



Monday 14 November 2011

Highlights of 25/10/2011 through 11/11/2011 – Nr. 105

23 October: Antonio Cassese, first ICTY president, passes away

It was with deep regret that the Tribunal learned the news of the death of Judge Antonio Cassese.

Judge Cassese was the first president of the ICTY, serving in this capacity from 1993 to 1997, and played a foundational part in establishing the jurisdictional bases for the work of the Tribunal. Yet his work with the ICTY was only one of many roles Judge Cassese played in various international institutions dedicated to the fight against impunity and human rights.

His visionary and distinguished leadership, and his passion for and belief in international humanitarian law ensured that many victims were able to see the crimes they endured addressed by international justice.

"I am deeply saddened by the news of Judge Cassese's death," said Judge Patrick Robinson, President of the ICTY. *"He was one of the pioneers of international criminal justice and made a profound impact on the way crimes committed in modern conflicts are prosecuted. His death is a great loss for international criminal justice."*

11 November: President Robinson's address before the United Nations General Assembly

On 11 November, President Patrick Robinson presented the Tribunal's eighteenth annual report to the UN General Assembly. The President took the opportunity to highlight the progress made since his last address, in October 2010, and to reiterate his call to member states to support the Tribunal in the completion of its work in an expeditious and fair manner. The President renewed his plea for the international community to support the Tribunal in retaining its staff and in the establishment of a victims' trust fund.

The President first presented member states with an overview on the progress made in ongoing cases, highlighting that proceedings have been concluded against 126 of the 161 persons indicted by the Tribunal.

He then turned to the recent arrests of the two remaining fugitives, Ratko Mladić and Goran Hadžić, saying that *"[w]ith the trial of the last two fugitives, all persons indicted by the Prosecutor will face the judicial process, and the Tribunal will be removing yet another brick in the wall of impunity."*

The President reassured member states that the Tribunal has continued to take all possible measures to expedite its trials, without sacrificing due process, by continually introducing a variety of reforms in order to improve its work.

However, the President again raised the alarming rate at which highly-qualified and essential staff are leaving for more secure employment elsewhere, a matter of great concern to the Tribunal. He renewed his plea for the international community to exercise foresight and assist the Tribunal in retaining and replacing its staff.

"The loss of the Tribunal's experienced staff has significantly impacted proceedings, placed an onerous burden on the Tribunal's remaining staff, and will place a much heavier financial burden on the international community in the long run," he stressed.

The President also called on member states to lend their support to the establishment of such a trust fund for victims. *"The Tribunal cannot, through the rendering of its judgements alone, bring peace and reconciliation to the region. Other remedies must complement the criminal trials if lasting peace is to be achieved, and one such remedy should be adequate assistance to the victims for their suffering,"* said the President.

In closing, President Robinson called upon all member states of the General Assembly to assist the Tribunal in its commitment to complete its work in both an expeditious and fair manner.

"The Tribunal represents the aspirations of the international community to ensure that justice prevails over impunity, and this is something in which we all have a stake. It is for these reasons that the work of the Tribunal, which has been entrusted to us, is not only our work, but in fact the work of everyone here today," he concluded.

The full text of the President's speech can be found on the Tribunal's [website](#).

31 October**Šešelj found guilty of contempt for the second time**

On 31 October, ICTY Trial Chamber II convicted Vojislav Šešelj of contempt of the Tribunal and sentenced him to 18 months' imprisonment for disclosing confidential information pertaining to protected witnesses.

On 4 February 2010, the Trial Chamber filed an order in lieu of an indictment and initiated contempt proceedings against Šešelj for using a book he had written to disclose, in violation of the Chamber's orders, information on 11 protected witnesses, including their real names, occupations and places of residence.

Šešelj refused to enter a plea to the charges and a plea of not guilty was entered on his behalf at his further appearance on 6 May 2010. The trial commenced on 22 February 2011 and concluded on 8 June 2011.

The Trial Chamber found that "the accused knew he was disclosing information which identified ten of the witnesses and revealed that they could be involved in the Šešelj case when he published the book, and that he did so intentionally, with the knowledge that by doing so, he was violating decisions of the Šešelj Trial Chamber." The Chamber noted "with grave concern the deliberate way in which the protective measure decisions imposed by the Šešelj Trial Chamber were violated," and considered "this a serious interference with the administration of justice."

Šešelj has already been found guilty of contempt of the Tribunal: on 24 July 2009, he was sentenced to 15 months' imprisonment, also for disclosing the names and personal details of protected witnesses in a book he wrote.

The latest [judgement](#) can be found on the Tribunal's website.

31 October - 10 November**Prosecutor Brammertz discusses co-operation with the states of the former Yugoslavia**

Over the past weeks Prosecutor Brammertz has made a number of regional visits and held high-level meetings. As part of his preparation for submitting his latest progress report to the UN Security Council, the Prosecutor travelled to Belgrade and Sarajevo.

From 31 October till 2 November, the Prosecutor was in Bosnia and Herzegovina (BiH). He had a number of official meetings, including with the BiH presidency, the office of the State Prosecutor and Special Department for War Crimes, the OSCE Ambassador (to mark the completion of the monitoring of the transferred 11bis cases, see below), the EU Special Representative, the High Representative and other members of the diplomatic community. The topics discussed included co-operation between the Office of the Prosecutor (OTP) and BiH, the cases and investigation files transferred to Bosnia, the progress in the prosecution of war crimes cases in Bosnia and the implementation of the National War Crimes Strategy.

On 7 November, the Prosecutor met at the ICTY with the UK Minister for Europe, David Lidington, to discuss the co-operation with the states of the former Yugoslavia.

On 8 & 9 November, the Prosecutor paid a working visit to Belgrade, where he met with President Boris Tadić; Minister Rasim Ljajić, Chairman of the National Council for Co-operation with the ICTY; and Prosecutor for war crimes Vladimir Vukčević. The principal topic discussed was the ongoing co-operation between Serbia and the OTP.

On 10 November, the Serbian Deputy Prime Minister for European Integration, Božidar Đelić, visited to the Prosecutor at the Tribunal. The Prosecutor and the Deputy Prime Minister discussed a number of issues, including the co-operation of Serbia with the OTP, ongoing trials and appeals, and the future of regional co-operation on war crimes matters.

1 November**Tribunal hosts a study visit of Serbian judges' associates**

The Tribunal's Outreach Programme recently welcomed a group of eight Serbian judges' associates from the Belgrade High and Appellate Courts' War Crimes Departments on a three-day visit to the ICTY organised by the OSCE Mission to Serbia.

"This visit provided the judges' associates with a unique opportunity to gain first-hand knowledge on the ICTY's working methods and relate those to their daily practice in prosecuting war crimes at the courts in Serbia," said Ana Petrović, National Legal Advisor at the OSCE Mission to Serbia.

The associates attended presentations on a variety of topics, including the Tribunal's jurisprudence, its legacy and Residual Mechanism. The group also had the chance to meet with a number of Tribunal officials with whom they were able to discuss a variety of legal issues, including how to access ICTY evidence and use the Appeals Chamber Law Research tool.

1 November**Prosecutor announces successful completion of Rule 11 bis monitoring project**

During a meeting in Sarajevo with Ambassador Fletcher M. Burton, Head of OSCE Mission in Bosnia and Herzegovina, Prosecutor Serge Brammertz announced the successful completion of the Rule 11bis Monitoring Project.

Rule 11bis of the Tribunal's Rules of Procedure and Evidence allows for the referral of ICTY cases to the authorities of a State for trial.

"The successful completion of the cases transferred by the Tribunal to the Special Department for War Crimes and BiH State Court is an important achievement. The unique co-operation with the OSCE Mission in the trial monitoring has contributed to developing a strong enduring partnership between the OTP and local prosecutors, and ultimately to strengthening the capacity of the BiH judiciary," said Brammertz.

"The mechanism has been a great success both in terms of assisting the ICTY Completion Strategy and demonstrating that the country's Court and Prosecutor's Office have the necessary independence, professionalism and capacity to handle complex war crimes proceedings", said Burton.

Burton added that, "Following detailed monitoring of all proceedings, the Mission concluded that the justice system is capable of processing war crimes cases in line with international and national standards."

2 November**Šešelj war crimes trial: closing arguments scheduled; Amicus report filed**

An order issued by Trial Chamber III this week has set 5 March 2012 as the date on which closing arguments will begin in the Šešelj war crimes case. The order states that final trial briefs must be filed by 5 February 2012 at the latest and must not exceed 200 pages. Each side has been allotted ten hours for their closing arguments. The Prosecution's arguments will commence on 5 March, and those of the Defence will follow. Šešelj, the leader of the Serbian Radical Party, is on trial for alleged war crimes and crimes against humanity committed between 1991 and 1994 against the non-Serb population of large parts of Bosnia and Herzegovina, Croatia and Vojvodina, Serbia. The trial commenced on 7 November 2007.

An additional development in the case was the filing, on 28 October, of a report prepared by an *amicus curiae*, dealing with contempt of court allegations Šešelj had raised against the Office of the Prosecutor (OTP).

On 29 June 2010, ICTY Trial Chamber III ordered the Registry to appoint an Amicus Curiae to investigate the allegations, involving intimidating and bribing witnesses, that Šešelj had raised against the OTP.

In his report, the Amicus says that, after reviewing the statements of the individuals on whose claims Šešelj based his allegations, and interviewing, among others, the investigators, prosecutors and other implicated individuals, he [the Amicus] had concluded that the allegations were unfounded.

The Amicus found that some of the statements obtained by Šešelj were exaggerated, whilst others were demonstrably false. A number of witnesses were found not to have ever been interviewed in the Šešelj case and for some there was no evidence they were ever contacted by the Prosecution.

The [report](#) (in English, annexed to a filing in French) can be found on the Tribunal's website.

4 & 11 November**Šešelj third contempt case**

Further initial appearances in the third contempt case against Vojislav Seselj were held on 4 and 11 November. During the 11 November hearing, following the accused's failure to enter a plea, a plea of not guilty was entered on his behalf.

An order in lieu of indictment initiating contempt proceedings against Seselj was made public on 24 May 2011. The order states that there are sufficient grounds to proceed against Seselj for having failed to comply with three orders issued by the Trial Chamber and a decision issued by the Appeals Chamber, resulting in the ongoing publication on Seselj's website of confidential information in violation of a Chamber's orders.

10 November**Pećanac
contempt trial**

A scheduling order issued on 10 November set Monday, 28 November, as the date for the pre-trial conference and commencement of trial in the contempt case against Dragomir Pećanac.

A subpoena was issued by Trial Chamber II on 31 August 2011, ordering Pećanac, the former Security and Intelligence Officer of the Main Staff of the Army of the Republika Srpska, to appear for testimony in the Tolimir case. On 2 September 2011, Pećanac was informed of the contents of the subpoena and of his obligation to appear before the Trial Chamber but he obstructed all attempts by the Tribunal to facilitate his safe transfer to The Hague.

An order in lieu of an indictment for contempt, and a warrant for the arrest and order for surrender of the accused, were all issued on 21 September 2011. At his further initial appearance on 19 October, Pećanac pleaded not guilty to the charge.

10 November**Borovčanin
transferred to
Denmark to
serve sentence**

Ljubomir Borovčanin, former Deputy Commander of the Republika Srpska Ministry of Internal Affairs (MUP) Special Police Brigade, was transferred yesterday to Denmark to serve his 17-year sentence for crimes committed against Bosnian Muslims during and following the fall of the Srebrenica and Žepa enclaves in July 1995, in Bosnia and Herzegovina.

Borovčanin was one of seven former high-ranking Bosnian Serb military and police officials convicted in the *Popović et al.* case. The Trial Chamber rendered its judgement in the case on 10 June 2010 and convicted Borovčanin of aiding and abetting extermination, murder, persecution and forcible transfer. Borovčanin was also found guilty on the basis of command responsibility of murder as a crime against humanity and as a violation of the laws and customs of war, for failing to punish his subordinates who took part in the killing of prisoners in front of the warehouse in Kravica. Borovčanin was the only accused in the case not to appeal his 17-year sentence.

In rendering its judgement, the Trial Chamber found, by majority, that with his presence in Potočari on 12 July and what he witnessed there, Borovčanin knew that there was a forcible transfer of the civilian population of Srebrenica taking place. On 13 July 1995, Borovčanin was present at the Kravica warehouse where over 1,000 Bosnian Muslim men were detained. There he saw a busload of dead bodies in front of the warehouse and had sufficient information that his subordinates had committed the crime of murder. Borovčanin however failed to take the necessary and reasonable measures required to punish his subordinates.

After seeing the evidence of executions, Borovčanin removed himself and his men from the Kravica warehouse as quickly as he could. The Chamber found that Borovčanin had the means to protect the remaining prisoners and knew that it was probable that the prisoners would be killed. The Chamber concluded that his failure to protect them substantially contributed to the full-scale execution which later took place at the Kravica Warehouse.

Persons convicted of crimes by the Tribunal do not serve their sentence in the ICTY's Detention Unit, as it is not a penitentiary. Sentences are served outside the Netherlands in a State that has signed an [agreement on enforcement of sentences](#) with the ICTY. To date, the Tribunal has signed agreements on the enforcement of sentences with 17 States.

COURTROOM SCHEDULE: 14 NOVEMBER – 25 NOVEMBER

Public proceedings are broadcast with a 30-minute delay on the ICTY website.

MONDAY 14 NOVEMBER	Courtroom III	09:00 – 13:45	Stanišić & Župljanin	Trial
		14:30 – 16:00	Stanišić & Župljanin	Trial
TUESDAY 15 NOVEMBER	Courtroom II	14:15 – 19:00	Stanišić & Simatović	Trial
	Courtroom III	10:30 – 13:45	Stanišić & Župljanin	Trial
WEDNESDAY 16 NOVEMBER	Courtroom I	12:00 – 16:00	Karadžić	Trial
	Courtroom II	14:15 – 19:00	Stanišić & Simatović	Trial
	Courtroom III	09:00 – 13:45	Stanišić & Župljanin	Trial
THURSDAY 17 NOVEMBER	Courtroom I	09:00 – 15:00	Karadžić	Trial
	Courtroom II	09:00 – 13:45	Stanišić & Simatović	Trial
	Courtroom III	09:00 – 13:45	Stanišić & Župljanin	Trial
FRIDAY 18 NOVEMBER	Courtroom I	09:00 – 15:00	Karadžić	Trial
	Courtroom III	09:00 – 13:45	Stanišić & Župljanin	Trial
MONDAY 21 NOVEMBER	Courtroom I	14:15 – 19:00	Karadžić	Trial
	Courtroom III	09:00 – 13:45	Haradinaj et al.	Trial
		15:00 – 19:00	Stanišić & Simatović	Trial
TUESDAY 22 NOVEMBER	Courtroom I	14:15 – 19:00	Karadžić	Trial
	Courtroom II	14:15 – 19:00	Stanišić & Simatović	Trial
	Courtroom III	09:00 – 13:45	Haradinaj et al.	Trial
WEDNESDAY 23 NOVEMBER	Courtroom I	14:15 – 19:00	Karadžić	Trial
	Courtroom II	09:00 – 13:45	Stanišić & Simatović	Trial
	Courtroom III	09:00 – 13:45	Haradinaj et al.	Trial
THURSDAY 24 NOVEMBER	Courtroom I	14:15 – 19:00	Karadžić	Trial
	Courtroom II	09:00 – 13:45	Stanišić & Simatović	Trial
	Courtroom III	09:00 – 13:45	Haradinaj et al.	Trial
FRIDAY 25 NOVEMBER	Courtroom III	09:00 – 13:45	Haradinaj et al.	Trial

FACTS & FIGURES

161 INDIVIDUALS INDICTED

Since the very first hearing (a deferral request in the Tadić case) on 8 November 1994, the Tribunal has indicted a total of 161 individuals, and has already completed proceedings with regard to 126 of them: 13 have been acquitted, 64 sentenced (four are awaiting transfer, 25 have been transferred, 31 have served their term, and three died while serving their sentence), 13 have had their cases transferred to local courts.

- 126** Total number of accused whose proceedings have been completed.
- 36** Another 36 cases have been terminated (either because indictments were withdrawn or because the accused died, before or after transfer to the Tribunal).
- 35** Proceedings are on-going with regard to 35 accused: 17 are at the appeals stage, 16 are currently on trial, and two are at the pre-trial stage.
- 33** A further 33 individuals have been or are the subject of contempt proceedings.

THE WAR CRIMES JUSTICE PROJECT

aims to facilitate the transfer of knowledge and materials from the ICTY to legal professionals in the former Yugoslavia, thereby enhancing the capacity of judiciaries in the region to handle complex war crimes cases.

The project is funded by the European Union and implemented by the ICTY in partnership with the Organisation for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR), the United Nations Interregional Crime and Justice Research Institute (UNICRI), and OSCE field operations in the region.

www.icty.org/sections/Outreach/CapacityBuilding

- 57,000** Total number of pages of ICTY court hearing audio material transcribed into B/C/S to date.
- 18,500** Total number of transcript pages delivered to the regional judiciaries between October 2010 and September 2011.
- 22,000** Total number of pages publicly available on the ICTY Court Records Database to date: <http://icr.icty.org/>
- 157** Total number of legal professionals from regional judiciaries who have so far received training on searching and accessing publicly available ICTY material.

The ICTY Digest is a publication of the Registry, prepared and produced by the Public Information Unit.
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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.

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