



ICTY LEGACY DIALOGUES

22-24 June 2017

Final ICTY Legacy Conference held in Sarajevo

Between 22 and 24 June, the final Legacy Conference took place in Sarajevo, Bosnia and Herzegovina (BiH). The conference was one of the key events of the ICTY Legacy Dialogues, a series of events held over the course of this year to mark the closure of the ICTY, with the aim to enable others to build on its work and achievements.

The Tribunal's Principals, President Carmel Agius, Prosecutor Serge Brammertz and Registrar John Hocking, delivered welcoming remarks, after which His Excellency Dragan Čović, Member of the BiH Presidency, spoke on behalf of the Presidency and the host country.

In his opening speech, [President Agius](#) emphasised that the aim of the conference was "to 'pass on the baton' to stakeholders in the region, because it is [they] who will, in many ways, be responsible for carrying on the Tribunal's legacy beyond 2017."

[Prosecutor Brammertz](#) highlighted the crucial role played by national jurisdictions in the countries of the former Yugoslavia, stressing that: "Ensuring that national courts have the capacity to prosecute international crimes is therefore of paramount importance."



Conference inauguration

[Registrar John Hocking](#) stated that: "In our courtrooms, the shields that protected Heads of State, Ministers, or Generals were pierced by the humble truth of their often powerless victims," and explained how the Tribunal's legacy will live on through efforts inside and outside courtrooms in the region and across the world.



Launch of the B/C/S translation of the book "Prosecuting Conflict-Related Sexual Violence at the ICTY"

During the conference, regional and international participants discussed key areas of the Tribunal's legacy, engaging in an active dialogue. Eight main panel discussions were held on topics such as: the normative legacy of the ICTY and its influences on national jurisdictions; the Tribunal's gender justice and non-judicial legacies; the Tribunal's operational legacy and how it can inform national prosecutions; the Defence and fair trials; the witness experience of testifying before the ICTY and local witness support mechanisms; and the historical value of the Tribunal's legacy. In addition to the panel discussions, the conference also hosted ten side events, including book launches, a documentary premiere, the opening of



Opening of the exhibition: "Targeting monuments - Targeting history and memory"

an exhibition, and discussions of various regional transitional justice initiatives.

The conference concluded with the presentation of [conclusions and recommendations](#) emerging from the various panel discussions. It was emphasised that the ability of national jurisdictions to continue adjudicating war crimes cases in accordance with international standards will be a cornerstone of the Tribunal's legacy.

In his closing address, Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, Mr Miguel de Serpa Soares, reflected on the "moral legacy" of the Tribunal, commending "the legacy efforts undertaken by the ICTY as they will remind the international community that our work to ensure respect for human rights and the rule of law continues, that the cause of justice endures, and that the hope to end impunity lives on."



To view the full videos of the panel discussions, please refer to the [Tribunal's Youtube page](#).



ICTY Legacy Dialogues
Dialogues sur l'héritage du TPIY
Dijalozi o naslijeđu MKSJ

OFFICE OF THE PRESIDENT

19-21 June 2017

President Agius concludes official visit to Bosnia and Herzegovina



On 21 June 2017, ICTY President Judge Carmel Agius concluded a three-day official visit to Sarajevo, Bosnia and Herzegovina (BiH).

During his visit President Agius met with Members of the BiH Presidency (see photo), the Deputy Chairman of the BiH Council of Ministers, the Minister of Justice, the President and Deputy President of the BiH Court, and the Mayor of Sarajevo. They discussed a range of topics including the need to intensify regional cooperation in the prosecution of war crimes, the legacy of the Tribunal, and the establishment of ICTY Information Centres in BiH. In the context of the Tribunal's closure at the end of 2017, President Agius expressed hope that the countries of the former Yugoslavia will continue the work of the Tribunal. He emphasised that time is running out, and that the current state of cooperation among the countries of the region must be improved.

In addition to these meetings, President Agius visited the University of Sarajevo, where he discussed new opportunities for enhanced cooperation between the Tribunal and the University. The President also visited the Museum of Crimes against Humanity and Genocide 1992 - 1995, which features the ICTY in its permanent exhibition. Finally, President Agius visited the American University in BiH, where he delivered a lecture and was presented with a Leadership Award for his long-time service to international humanitarian law.

ICTY PRINCIPALS

7 June 2017



President Agius and Prosecutor Brammertz address the UN Security Council



On 7 June 2017, ICTY President Agius addressed the United Nations Security Council in New York (UNSC).

The President stressed that the ICTY remains on track to complete its mandate by the end of this year and has made considerable progress towards finishing final proceedings.

However, President Agius emphasised that there are still significant obstacles requiring the urgent attention of the Council. One is the pending contempt case of *Jojić et al.*, in which the Republic of Serbia has failed to execute arrest warrants of the accused that were issued almost two and a half years ago.

The President reported on the further challenge of continued staff attrition, which will pose a critical risk to the Tribunal's ability to complete its remaining work on time. In this regard, he acknowledged and thanked all staff members and Judges for their outstanding work and dedication.

President Agius noted that the Tribunal's final year of operations presents a unique opportunity to ask what the Tribunal's enduring legacy will be, and to ensure that it will continue to have an impact in the future. For these reasons, the Tribunal is holding a number of legacy and closing events.

He additionally mentioned the ongoing project of establishing information centres within the region of the former Yugoslavia, as mandated by the Security Council, aimed at providing local access to the Tribunal's public records and information about its work.

Concluding, President Agius said that "when the international community has the will to co-operate and to stand for what is right, those responsible for the most egregious violations of international

humanitarian law can be held to account." He asked all Members of the Security Council to continue to stand for what is right, and to support the Tribunal in its last six months.



In his address, Prosecutor Serge Brammertz updated the UNSC on the status of trials and appeals before the ICTY and the MICT, the search for the remaining eight ICTR fugitives and his Office's efforts to support national war crimes prosecutions in the countries of the former Yugoslavia and Rwanda.

With respect to national prosecutions of war crimes in the former Yugoslavia, the Prosecutor stated that "regional judicial cooperation in war crimes justice in the former Yugoslavia is still heading in the wrong direction."

Expressing the OTP's alarm at the on-going, widespread denial of crimes and the refusal to accept facts established by the ICTY and ICTR, Prosecutor Brammertz remarked, "The message of denial and revisionism is loud and clear. We recognise our victims, but not yours. Your war criminals are our heroes."

Calling for urgent attention to this challenge, the Prosecutor stated, "With the closure of the ICTR, and the upcoming closure of the ICTY, it is now more important than ever to address this challenge. To secure a peaceful future, there must be a shared agreement on the recent past."

Prosecutor Brammertz concluded, "The ICTY will before the end of the year complete its mandate. This will close an important chapter that the Council began twenty-four years ago. Yet the work of justice for the victims of war crimes in the former Yugoslavia and Rwanda will continue."

OFFICE OF THE REGISTRAR

30 May 2017



Registrar Hocking reappointed for a third term as ICTY Registrar

United Nations Secretary-General António Guterres, in consultation with Tribunal President Carmel Agius, reappointed Mr Hocking effective 15 May 2017, in accordance with the Statute of the Tribunal.

Mr Hocking will provide administrative, legal and other support essential for the successful fulfilment of the court's mandate until its closure on 31 December 2017.

Mr Hocking, the ICTY's longest serving Registrar, was first appointed on 15 May 2009 and reappointed on 15 May 2013. From 2012 to 2016, he served concurrently as the first Registrar of the Mechanism for International Criminal Tribunals.

OFFICE OF THE PRESIDENT

26 May 2017

ICTY President Agius meets with UN Secretary-General António Guterres



ICTY President Carmel Agius met with UN Secretary-General, Mr António Guterres, at UN Headquarters in New York on 26 May 2017.

The Secretary-General thanked President Agius for the remarkable work that the Tribunal has done and its efficiency, stating that it was a very important instrument not only for the administration of justice, but also for deterrence, peace, and the protection of human rights.

President Agius briefed the Secretary-General on the progress made towards implementation of the completion strategy of the Tribunal. He confirmed that the Tribunal is on track to complete its work by the end of 2017 and that judgements in the final cases of *Mladić* and *Prlić et al.* will be delivered by 30 November.

At the same time, President Agius emphasised the ongoing challenge of staff attrition and the need for support in this regard.

In addition, President Agius conveyed the hope of all staff and Judges that the Secretary-General would be able to attend the Tribunal's formal Closing Ceremony on 19 December 2017, and expressed his deep appreciation for the valuable work and assistance that the UN Office of Legal Affairs continues to provide to the ICTY.

OFFICE OF THE REGISTRAR

22 May 2017

From Start to Finish: The journey of the ICTY told by its first and last Registrars



On Monday, 22 May, the first and last ICTY Registrars, Theodoor van Boven and John Hocking, told the story of the Tribunal "From Start to Finish" from their perspectives. The event was opened by ICTY President Carmel Agius and moderated by the ICTY Deputy Registrar Kate Mackintosh.

In his opening remarks, President Agius commended Mr van Boven and Mr Hocking for *"their commitment towards ensuring that international justice and the rule of law are upheld, and for their immeasurable contributions to the achievements of this Tribunal."*

Mr van Boven and Mr Hocking spoke about personal and institutional journeys spanning from 1994 until the present, recounting their arrivals at the Tribunal and addressing the setting up of a defence system and witness protection and support, as well as discussing the ICTY's Completion Strategy and its forthcoming closure which will entail downsizing from 1,300 staff members to zero staff members at the end of this year.

In reflecting upon the ICTY's legacy, Mr van Boven spoke about the ICTY's influence on international law, saying, *"The ICTY opened up new avenues. ... For instance, the ICTY's interpretation of the law, particularly international humanitarian law, has made an enormous contribution."*

Mr Hocking highlighted the irreversible shift in accountability that the ICTY has brought about, *"When Theo van Boven and the handful of people who were here to support him started at the ICTY, no one had ever known a world where there was such a thing as an international criminal tribunal like the ICTY. We now have interns who have never known a world without international criminal tribunals. I believe this is the profound impact of the ICTY - that after the ICTY there was no going back on the demand for justice."*

OFFICE OF THE PRESIDENT

23 May 2017

President Agius participates in second EU Day against Impunity in Brussels



The second “EU Day Against Impunity” for genocide, crimes against humanity and war crimes took place in Brussels on Tuesday, 23 May 2017.

ICTY President Carmel Agius attended an event hosted at the Permanent Representation of Malta to the European Union, along with other guests including legal practitioners, academics, representatives from international criminal courts and tribunals, Member States, European and international institutions, and NGO’s.

The event aimed to raise awareness about the most heinous crimes of genocide, crimes against humanity and war crimes, and to exchange views on the best ways to strengthen the domestic response to such crimes.

Following opening remarks and keynote speeches by the organisers - high representatives of the Maltese Government, the European Union and Eurojust - the event featured a panel debate on national jurisdictions leading the fight against impunity, focusing on increased collective action and cooperation within the European Union.

As a member of this panel, President Agius highlighted: *“It is crucial that those who support the rule of law and the fight against impunity continue to support international courts and tribunals - particularly those that will continue into the future.”* He added that: *“This goal cannot and must not fall prey to ‘realpolitik’. We must continue to shine a light on the most despicable crimes, and reveal them to be just that, through a robust and fair judicial procedure.”*

The EU Day Against Impunity was created following a recommendation of the European Network for investigation and prosecution of genocide, crimes against humanity and war crimes (Genocide Network), to raise awareness of these crimes, the victims and the problems inherent in bringing perpetrators to justice.

OFFICE OF THE PROSECUTOR

17 May 2017

Prosecutor Brammertz meets with law students from Zenica



On 17 May, a group of law students from Zenica visiting the Tribunal attended presentations held by lawyers working in the Office of the Prosecutor (OTP) on the work of the OTP, the ICTY jurisprudence and the prosecution of wartime sexual violence.

The students also had the opportunity to attend a Q&A session with Prosecutor Serge Brammertz and ask questions about the *Karadžić*, *Mladić* and *Šešelj* cases, the difference between legal qualifications of genocide and crimes against humanity, and about the implications of international justice in the broader context of the Syrian conflict.

Prosecutor Brammertz spoke about the independence and impartiality of the OTP, stressing that its staff comprised 65 different nationalities.

He added that 110 legal interns from the countries of the former Yugoslavia had the opportunity to work together with the OTP international legal staff during their six- month internship at the ICTY.

OFFICE OF THE PROSECUTOR

15-16 May 2017

Prosecutor Serge Brammertz on mission to Sarajevo

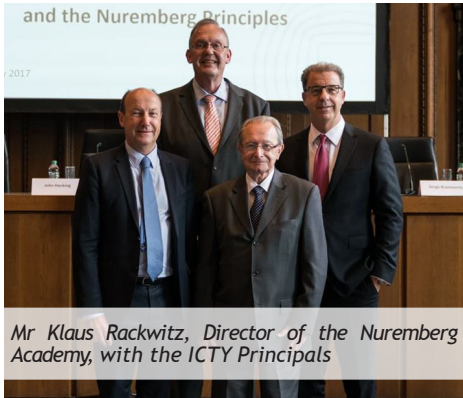


ICTY and MICT Prosecutor Serge Brammertz was in Sarajevo on 15 and 16 May, as part of preparations for his regular biannual reports to the UN Security Council (UNSC).

The Prosecutor met with Acting Chief Prosecutor Gordana Tadić, and joined Prosecutor Tadić in meeting with representatives of victims’ organisations (see photo) where they discussed war crimes justice in Bosnia and Herzegovina.

The Prosecutor also discussed compensation for victims of war crimes with the representatives of TRIAL International and briefed members of the diplomatic community.

Nuremberg Academy discusses ICTY legacy



The International Nuremberg Principles Academy (Nuremberg Academy) held a seminar on the Legacy of the International Criminal Tribunal for the former Yugoslavia and the Nuremberg Principles on 5 and 6 May 2017 in Nuremberg, Germany.

The event was organised under the auspices of the Director of the Nuremberg Academy, Mr Klaus Rackwitz, in collaboration with the ICTY. All three Principals of the Tribunal - President Carmel Agius, Prosecutor Serge Brammertz, and Registrar John Hocking - as well as current and former ICTY Judges and senior staff, took active roles in the seminar and made presentations on various aspects of the Tribunal's work. Together with other legal experts, practitioners and academics from diverse backgrounds, they discussed the impact of the ICTY in the region of the former Yugoslavia, and its influence on the development of international criminal law and the furtherance of the Nuremberg Principles.

Opening remarks were made by the Nuremberg Academy Director and the ICTY President, followed by six panel discussions examining different aspects of the Tribunal's work and its legacy.

In his welcoming remarks, President Agius highlighted four main challenges that the Tribunal had encountered. Firstly, the fact that the Tribunal was set up while a conflict was still ongoing. He observed that after the adoption of UN Security Council resolution 827 (1993) establishing the Tribunal the conflict in the former Yugoslavia can even be said to have escalated. With the Dayton Peace Accord only being signed in December 1995, investigations and the collection of evidence were conducted under difficult circumstances. Secondly, there was little or no precedent to guide the practical functioning of the first such international court since the Nuremberg and Tokyo trials. The ICTY had to build a unique system of international criminal justice and procedure from scratch by setting up for example its rules of procedure of evidence. Thirdly, by initially operating without an Outreach Programme, there existed a gap between the work the Tribunal was doing and what it was perceived to be doing by the societies on whose behalf it operated. It was only in 1999 that the Outreach Programme was created under Judge Gabrielle Kirk McDonald. Finally, the President explained that it took some years for the Tribunal to obtain States' cooperation. At the same time it sought States' cooperation, the ICTY had to establish its credibility by setting up the necessary legal mechanisms and delivering results.

President Agius concluded that *"Challenges aside, our path from Nuremberg to The Hague has signified a new era of strengthened international justice, accountability and the rule of law."* He stressed that *"We must therefore stay the course, because the current state of play is overwhelming. In this regard, it is valuable to have a Residual Mechanism for International Tribunals to take over our remaining work and fundamental that the international community now has an International Criminal Court where I believe the future of international justice rests upon."*

Registrar Hocking spoke about how the ICTY Registry built best practices for international criminal justice in the panel addressing the establishment of the ICTY as the first international criminal tribunal since Nuremberg. He presented the pioneering work of the Registry, particularly on the evolution and advancement of support for defense counsel, the creation of a new way of interpreting tailored to international judicial proceedings, and the setting up of a ground-breaking comprehensive system to protect and support victims and witnesses of the Tribunal. In each of these areas, the best practices established by the ICTY Registry have influenced other international and domestic courts. Registrar Hocking also moderated the panel entitled "From an International Tribunal to Domestic Jurisprudence".

Prosecutor Brammertz moderated a panel on the creation of the ICTY and participated in a panel entitled "The Prosecution - the 'Engine' of the Court". The Deputy to the Prosecutor, Ms Michelle Jarvis, spoke about the evolution of the substantive and procedural criminal law on a panel which discussed the legal system applied at the ICTY.

Speaking about his Office's experiences, Prosecutor Brammertz said that, building upon the Nuremberg precedents and principles, the OTP established that military and political leaders can be held responsible for crimes of their subordinates, proved that rape is not an opportunistic war crime as it was historically considered, but a foreseeable consequence of criminal plans to forcibly expel civilian populations, and developed the law on genocide.

One of the most significant challenges the OTP had to overcome relates to selectivity: who to prosecute, for what crimes, based on what theory of liability and relying on what evidence. Prosecutor Brammertz concluded that selectivity remains a challenge for international courts because more crimes are committed than can ever be fully investigated and prosecuted due to limited resources. While the OTP did not prosecute all suspects and crimes for which it obtained evidence, the cases were selected to achieve the OTP strategic goals and the criteria applied were objective, rigorous and defensible.

In the course of 24 years of ICTY's work the OTP indicted 161 individuals for genocide, crimes against humanity and/or war crimes. 111 were brought to trial before the ICTY. The OTP secured 83 convictions, while 19 accused were acquitted and the cases against 7 accused remain ongoing. None of the indicted individuals remain fugitive from justice.

Ms Jarvis explored the unique characteristics of international criminal law cases that have been driving procedural and other innovations at the ICTY over almost two and a half decades of work. She reflected on where these factors might lead in the future and challenged the international community to keep moving beyond the instinctive framework of existing systems towards a more truly *sui generis* framework for ICL that is better equipped to deal with its specific challenges.





STATUS OF CASES

CASES AT TRIAL

Mladić	On 16 May 2012, the trial began. On 26 February 2014, the Prosecution closed its case. The Defence case commenced on 19 May 2014. Closing arguments in this case concluded on 15 December 2016. The Trial Judgement is expected in November 2017.
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CASES ON APPEAL

Prlić <i>et al.</i>	The Appeal Hearing in this case took place from 20-28 March 2017. Next Status Conference will be held on 23 August 2017. The Appeal Judgement is expected in November 2017.
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KEY FILINGS: APRIL/MAY/JUNE 2017

PRLIĆ *et al.*

12 June 2017	The Republic of Croatia submits an Application for Reconsideration of the 18 July 2016 decision denying leave to serve as <i>amicus curiae</i> .
22 June 2017	The Prosecution responds to the Republic of Croatia's 12 June 2017 Application for Reconsideration of the 18 July 2016 decision denying leave to serve as <i>amicus curiae</i> , arguing that the Appeals Chamber should deny the Application because Croatia does not meet the test for reconsideration because i.) its arguments are based on a misunderstanding of the 18 July 2016 decision, ii.) its arguments do not identify a clear error in reasoning or particular circumstances warranting reconsideration, and iii.) its proposed submissions would not assist the Appeals Chamber in its determination of the case.
30 June 2017	The Republic of Croatia files a reply in support of its 12 June 2017 application for reconsideration of the Appeals Chamber's 28 July 2016 decision which denied leave to appear as <i>amicus curiae</i> and to submit <i>amicus curiae</i> brief. Among other things, the Republic of Croatia asks the Appeals Chamber to re-affirm in its appeal judgement the findings set forth in the 18 July 2016 decision, which did not find President Tuđman, Minister Šušak, and General Bobetko to be members of a joint criminal enterprise. Further, the Republic of Croatia requests the Appeals Chamber to reconsider its decision denying Croatia status as <i>amicus curiae</i> .
4 July 2017	The Appeals Chamber issued a decision to dismiss the application by the Republic of Croatia for reconsideration of the decision of 18 July 2016 denying leave to appear as <i>amicus curiae</i> . The Chamber finds that: (1) reconsideration is not necessary to prevent an injustice and therefore is not justified; and (2) Croatia is not a "party" pursuant to the Rules of Procedure and Evidence, and therefore lacks standing to advance a motion concerning the content of the eventual appeal judgement in this case.

MLADIĆ

12 May 2017	Trial Chamber rejected the urgent Defence motion for Ratko Mladić's provisional release, filed on 20 March 2017. It noted that it is not convinced that Mladić will return to the seat of the Tribunal if granted provisional release. The Trial Chamber also found that Mladić's state of health is compatible with continued detention. In addition, it stressed that Mladić's health has been monitored extensively by the Registrar and the Trial Chamber itself.
22 May 2017	The Defence filed an Interlocutory Appeal against the decision rendered by the Trial Chamber on 12 May in which the Chamber denied the Accused's request for provisional release.
23 May 2017	Five Judges were assigned to the Appeals Chamber in order to render a decision on the Interlocutory Appeal submitted by the Defence on 22 May 2017.
29 June 2017	The Trial Chamber denies the Defence's 1 June 2017 motion requesting the Chamber to strike and reclassify as confidential the Public Prosecution's final brief and to order the Prosecution to redact all quotations from confidential exhibits prior to filing any public version of its final brief. The Trial Chamber is satisfied that the parties endeavoured to resolve confidentiality issues before filing their public final briefs and finds that the Defence failed to identify any specific instances that would require redacting the Public Prosecution's final brief. Additionally, the Trial Chamber grants the Defence's 14 June 2017 request for leave to reply to the Prosecution's 7 June 2017 response. To this end, the Trial Chamber will allow the Defence additional time to review the Public Prosecution's final brief and suggest any additional redactions. Lastly, the Trial Chamber instructs the Registry to reclassify the Public Prosecution's final brief as public 4 weeks after the date of this decision, unless the Defence files a motion seeking additional redactions within that period.
30 June 2017	The Appeals Chamber found that Mladić has failed to demonstrate a discernible error of the Trial Chamber in relation to the Impugned Decision and thereby dismissed the Interlocutory Appeal from 22 May 2017.

FACTS & FIGURES

161 INDIVIDUALS INDICTED

The Tribunal has indicted a total of **161** individuals, and has already completed proceedings with regard to **154** of them. **19** have been acquitted, **83** sentenced, **13** have had their cases transferred to local courts, and **2** Accused are to be re-tried before the MICT.

154	Total number of Accused whose proceedings have been completed.
37	Cases terminated (either because indictments were withdrawn or because the Accused died, before or after transfer to the Tribunal).
2	Proceedings are on-going with regard to 7 Accused.
28	Individuals have been the subject of contempt proceedings before the ICTY.

Extracts of, and/or quotes from, legal documents are not authoritative; only the order, decision or judgement in its entirety reflects the opinion of the Trial Chamber and/or the Appeals Chamber.