



ADC-ICT NEWSLETTER

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Karadžić © IRMCT

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IRMCT NEWS

Prosecutor v. Karadžić (MICT-13-55)

On 20 March 2019, the Appeals Chamber delivered its appeals judgement in the Radovan Karadžić case. The Trial Chamber had found Karadžić guilty of all counts in the indictment except Count 1, genocide in the municipalities and sentenced Karadžić to 40 years of imprisonment in March 2016. Karadžić subsequently filed an appeal against his convictions and the Prosecution also filed appeals against the acquittal for Count 1 and requested that the Appeals Chamber increase his sentence to life imprisonment.

TABLE OF CONTENTS

IRMCT NEWS	P.01
ADC-ICT NEWS	P.03
ICL NEWS ROUND UP	P.05
ARTICLES AND BLOGS	P.07
EVENTS AND JOBS	P.08



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The Appeals Chamber, Judge Vagn Joensen Presiding, upheld the majority of the convictions including genocide in Srebrenica, the shelling of Sarajevo and the persecution of Bosniaks and Croats in 20 municipalities across Bosnia and for taking UN peacekeepers hostage.

Judge Vagn Joensen stated that Karadžić was involved in a joint criminal enterprise regarding Srebrenica and that he was in constant touch with the forces on the ground at the time and there was no error in convicting him for genocide. The Appeals Chamber held that key evidence was 'Directive 7', a Decision from the Bosnian Serbs in March 1995, which Karadžić had signed stating that conditions should be made 'unbearable' for the people living in Srebrenica.

On the conviction that Karadžić was part of a joint criminal enterprise to terrorize the civilian population in Sarajevo, the Appeals Chamber said that the orders that Karadžić gave saying that civilians should not be attacked were only issued at times which were politically beneficial to him or when he was under pressure from the international community.

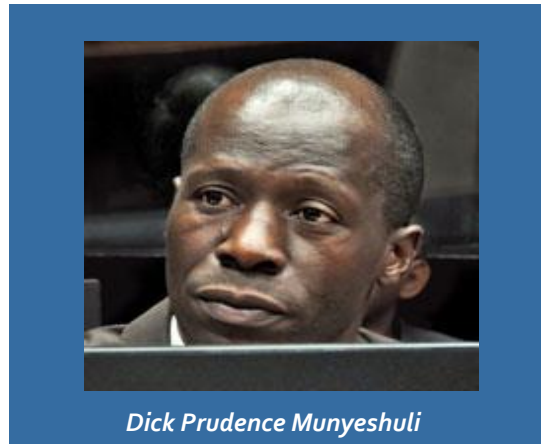
The Appeals Chamber rejected Karadžić's assertion that the trial was unfair but did state that the Trial Chamber violated Karadžić's rights by conducting visits to the crime scenes without him but added that this did not significantly harm his defence.

The Appeals Chamber increased Karadžić's sentence from 40 years of imprisonment to life imprisonment, stating that the initial sentence was inadequate when compared to other accused who were sentenced to life imprisonment at the ICTY.

The Appeals judgement is available [here](#).

Prosecutor v. Turinabo *et al* (MICT-18-116)

In the contempt proceedings against Turinabo *et al*, the defence for Nzabonimpa, Fatuma and Turinabo submitted a [Motion Challenging the Jurisdiction Pursuant to Rules 79\(a\)\(i\) and 79\(D\) – Incitement](#). In the Motion the defence challenges the jurisdiction of the Mechanism in relation to Count 2 of the indictment insofar as it alleges that the Accused are additionally, or alternatively individually responsible for inciting others to commit contempt. The Defence argued, amongst other arguments, that there is an absence of a legal basis for incitement to commit contempt in Article 4(1) of the Mechanism Statute and that the object and purpose of contempt does not justify incitement. On 12 March 2019, the Single Judge issued a [Decision on Challenges to Jurisdiction](#) in which the Motion on incitement was dismissed.



Dick Prudence Munyeshuli

Additionally on 12 March 2019, the Single Judge issued a [Decision on the Motion Challenging the Form of the Indictment](#), ordering the Prosecution to amend the indictment as stipulated in the Decision.

The Defence also submitted that the Mechanism did not have jurisdiction to charge the accused with contempt under a joint criminal enterprise as this mode of liability was solely reserved for the core crimes in the Statutes of the *ad hoc* Tribunals. On 12 March 2019, the Single Judge issued a [Decision on Challenges to Jurisdiction](#) in which he granted the Defence motions and ordered the Prosecution to amend the indictment and remove all references to joint criminal enterprise.

On 27 December 2018, the Defence for Munyeshuli filed a [Preliminary Motion for Defects in the Form of the Indictment](#) arguing that Count 3 of the Indictment is defective as it fails to state the facts for which he can be held in contempt and fails to sufficiently plead the facts in support of the charges against him. On 12 March 2019, the Single Judge issued a [Decision on Dick Prudence Munyeshuli's Motion Alleging Defects in the Indictment](#) granting, in part, the Defence motion and ordering the Prosecution to amend the indictment and provide further information.

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

Between 26 and 28 February 2019, hearings were held in the case for Franko Simatović's Defence to present their oral submissions in accordance with Rule 121 requesting an acquittal due to insufficient evidence being presented by the Prosecution for a conviction.

On [26 February 2019](#), the Defence asserted that the Prosecution evidence taken at its highest could not lead to a reasonable trier of fact being convinced beyond reasonable doubt that Simatović was guilty of the crimes alleged in the indictment. The Defence presented their arguments on the evidence which has been presented by





Franko Simatović

the Prosecution and how it failed to prove any charges against Simatović.

On [28 February 2019](#), the Prosecution presented their response stating that the Defence arguments should be rejected and that there was sufficient evidence to prove the guilt of Simatović.

A decision on the Rule 121 oral submissions is still pending.

Prosecutor v. Prlić et al (MICT-17-112)

On 16 January 2019, the President of the Mechanism issued a Decision on Early Release for Valentin Ćorić. The President granted the request for provisional release, however imposed several conditions upon Ćorić when he was released.

The conditions included that Ćorić shall have no contact whatsoever, directly or indirectly try to harm, intimidate or otherwise interfere, with victims or witnesses who testified at his trial or the trial of other ICTY-convicted persons, or otherwise interfere in any way with the proceedings of the Mechanism, or the administration of justice; Ćorić shall conduct himself honourably and peacefully in the community to which he is released, and shall not engage in

secret meetings intended to plan civil unrest or engage in any political activities; Ćorić shall not discuss his case, including any aspect of the events in the former Yugoslavia that were the subject of his trial, with anyone, including the media, other than pro bono counsel, if any; Ćorić shall not purchase, possess, use or handle any weapons; Ćorić shall not commit any offence; Ćorić shall be held in contempt of court, pursuant to Rule 90 of the Rules, if he violates any of the conditions as stated herein; The decision granting Ćorić conditional release shall be revoked if he violates any of the conditions as stated herein, and his conditional release will be terminated; and Ćorić shall be subject to the terms of the conditions as stated herein, unless these conditions are revoked or modified, until the expiration of his sentence.

This is the first time an accused from the ICTY has had conditions imposed upon them when released early thus marking a change in the application of early release provisions by the President of the Mechanism.

ADC-ICT NEWS

ADC-ICT Annual Conference 2019

On 16 February 2019, the ADC-ICT held its annual conference the title of which was "International Criminal Law: Beyond The Hague". The conference was attended by over 150 academics, practitioners, experts and students and the panels were comprised of experts in the field of international criminal law with a wealth of experience.

The first panel "Guantanamo Bay: Extraterritorial Justice or Legal Back-Hole?" included speakers: Alka Pradhan, Human Rights Counsel for Ammar al-Baluchi, Captain Mark Andreu, Defence Counsel for Ammar al-Baluchi, Prof. Helen Duffy, Leiden University and Prof. Geert-Jan Knoops, Defence Counsel.





Panel 1

Pradhan and Andrea discussed the problems encountered at the Guantanamo Military Commissions including the use of torture and black sites. They emphasized that the Military Commissions have been ongoing for many years and they are still in pre-trial phase with the prospect of trial not taking place in the near future. Andreu informed participants that the US government installed listening devices in attorney-client meeting rooms which is clearly a violation of the accused rights. He also highlighted that the secret rendition programme involved over 50 countries.

Prof Duffy spoke about her work on the case of Abu Zubaydah at the European Court of Human Rights and how it included public evidence which showed the renditions were secret and highly coordinated. She concluded that the proceedings at Guantanamo Bay are a flagrant denial of justice.

Prof. Knoops spoke about the use of ICTY jurisprudence in the Supreme Court of the United States in the case of Hamdan v. Rumsfeld and how the Supreme Court introduced this jurisprudence.

The second panel "The Special Criminal Court in the Central African Republic: A Model for Complementarity?" included speakers: Jasper Pauw, Head, Special Criminal Court Support Unit, MINUSCA, Yasmine Chubin, Lead Expert Consultant, International Development Organization, Chantal Daniels, International Cooperation Adviser, ICC and Edith Ikpat, PhD Candidate, University of Maastricht.

Jasper Pauw spoke about the establishment of the SCC in Central African Republic and its mandate. He highlighted that collaboration by the Special Court with the ICC has been a model of complementarity in action and it was in its early stages.

Yasmine Chubin spoke next about the prosecution and investigative strategy of the SCC and how its jurisdiction is broad and extends to all crimes falling under the law. The Special Prosecutor can ask a national jurisdiction to transfer a file to the SCC. The case selection of the SCC criteria is jointly applicable to the prosecutor and the investigative

chamber and international participation is permitted if an accused is charged with grave crimes.

Chantal Daniels spoke about the cooperation between the ICC and the SCC and that there needs to be a sense of accountability. She stated that the ICC does not view the SCC as exclusive but as complementary to the ICC and are working closely together.

The final speaker of panel 2 was Edit Ikpat who spoke about the SCC's potential contribution to regional justice. She emphasized that it was pure imagination that the creation of the SCC is for the victims of the crimes but instead it is there to send a signal that these crimes will not be tolerated in the region.

The final panel of the day was entitled "The Special Jurisdiction for Peace in Colombia: The Way Forward for Transitional Justice?". The panel included: H.E. Juan José Quintana, Ambassador of Colombia to the Kingdom of the Netherlands, Lily Andrea Rueda Guzmán, Magistrate for the Special Jurisdiction for Peace, Dr. Fabián O. Raimondo, Maastricht University and Sophia Müller, PhD Researcher, Tilburg University. This panel was conducted under the Chatham House Rules and therefore the content of the presentations is not available to the public.

The day concluded with a Special Lecture to Honour the Services of Judge Theodor Meron to International Criminal Justice. The President of the ADC-ICT, Dragan Ivetic, presented Judge Meron with an award and Gabrielle McIntyre, former *Chef de Cabinet* to Judge Meron, gave an overview of the contributions which Judge Meron had made through his judgements and decisions at the ICTY, ICTR and the IRMCT. The video of the presentation is available [here](#).

The Conference was followed by a drinks reception which was attended by many participants and speakers. The videos from the conference the presentations are available [here](#) and a selection of photos are available [here](#).



Judge Meron



News Round-Up

Click on the box to read the full article

UN panel lists Israelis suspected of war crimes on Gaza border, *The Times of Israel*

The United Nations Human Rights Council's fact-finding mission into last year's protests at the Gaza border presented its full report on Monday, saying it had compiled a list of Israelis suspected of serious crimes that it will make available to the International Criminal Court and other bodies.

The database, which was not made public, contains information about "military and civilian structures in Israel" that are allegedly responsible for violations of international humanitarian law.

US Statements Don't Align with its Obligations under International Law, *Sputnik International*

US National Security Advisor John Bolton said that Washington would not cooperate with The Hague-based court and threatened it with sanctions, saying it puts US sovereignty and national security at risk. Sputnik has discussed it with Dr Angelo Dube, associate professor of International Law at the University of South Africa (UNISA) in Pretoria.

DRC's Bemba seeks \$77m in compensation from ICC, *Allazerra*

Jean-Pierre Bemba, a former vice president and rebel leader in the Democratic Republic of the Congo (DRC), is seeking millions of dollars in compensation from the International Criminal Court (ICC), his lawyers have announced.

The 55-year-old's legal team last week filed an application asking judges at The Hague-based court to award him a total of nearly 69 million euros (\$77m) for what they called a miscarriage of justice over his former conviction for war crimes, his lawyers said in a statement on Monday.

Bosnians Ethnically Divided Over Karadzic Life Sentence, *Balkan Transitional Justice*

The final verdict in Radovan Karadzic's trial was welcomed by Bosniak and Croat politicians and war victims' groups in ethnically-divided Bosnia and Herzegovina, but condemned as biased by Bosnian Serb political leaders.

The UN court's confirmation on Wednesday of the verdict convicting Radovan Karadzic of genocide, war crimes and crimes against humanity again highlighted continuing post-war ethnic divides in Bosnia and Herzegovina.

President of the Assembly of States Parties regrets withdrawal from the Rome Statute by the Philippines, *ICC News*

The President of the Assembly of States Parties, Mr. O-Gon Kwon (Republic of Korea), has reiterated his regret regarding the withdrawal of the Philippines, effective as of 17 March 2019, from the Rome Statute, the founding treaty of the International Criminal Court ("ICC"). President Kwon noted, "the Assembly of States Parties, comprising more than 120 States from all regions of the world, is fully committed to the Court's mandate.



South Sudan : more than 23 officials could face ICC jurisdiction over international crimes, *African Daily Voice*

At least 23 South Sudanese could face trial before the International Criminal Court (ICC) for war crimes, crimes against humanity and possible genocide, the UN says.

The suspects, who include politicians, reportedly committed the crimes in South Sudan's five-year old war.

US to deny visas for ICC members investigating alleged war crimes, *The Guardian*

The United States has announced it will revoke or deny visas to members of the International Criminal Court involved in investigating the actions of US troops in Afghanistan or other countries.

The US secretary of state, Mike Pompeo, said Washington was prepared to take further steps, including economic sanctions, if the war crimes court goes ahead with any investigations of US or allied personnel.

Crimes Against Humanity : Need For A Legal Framework For Mass Crimes In India, *Live Law*

In 1941, Winston Churchill in an uncertain response to Nazi atrocities called them "crimes without a name". Almost two years later Polish scholar Raphael Lemkin termed it for the first time as Genocide. In December 2018, the Delhi High Court in State Through CBI v. Sajjan Kumar and Ors. had its Churchill moment when adjudicating upon political riots against Sikhs (1984). It observed that India has not yet recognized Genocide and Crimes against Humanity.

By sending asylum seekers to Nauru and Manus, is Australia guilty of crimes against humanity?, *ABC News*

Independent federal MP Andrew Wilkie recently condemned successive Australian governments for failing to meet their obligations under international law to asylum seekers and refugees who arrive by sea. "We are a signatory to the Rome Statute," he said on the ABC's Q&A program. "The Rome Statute addresses crimes against humanity, and it's a crime against humanity to forcibly transfer anyone to a third country and to detain them indefinitely without trial.

Rohingya Refugees Need Mental Health Treatment and Justice, *Futurity: Research News*

The ruthless campaign against the Rohingya left an estimated 10,000 dead, and their villages looted and torched. The attackers burned villagers to death in their homes, gunned them down as they fled, or beat or stabbed them to death. They gang-raped and disfigured women, and tossed their babies into fires and rivers. A UN Human Rights Council fact-finding panel found patterns of violations committed principally by Myanmar's security forces.

Assad can still be brought to justice – and Europe's role is crucial, *The Guardian*

The hope must be that criminal justice will one day close in on Syria's murderous dictator Bashar al-Assad, his henchmen and his enablers. And on that front, there's been some good news recently: the arrests in Germany and France of three Syrian intelligence officials suspected of torture were groundbreaking.

This came on top of the issuance of warrants and the filing of dozens of criminal complaints in a number of European countries, including Sweden and Austria.



ARTICLES AND BLOGS

BLOG UPDATES AND ONLINE LECTURES

Blog Updates

"The India-Pakistan Situation: What Role Can International Law Play", by Rishi Gulati.
Blog available [here](#).

"The United States Continues its Attack against the International Criminal Court?" by Jennifer Trahan, Megan Fairlie. Blog available [here](#).

"Judicial review is not politics by another means", by Rosalind English. Blog available [here](#).

Online Lectures and Videos

"International Law in Action: A Guide to the International Courts and Tribunals in The Hague", offered by Leiden University:. Course available [here](#).

"International Humanitarian Law in Theory and Practice" Kalshoven-Gieskes Forum. Course available [here](#).

"Introduction to International Criminal Law", by Case Western Reserve University. Course available [here](#).

PUBLICATIONS AND ARTICLES

Books

Jessie Hohmann, Daniel Joyce (2018), **International Law's Objects**, Oxford University Press.

Martin Scheinin (2019), **Human Rights Norms in 'Other' International Courts**, Cambridge University Press.

Daniel Peat (2019), **Comparative Reasoning in International Courts and Tribunals**, Cambridge University Press.

Mary Ellen O'Connell (2019), **The Art of Law in the International Community**, Cambridge University Press.

Articles

Richard Clements (2019), "From bureaucracy to management: The International Criminal Court's internal progress narrative", *Leiden Journal of International Law*, Volume 32, Issue 1, pages 149-167.

Emanuela-Chiara Gillard (2019), "Safe Areas: The international legal framework", *International Review of the Red Cross*.

Siofra O'Leary (2018), "A Tale of Two Cities: Fundamental Rights Protection in Strasbourg and Luxembourg", *Cambridge Yearbook of European Legal Studies*, Volume 20, pages 3-31.

CALLS FOR PAPERS

The University of Liverpool has issued a call for paper on the subject of 'Hope in International Law and Human Rights'
Deadline: 1 April 2019, for more information click [here](#).

The Norwegian Centre for Human Rights has issued a call for paper on the subject of "Protecting Community Interests under International Law: Challenges and Prospects for the 21st Century"
Deadline: 25 May 2019, for more information click [here](#).

The Hebrew University of Jerusalem has issued a call for papers on the subject of "International law's invisible frames- Social cognition and knowledge in international legal processes"
Deadline: 15 May 2019, for more information click [here](#).



EVENTS AND OPPORTUNITIES

EVENTS

International Law and Imagination

Date: 3 April 2019

Location: The Graduate Institute Geneva

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

IBA Conference: The Next Big Questions for International Criminal Justice

Date: 13 April 2019

Location: Peace Palace, The Hague

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

Short Course: Public International Law in Practice

Date: 15-16 April 2019

Location: British Institute of International and Comparative Law, London

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

ADC-ICT Mock Trial

Dates: 17-24 June 2019

Location: IRMCT, The Hague

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

OPPORTUNITIES

Legal Officer, Rome

Legal and Ethics Office

Food and Agriculture Organization, Rome

Deadline: 28 March 2019

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

Associate Legal Officer, New York

Office of Human Resources, New York

Deadline: 31 March 2019

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

Ombudsman

World Health Organization Social, Copenhagen

Deadline: 5 May 2019

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

Associate Legal Officer, Geneva

United Nations

Office of the High Commissioner for Human Rights

Deadline: 6 April 2019

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



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