accept and treat Mladić as well as enforce any orders issued by the Trial Chamber in regards to the provisional release.

Interestingly, the Defence points out that while both the Registrar and Dr. Falke claim in the First Filing that the current situation of Mladić post his 8 March 2017 emergency hospitalisation has been resolved, whereas a filing made subsequently by the Deputy Registrar and another UNDU Medical Officer contradict these claims, and state that the symptoms and complaints that were the cause of the emergency

hospitalisation still persist and are not resolved more than a month later.

The remainder of the Defence public redacted filing goes into technical details pertaining to the findings of the Independent Medical Experts that admit they only recently inquired to determine under what protocols he was being treated but still claim Mladić's treatment is consistent with "International Standards" but fail to identify a single such standard. The Defence also takes issue with how the IME's fail to address findings identified by doctors in the Defence Motion demonstrating glaring deviations from the accepted standard of care of several named European and American Governing Medical Boards. Much of this discussion is redacted, but it is clear that the Defence takes issue with the Registry Doctors' excuse of no "formal" findings in various areas that are contradicted by diagnostic and other testing. In closing the Defence asks the Trial Chamber and public to consider if the patient were a loved one rather than Ratko Mladić would they be content to continue treatment of the patient in a detention

facility that may be contrary to recommended International standards, or would they be inclined to follow the concerns expressed by six doctors in the Defence Motion as to serious medical conditions that are ongoing, and now mostly confirmed by both Independent Medical Examiners of the Registry, and one out of two UNDU Medical Officers, and seek hospitalisation in a facility that is ready, willing, able, and equipped to treat Mladić better.

In its final paragraph of its submission the Defence explains "In layman's terminology, all the foregoing identified lapses and deviations could be the basis of a possible Medical Malpractice claim in domestic jurisdictions in relation to the treatment of Mr. Mladić."



UN DETENTION UNIT

MICT News

Prosecutor v. Ngirabatware (MICT-12-29)

On 3 April 2017, Defence Counsel for Augustin Ngirabatware, Peter Robinson, filed a motion to initiate contempt proceedings. The reason for this is that the Government of the Republic of Turkey failed to comply with the order of 31 January 2017

to release Judge Akay. By this failure to comply, President Erdogan and Minister of Justice Bozdog of Turkey have interfered with the administration of justice at the Mechanism, preventing a hearing and disposition of Ngirabatware's motion for review of judgement. The Motion states that due to this, Ngirabatware is still in detention for a crime he did not commit. It is for this

reason that the Defence requests that the Pre-Review Judge refers the matter to the President for the designation of a single judge to consider the initiation of contempt proceedings. In order for the pre-review judge to decide on the matter.

Judge Akay was nominated by Turkey for the first group of Judges at the MICT and he

was assigned to consider the Motion for review of Judgement in the Ngirabatware case. Judge Akay was arrested by the Government of Turkey to which the UN Office of Legal Affairs asserted his diplomatic immunity and requested his immediate release. On 31 January, the Pre-review Judge ordered Turkey to cease all legal proceedings against Akay and release him from detention not later than 14 February so he could resume his judicial functions in the case. Turkey did not adhere to the order and Judge Akay is still being detained.

On 10 March, the Government of Turkey formally acknowledged having received the order and decision but stated that Judge Akay does not enjoy immunity before the Turkish judicial authorities for acts performed outside the framework of his assignment under the Mechanism and that the Mechanism is not entitled to issue such an order.

Contempt proceedings at the MICT are initiated under a four-step process: a Chamber or Single Judge already decides if there is reason to believe that a person may be in contempt of the Mechanism and if so then the matter should be referred to the President. Upon receipt of a referral, the President shall designate a Single Judge. The Single Judge then decides whether to refer the matter to the Prosecutor for investigation, request the assignment of an *amicus curiae* Prosecutor, or initiate the proceedings himself. If convinced that there are sufficient grounds to proceed against a person for contempt, the Single Judge may direct the Prosecutor to the matter or issue

an order in lieu of an indictment to be prosecuted by an *amicus curiae* Prosecutor or the Judge himself. This Motion concerns the first step of having reason to believe that a person may be in contempt of the Mechanism. It involves determination of whether a *prima facie* case of contempt exists, which is at the Judge's discretion. *Prima facie* exists where there are facts that, if accepted and uncontradicted, would be sufficient basis upon which to convict the accused. In this case, namely the knowledge of the order to release Judge Akay and failure to comply with the order without just excuse.

Both President Erdogan and Minister Bozdog had knowledge of the order that can be proven by the public statements Minister Bozdog made about it and the wider public dissemination of the order in the Turkish news media and the response filed at the UN on behalf of President Erdogan by his Government. The failure to comply with order is shown by the fact that Judge Akay still remains in detention in Turkey. Both President Erdogan and Minister Bozdog have the power to order the release of prisoners like Judge Akay.

For all these reasons the Defence requested that the Pre-Review Judge refers the matter of contempt to the MICT President for designation of a Single Judge to consider initiating contempt proceedings against President Erdogan and Minister Bozdog.

On 12 April, the Prosecution responded to the Motion to initiate contempt proceedings. In their response, they stated the MICT is not in a position to enforce

measures against a State or its officials in cases of alleged non-compliance. The MICT can only refer the matter to the UN Security Council as a remedy. The Prosecution stated further that the order was directed to the Government of Turkey and that the corresponding obligation falls on the State itself where the MICT has no legal basis to single out and initiate punitive actions against State officials for inaction or non-compliance with an order for which the State is responsible under international law. The Prosecution also stated that State officials cannot be individually the subject of sanctions or penalties for conduct undertaken in an official capacity with the exception of international crimes. The Prosecution therefore requested that the Motion be dismissed.

On 16 April, the Defence replied to the Prosecution's response on the Motion to initiate contempt proceedings and requested an oral hearing. The Defence stated that the ICTY Appeals Chamber has recognised in previous cases that in order to function effectively and fairly they must have the power to prosecute and punish contempt. It is therefore that State officials who knowingly and willfully interfere with the administration of justice prevent the Mechanism from functioning effectively and fairly. The Reply further states that it is also established that the power to prosecute for contempt is not limited to persons or entities to which an order is directed. Therefore even though the order to release Judge Akay was directed to the State rather than individuals, it does not limit the power to prosecute individuals who interfere with the

administration of justice by refusing to implement the order without just excuse.

The Defence concludes that due to the uniqueness of the issue and the importance of future operations of the Mechanism and other international courts and tribunals it may be appropriate to invite submissions, including from the Government of Turkey, the United Nations Office of Legal Affairs, and *amicus curiae*.

On 26 April, Presiding Judge of the Appeals Chamber of the MICT, Theodor Meron, issued a Decision on the Motion for Contempt. In his Decision, Meron states that even though he is aware of the non-compliance of Turkey the Motion for

Contempt proceedings is denied. The reasons for this is that the President of the MICT has reported the Republic of Turkey to the UN Security Council for its failure to comply with the order on 9 March 2017 and that the MICT as such has no power to hold State officials responsible for inaction or non-compliance with an order for which the State is responsible under international law. Meron further states that as a Pre-Review Judge he is vested with the power to address problems arising during the review proceedings on behalf of the Appeals Chamber and that he will take necessary measures to ensure the proper preparation of this case for a fair and expeditious hearing. Meron reiterates the fact that the Mechanism can exercise its inherent power

in contempt to those who knowingly and willfully interfere with the administration of justice, but states also that state officials are merely an instrument of the State and that their official actions can only be attributed to the State and cannot be subject of sanctions or penalties for conduct that is not private but undertaken on behalf of a State.

Meron concludes with the fact that the Mechanism only has the power to report a State's failure to the UN Security Council and cannot impose sanctions in itself. As the Mechanism has taken the appropriate measures provided for in the Statutes the Motion to initiate contempt proceedings was denied.

News from other International Courts



Extraordinary Chambers in the Courts of Cambodia

Maelle Bouthinon, Meas Muth Defence Team

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

Nuon Chea Defence

Throughout March, the Nuon Chea Defence has been preparing Nuon Chea's 550-page closing brief in Case 002/02, which is due on 24 April 2017. The team's preparations include drafting, extensive case file review, and legal and factual research. Additionally, on 15 March 2017, the Defence filed a request to the Trial Chamber seeking clarification on the schedule for the release of final and revised transcripts of evidentiary hearings in Case 002/02. The tribunal is

currently reviewing all transcripts in Case 002/02 – a process to extend until well after Closing Briefs and closing oral arguments. This effectively leaves the team without final versions of the evidence and thus the case it is to answer. Therefore, the team requested the Trial Chamber to set a deadline of 31 March 2017 so that it could better safeguard Nuon Chea's right to a fair trial.

In April, the Nuon Chea Defence Team has been preparing Nuon Chea's Closing Brief in Case 002/02, which is due on 2 May 2017.

The Defence Team's preparations include drafting, extensive case file review, and legal and factual research.

Khieu Samphân Defence

In March and April, the Khieu Samphân Defence was fully engaged in preparing its final brief in Case 002/02.

Meas Muth Defence

In March, the Meas Muth Defence filed four Requests to the Co-Investigating Judges,

each of which has been classified as confidential. The Defence continues to review material on the Case File and to prepare submissions to protect Mr. Meas Muth's fair trial rights and interests.

In April, the Meas Muth Defence filed one Request to the Co-Investigating Judges which has been classified as confidential. The Defence also prepared an appeal against a decision by the International Co-Investigating Judge that an attack against a State's own soldiers could be considered an attack against a "civilian population" for purposes of chapeau of Article 5 of the Establishment Law (Crimes Against Humanity). The Defence continues to review material on the Case File and to prepare submissions to protect Mr. Meas Muth's fair trial rights and interests.



Im Chaem Defence

In March, the Im Chaem Defence welcomed the reclassification as public of the Decision on Ms. Im Chaem's Request for Retraction and Public Statement. The Defence is currently preparing for a potential response to an appeal against the Closing Order and endeavours to safeguard Ms. Im Chaem's fair trial rights and interests throughout the remaining proceedings of the pre-trial stage of Case 004/1.

The Defence is currently preparing for a potential response to an appeal against the Closing Order and endeavours to safeguard Ms. IM Chaem's fair trial rights and interests throughout the remaining proceedings of the pre-trial stage of Case 004/1.

Ao An Defence

In March, the Ao An Defence continued to review all materials on the Case File and prepare other filings to safeguard Mr. Ao An's fair trial rights.

In April, the AO An Defence continued to review all materials on the Case File and prepare other filings to safeguard Mr. AO An's fair trial rights.

Yim Tith Defence

The Yim Tith Defence continued to analyse the contents of the Case File in order to participate in the investigation, prepare Mr. Yim Tith's defence and endeavour to protect his fair trial rights.

Special Tribunal for Lebanon

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

Witness overview

6-24 March: STL OTP investigator Mr Gary Platt continued his testimony as an expert witness on the alleged telephone activity of the Accused and their co-conspirators leading up to the attack on 14 February 2005, linking it to the known activity and movement of former Prime Minister (PM) Rafik Hariri. The witness was cross-examined by Defense counsel for Merhi and Oneissi from 21-22 March and Mr Oneissi from 22-24 March.

Witness Testimony

In March, Platt testified about the chronology of activities of the alleged telephone networks/groups from 4 February until 16 February 2005. His testimony also covered the day of the attack, 14 February 2005. The witness was cross-examined by Defense counsel for Merhi and Oneissi.

Examination-in-Chief 4 February 2005

Platt testified that the **Blue** network activity on 4 February 2005 was consistent

with the surveillance of Hariri around Quraitem Palace, the vicinity of Marwan Hamade's residence, and Hariri's convoy travel to the airport.

The witness showed that Subject 7 conducted the surveillance between Quraitem Palace and Hamade's residence and from Quraitem Palace to the airport.

Mr Platt described the last inter-**Purple** call prior to the alleged false claim of responsibility activity on 14 February

2005. This 4 February call was between the **Purple** phones attributed to Sabra and Merhi. Platt explained that it was unusual for the Purple phones to be using cells in Central Beirut.

5 February 2005

The witness described the limited **Blue** network activity among the **Principal Six** on 5 February 2005. He also spoke about the contact between Merhi's attributed **Purple** phone and Ayyash's personal mobile phone (PMP 091). Platt explained that this was the first of two consecutive days where there were phone calls between these two parties. Mr Platt described the unusual nature of this contact, following a period of no-contact beginning on 23 January 2005, which he stated showed connections between the different actors involved in the plot.

6 February 2005

The witness testified about a series of eight calls, each involving either Merhi's Purple phone and Ayyash's attributed PMP 091 phones and/or the Great Prophet Hospital. After this day, there was no more contact between Ayyash and Merhi's attributed phones during the indictment period.

7 February 2005

The witness testified that the **Blue** network activity of 7 February 2005 was related to surveillance of Hariri around West Beirut and the airport area upon his return from abroad. He further explained that the activity was the first coordinated by any of the **Principal Six** around the airport area since 4 February 2005, and described the calls placed

between Subjects 5, 8, 9, and Ayyash's attributed **Blue** phone.

8 February 2005

According to the Prosecution, 8 February 2005 marked the start of the second execution phase of the plot, including the attack and the false claim of responsibility.

Platt described the **Blue** network activity on 8 February. He explained that Subjects 5, 8, and 9 were using cells around the Quraitem Palace prior to Hariri's convoy's departure to the parliamentary session.

He explained that the **Blue** network surveillance continued in the evening, with Subjects 6 and 8 using cells around Quraitem Palace during the visit of Terje Roed-Larsen (UN Special Representative for the implementation of Security Council Resolution 1559).

He further explained that this day shared some of the characteristics of 14 February 2005, with movements of the **Principal Six** and the locations they occupied

foreshadowing their movement on 14 February 2005. This was consistent with a rehearsal of the plot and involved a lot of preparation, such as identifying the movements of Hariri in order to carry out the attack.

Platt discussed the **Green** network activity of 8 February 2005, including a call from Ayyash's Green to Badreddine's Green phone from the vicinity of Quraitem Palace which was significant with Green Network surveillance of Hariri. He explained how the

Red network activity on this day was similar to what occurred an hour before the attack on 14 February 2005 where Subjects 7 and 9 moved from the Ras Nabeah area (RASNAB cell) to Saint George's Marina (ZOUKAK1 cell).

9 February 2005

Platt testified that on this day the Red Network was active around Quraitem Palace in the afternoon and evening. He noted that the only **Green** call on this day from Ayyash to Badreddine was significant because it occurred within a period of significant activity in the vicinity of Quraitem Palace while the coordinated surveillance operation was taking place and Hariri was at Quraitem Palace. Platt pointed out that this explains why there was a lack of movement between the **Red** or **Blue** phones during this period.

Platt also explained that the series of calls between the **Principal Six** in the evening around Quraitem Palace was significant because the calls showed that Subject 5 was reporting back to Ayyash. Platt further explained that there was a logical sequence of calls where Subject 6 called Subject 7, Subject 7 called Subject 5, and then Subject 5 called Ayyash. Platt noted that this demonstrated a reporting process regarding the surveillance operation.

10-11 February 2005

Platt explained that the activity on 10 February 2005 continued the same pattern as previous days where the **Red** phones were in the immediate vicinity of Quraitem Palace and, given their location and their call

activity, was consistent with the surveillance operation. The activity around Quraitem Palace was significant because the location was in the area of the crime scene and given the time of day, it allowed the subjects to conduct surveillance at a time consistent with the time the attack of 14 February 2005 took place.

Platt explained that on 11 February 2005 the **Red** network was again active around Quraitem Palace but also in Tripoli. He pointed out that the majority of the **Red** network calls on this day were between Subject 8 and Ayyash's attributed **Red** phone. He further noted that this was consistent with Ayyash's role as the coordinator. Platt explained that the purpose of the **Red** network activity in Tripoli was to leave a false trail.

12 February 2005

Platt explained the continued **Red** network surveillance of Hariri's movement on this day, with Subjects 6 and 9 using cells between Quraitem Palace, Sacre Coeur Church, and Mar Mikhael Church, consistent with the subjects following Hariri's movements. Platt noted that this was the last day that the **Red** network was active until the day of the attack.

He also discussed the significance of a series of calls involving Ayyash and Badreddine's attributed **Green** phones, which Platt testified was also related to the surveillance of Hariri on this day.

13 February 2005

The witness spoke about a series of calls placed on the eve of the attack between Subject 816 and Ayyash (on his personal mobile phone) in the early hours of 14 February 2005.

Platt also testified about a series of **Green** phone calls placed between phones attributed to Badreddine and Ayyash on the eve of the attack. He emphasized the significance of the penultimate **Green** call between the two, which coincided with the cessation of the **Red** network operation on that day. He further explained that it was a crucial call in the decision-making process and was followed by a number of **Blue** calls in the early hours of 14 February 2005.

14 February 2005 (Day of the Attack)

Platt described the activity and roles of the **Principal Six** in carrying out of the attack on 14 February 2005. The activity was concentrated around the Parliament area, Place de l'Etoile, and the crime scene.

The Prosecution's case theory is that Subject 7 was a member of the assassination team. He allegedly ensured that the Canter Van and the suicide bomber within it reached the crime scene before Hariri's convoy arrived.

The Prosecution alleges that Subject 5 either escorted or accompanied the movement of the van to the crime scene before being redeployed to the Parliament area to undertake the surveillance of Hariri with Subjects 8 and 9.



RAFIC HARIRI

The witness explained that the **Red** network contacts between the subjects involved in transporting the vehicle-borne improvised explosive device and Ayyash, as well as the latter's subsequent contact with Badreddine on his **Green** phone, highlighted the structure of coordination and command between the subjects. He explained that this structure was consistent with Badreddine's alleged usage of the **Green** phones, which created distance between him and the actual plot.

Platt examined the final sequence of six **Red** calls that were placed upon Hariri's departure from the Cafe de l'Etoile and the movement of the Canter van toward the crime scene. The van was captured on CCTV passing the Phoenicia Hotel and, a minute later, the HSBC bank building facing the road leading to the crime scene.

Platt noted that just before the explosion there was a series of **Blue** network calls. Ayyash called Subject 5, Subject 5 called Subject 7, and then 12 minutes later Subjects 5 and 7 were in the area of Mar Mikhael. He

explained that this was consistent with Ayyash attempting to get an update from Subjects 5 and 7, and with Ayyash coordinating the operation.

Platt testified that following the assassination of Hariri until the end of September 2005, there was very limited activity by the **Principal Six**, which demonstrated that the activity between 20 October 2004 until 14 February 2005 was consistent with surveillance.

The witness also testified about the peak of **Purple** phones activity on 14 February 2005 and the false claim of responsibility that followed the attack.

He spoke about the alleged phone activity and cell use of Sabra, Oneissi and Merhi in the first claim-of-responsibility call to Reuters and the three others to Al Jazeera.

The call to Reuters and the first call to Al Jazeera were from a man purporting to be with the El-Nusra-wal-Jihad group in Greater Syria and claiming responsibility for the assassination of Hariri. The last two calls placed to Al Jazeera directed the news organization to the location of a video tape of the false claim of responsibility and demanded its broadcast.

The witness explained that the final call between **Purple** phones was consistent with the conclusion of the operation by Merhi.

15-16 February 2005

Platt testified about the limited activity of the **Principal Six** on 15 and 16 February 2005, with a total of six **Blue** calls among

them over the two days. In contrast, on 14 February 2005 there were 55 calls placed: 22 on the **Blue** network and 33 on the **Red**. He noted that there was no activity around the Parliament, the route between the Parliament and Quraitem Palace, and the crime scene on these days.

The witness also testified that the **Purple** phones used since 2001 and 2002 were discarded on 15 February 2005 by Merhi and 16 February 2005 by Sabra and Oneissi.

Cross-Examination

Defence Counsel for Merhi

Cross-examination by Counsel for Merhi focused on the conclusions Platt drew in two reports pertaining to Merhi's alleged attributed **Green** phone, and another pertaining to the activity of all the other phones.

Defence Counsel questioned the source of the Prosecution's information, including the attribution dates Platt based his report on while analyzing the phone activity. He also questioned the activity of Merhi's attributed **Green** phone prior to the attribution date.

Platt explained that the **Green** network phones were used prior to their attribution to Ayyash and Merhi. He stated that the network evolved, and it was not originally created for the plot to assassinate Hariri.

Counsel for Merhi also challenged Platt regarding the basis of geographic profiling and usage patterns of the phones on a selected period of time.

Defence Counsel for Oneissi

Defence Counsel for Oneissi questioned the witness about the call data collected in 2010 that he used to draft his report in 2014 about events in 2005. The questions focused on the reliability of the material he based his report on, namely the **best server coverage maps**, the **azimuths**, and the exact position of the **cells**.

The cross-examination also focused on the witness' evidence relating to the COLA phase (29 December 2004-7 January 2005), including the boundaries of the areas of coverage of the COLA cells and the topography of their surroundings.

Counsel for Oneissi challenged the conclusions drawn by Platt, arguing that analysis of the pattern or activity of a given phone requires much more exhaustive data over its lifespan.



HASSAN HABIB MERHI

News from the Region



Kosovo

France Refuses to Extradite Ex-Prime Minister to Serbia

The appeals court in France has rejected a request from Serbia to extradite former Kosovo Liberation Army guerrilla and political party leader Ramush Haradinaj. Serbia has accused Haradinaj of alleged war crimes. Haradinaj was immediately released

and he returned back to Kosovo. The Head of Serbia's Parliamentary Committee on Kosovo, Milovan Drecun, stated that this is a political ruling. Serbian officials insist that they have evidence that he was involved in other war crimes for which he has not yet

been prosecuted, however Haradinaj has been acquitted twice by the ICTY of committing war crimes during the 1998-1999 Kosovo conflict.



Croatia

Three Former Croatian Military Policemen Sentenced for Crimes Against Serb Prisoners

Tonci Crkic, Ante Gusic and Andjelko Botic who are former Croatian military policeman, were convicted of committing war crimes against Serb prisoners of war at the Lora military prison camp in Split in 1992. The Split County Court sentenced Vrkic, who was the Deputy Commander of the camp, to six years in prison and Gusic and Botic, who were military police, to four years each.

They were found guilty of physically abusing the prisoners in the camp as they were beaten, tortured with electricity, subjected to mock executions and doused with cold water.

In a separate case in 2007, the Croatian Supreme Court sentenced Vrkic to eight years in prison, and Gusic and Botic to six years for war crimes against Serb civilians at

Lora camp in 1992.

As a result of these previous convictions and sentences, the Split Court stated that they should serve combined prison sentences for both convictions. In total Vrkic was imprisoned for ten years and Gusic and Botic eight years each. The representatives of the three military policemen said that they will not appeal the judgement.



Montenegro

Trial Ex-Soldier Accused of Involvement in Killing of Kosovo Albanians Due to Commence

The first war crimes trial in Montenegro in many years will start next month following the accusation of an ex-soldier of the involvement in the killing of Kosovo Albanians in 1999. Vlado Zmajevic who is a Montenegrin citizen is a suspect of the killing of at least six ethnic Albanians in Kosovo. He was part of the Yugoslav armed forces fighting in Kosovo in 1998 and 1999 and was

arrested by Montenegrin police last August. He has been charged with having committed crimes against the civilian population. He is a key suspect in a crime committed by Serbian paramilitaries in the Kosovo village of Zegra. He was one in the group of seven fighters allegedly involved in the killings of Kosovo Albanians. After the war in Kosovo ended in 1999, he was arrested, prosecuted

by the army and sentenced to 20 years in prison but he did not serve the sentence. It is still unknown what the reason for this is.



VLADO ZMAJEVIC

Looking Back...

Special Tribunal for Lebanon (STL)

Five years ago...

On 9 May 2012, the Pre-Trial Judge of the STL determined that 58 of the 73 victims of could participate in the Ayyash et al. proceedings. Judge Fransen determined that 15 of the applications were incomplete and stated that in order for them to participate they needed to provide additional information before granting the applications.

For the 58 successful applicants Judge Fransen selected, he did not find any reason to divide the victims into different groups. He decided this on the basis that he was required to ensure that the proceedings are not unduly delayed and that he should take any measures necessary to prepare the case for a fair and expeditious trial.

The Registrar designated a Legal Representative to represent the victims during the trial as required by the Tribunal's Rules.

The names and identities of the victims will remain confidential unless and until there is a further court order to the contrary.

International Criminal Court (ICC)

Ten years ago...

On 2 May 2007, Pre-Trial Chamber I issued warrants of arrest for crimes against humanity and war crimes for Ahmad Muhammad Harun who is the former Minister of State for the Interior of the Government of Sudan and currently Minister of State for Humanitarian Affairs and Ali Kushayb who is a leader of the Militia/Janjaweed. Having reviewed the evidence presented by the Prosecutor, the

Chamber concluded that there were reasonable grounds to believe that Ahmad Harun had knowledge of the crimes committed against the civilian population and about the methods used by the Militia/Janjaweed. The Chamber also concluded that there were reasonable grounds to believe that Ali Kushayb enlisted fighters, armed, funded and provided supplies to the Militia/Janjaweed under his command. The Chamber considered that

there were reasonable grounds to believe that these individuals would not voluntarily present themselves and therefore issued the warrants of arrest. The warrant of arrest for Ahmad Muhammad Harun listed 42 counts of which twenty counts of crimes against humanity and twenty two counts of war crimes. The warrant of arrest for Ali Kushayb listed 50 counts of which twenty two counts of crimes against humanity and twenty eight counts of war crimes.

International Criminal Tribunal for the former Yugoslavia (ICTY)

Fifteen years ago...

On 28 May 2002, the Appeals Chamber of the ICTY granted provisional release to Dragan Jokić to his home town until the commencement of trial. The Trial Chamber dismissed the earlier submissions for provisional release which was, according to the Appeals Chamber, an error in law. It

rendered the Trial Chamber's decision as invalid.

The Appeals Chamber considered that all the conditions which are required for the release of the accused were met and therefore granted the provisional release

and ordered that he was provisionally released under certain terms and conditions.

The main conditions set were that Jokić must be accompanied during the flight to Bosnia and Herzegovina by one of the officials of BiH and that he must reside at his respective place of residence.

Blog Updates and Online Lectures

Blog Updates

"Why Unilateral Humanitarian Intervention Is Illegal and Potentially Criminal", by Kevin Jon Heller. Blog available [here](#).

"Ukraine's Dashed High Hopes: Predictable and Sober Decision of the ICJ on Indication of Provisional Measures in Ukraine v. Russia", by Iryna Marchuk. Blog available [here](#).

"Taking the 'Union' out of 'EU': The EU-Turkey Statement on the Syrian Refugee Crisis as an Agreement Between States under International Law", by Carmelo Danisi. Blog available [here](#).

Online Lectures and Videos

"Nuclear Weapons and International Law", by Masahiko Asada. Lecture available [here](#).

"An Introduction to the International Criminal Tribunal for Rwanda and its Impact on the Rule of Law in Rwanda", by Vagn Joensen. Lecture available [here](#).

The Mechanism: A New Model of International Criminal Tribunal, by Theodor Meron. Lecture available [here](#).

Publications and Articles

Books

Colleen Rohan and Gentian Zyberi (2017). **Defense Perspectives on International Criminal Justice**, Cambridge University Press.

Colleen Murphy (2017). **The Conceptual Foundations of Transitional Justice**, Cambridge University Press.

Jan Arno Hessbruegge (2017). **Human Rights and Personal Self-Defense in International Law**, Oxford University Press.

Michael Bazylar (2016). **Holocaust, Genocide and the Law**, Oxford

Articles

René Urueña (2016). "Playing with Fire: International Criminal Law, Transitional Justice, and the Implementation of the Colombian Peace Agreement", *AJIL Unbound*, Volume 110, p. 364-368.

Charles J. Dunlap (2016) "No Good Options against ISIS Barbarism? Human Shield in 21st Century Conflicts", *AJIL Unbound*, Volume 110, p. 311-316.

Banu Bargu (2016). "Bodies against War: Voluntary Human Shielding as a Practice of Resistance", *AJIL Unbound*, Volume 110, p. 299-304.

Calls for Papers

The **International Journal for the Semiotics of Law** has issued a call for papers on "Representations of Law, Justice and the Subject in Engrenages". Deadline: 30 June 2017, for more information, click [here](#).

The **Journal of the International State Crime Initiative** has issued a call for papers on "State Crime and Colonialism". Deadline: 30 September 2017, for more information, click [here](#).

Events

Forensic and DNA Evidence Advocacy Training

Date: 13 May 2017

Location: ICTY, The Hague.

For more information, click [here](#)

Seminar on Transitional and Social Justice

Date: 8 June 2017

Location: Utrecht University, Utrecht

For more information, click [here](#)

ADC-ICTY/ICLB Mock Trial 2017

Date: 12 - 17 June 2017

Location: ICTY, The Hague

For more information, click [here](#)

Summer Law Program on International Criminal Law and International Legal & Comparative Approaches to Counter-Terrorism

Date: 29 May - 22 June 2017

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

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Opportunities

Legal Officer (P-3)

UN Environment Programme, Nairobi

Deadline: 7 June 2017

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Associate Legal Officer (P-2)

International Court of Justice

Department of Legal Matters, The Hague

Deadline: Ongoing

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

Protection and Rule of Law Coordinator

International Rescue Committee

Protection and Rule of Law department, Kampala

Deadline: Ongoing

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

Visiting Professional

International Criminal Court

Registry, The Hague

Deadline: Ongoing

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

Cynthia Sinatra

The ADC-ICTY expresses its deepest sympathies for the sad loss of Cynthia Sinatra, an international criminal lawyer and a long-time member of the ADC. She passed away on 20 April 2017. Our thoughts are with her family and friends during this difficult time.

An online Condolence Book has been created, you can leave a message [here](#).

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