

Abbreviated criminal procedures for core international crimes cases¹

Sarajevo, Hotel Europe, Vladislava Skarića 5, Friday 9 October 2009.

Interpretation provided.

Programme:²

09:00 Opening of the seminar:

- **Welcome** by Ambassador Dr. Jan Braathu³ (Ambassador of Norway to Bosnia and Herzegovina).
- **Introductory remarks** by High Representative Valentin Inzko⁴ (High Representative and European Union Special Representative to Bosnia and Herzegovina).
- **The challenge of the current backlog of war crimes cases in Bosnia and Herzegovina**, by Milorad Novković⁵ (President, High Judicial and Prosecutorial Council of Bosnia and Herzegovina).

09:30 Morten Bergsmo⁶ (Senior Researcher, PRIO): *The relevancy and importance of the seminar theme.*

¹ For the purposes of this seminar, the term 'core international crimes' refers to genocide, crimes against humanity and war crimes.

² The programme may change. The latest version will be posted at <http://www.prio.no/FICJC/Forum-activities/>.

³ **Jan Braathu** is Ambassador of Norway to Bosnia and Herzegovina since 28 August 2006. He holds a Ph.D. in political science from the University of Oslo. Between 1978 and 1984, he worked at the Norwegian Institute of International Affairs; 1985-1990, Executive Officer, International Energy Policy Division, Norwegian MFA; 1990-1993, Norwegian Embassy in Kuwait; 1993-96, Acting Counsellor for Economic Affairs, Norwegian Embassy in London; and during 1996-2006, he served in different capacities on Balkan Affairs in the Norwegian MFA.

⁴ **Valentin Inzko** is currently serving as the High Representative for Bosnia and Herzegovina, a role which he assumed on 26 March 2009. In 1967, he enrolled at the University of Graz, where he studied law and Slavic philology. Between 1972 and 1974, he attended the Diplomatic Academy in Vienna, entering Austrian diplomatic service in 1974. During his diplomatic career, he has served in Belgrade, New York and Prague, as well as being Austrian Ambassador to Bosnia and Herzegovina and Slovenia. He also served as Head of the Department for the Middle-East, Southern Europe, Central-Asia and Southern Caucasus in the Austrian Ministry of Foreign Affairs between 1999 and 2005.

⁵ **Milorad Novković** was born on 16 February 1950 in Srbac, Bosnia and Herzegovina. He graduated from the Law School in Sarajevo in 1975, passing the bar exam there in 1977. That year he was appointed Municipal Court Judge in Tuzla; in 1983, a District Court Judge in Tuzla; in 1990, President of the District Court in Tuzla. From 1994 to 2001, he lived and worked in Belgrade as a lawyer. In 2001, he was appointed an Appellate Court Judge in Brčko District of Bosnia and Herzegovina. From 2004, he was President of Banja Luka District Court. He was elected a member of the HJPC by the judges of district and basic courts in *Republika Srpska* in 2006.

⁶ **Morten Bergsmo**, Senior Researcher, International Peace Research Institute, Oslo (PRIO) (2006-); formerly Senior Legal Adviser and Chief of the Legal Advisory Section, Office of the Prosecutor, ICC (2002-05); Legal Adviser, ICTY (1994-2002); Legal Adviser, UN Commission of Experts for the Former Yugoslavia established pursuant to UNSC resolution 780 (1992) (1993-94); represented the ICTY to the UN negotiation process to establish the ICC (1996-2002). He has advised on core international crimes investigation and prosecution processes in several countries, including Bosnia and Herzegovina, Cambodia, Canada, Denmark, Indonesia, Macedonia, the Netherlands and Serbia, and has had several international consultancies in international criminal justice. He has published extensively in international criminal law.

09:45 **Panel 1:** *The need for abbreviated criminal procedures for core international crimes, in particular in territorial States directly affected by crimes:*

- Ilia Utmelidze⁷ (Legal Adviser, Norwegian Centre for Human Rights, formerly Legal Adviser, Human Rights Department, OSCE Mission to Bosnia and Herzegovina): *The statistical or capacity argument for abbreviated criminal procedures*; and
- Mark A. Drumbl⁸ (Professor, Washington and Lee University): *The two illusions of all-embracing criminal justice and exclusively extra-judicial responses to mass-atrocity*.

10:30 Break

11:00 **Panel 2:** *Some existing abbreviated criminal procedures:*

- Kai Ambos⁹ (Professor, Georg-August-Universität Göttingen): *Existing abbreviated procedures in ordinary criminal procedure: a structural approach with a view to the prosecution of international crimes*;
- Philip Clark¹⁰ (Research Fellow, University of Oxford): *The Gacaca courts and abbreviated criminal procedure for genocide crimes in Rwanda*; and

⁷ **Ilia Utmelidze**, Legal Adviser, Norwegian Centre for Human Rights; formerly Legal Adviser in the Human Rights Department of the OSCE Mission to Bosnia and Herzegovina, advising on institution-building in areas such as domestic war crimes prosecution mechanisms (including the development of a national strategy for war crimes prosecution), specialised investigative commissions for Srebrenica and Sarajevo, establishment of a single state-level ombudsman institution (2004-2008); Norwegian Refugee Council, Azerbaijan: capacity building of local NGOs in the field of human rights protection and advocacy; consultant on development of human rights education and peace programs within the educational system of Azerbaijan (2001-04); Norwegian Centre for Human Rights: minority policy and law research project (2000-01).

⁸ **Mark A. Drumbl** is the Class of 1975 Alumni Chair Professor at Washington & Lee University, School of Law, where he also serves as Director of the Transnational Law Institute. He has held visiting appointments on several law faculties, including Oxford University, Université de Paris II (Panthéon-Assas), University of Ottawa, University of Western Ontario, and Trinity College-Dublin. His research and teaching interests include public international law, international criminal law, and transitional justice. His book, *Atrocity, Punishment, and International Law* (Cambridge University Press, 2007) has been widely reviewed and has won awards from the International Association of Criminal Law (U.S. national section) and the American Society of International Law. Drumbl has taught in various jurisdictions, including Uganda, Pakistan, Italy, Brazil, Argentina, and Finland; has worked in criminal defence in Rwanda; has served as an expert in U.S. courts; and his scholarship also has been cited by courts in Canada and the United Kingdom.

⁹ **Kai Ambos** has been Chair of Criminal Law, Criminal Procedure, Comparative Law and International Criminal Law at the Georg-August-Universität Göttingen since May 2003 and Dean of Student Affairs since summer 2008. He is also Member of the Office of Examination (Justizprüfungsamt) of the Ministry of Justice of Lower Saxony and freelance consultant on the issues of international criminal law, transitional justice and judicial reform in Latin America to the Deutsche Gesellschaft für technische Zusammenarbeit (GTZ-German agency for technical cooperation), the Konrad Adenauer Foundation and other organisations. From 1991 to 2003, he was senior research fellow at the Max-Planck-Institute for Foreign and International Criminal Law (Freiburg im Breisgau, Germany) in charge of the International Criminal Law and Spanish-speaking Latin America Sections. On behalf of Germany, he has participated in the negotiations on the creation of the International Criminal Court and later became a member of the expert working group of the German Federal Ministry of Justice on implementing the Rome Statute. He has also worked extensively in Latin America on human rights, drug-related issues and criminal law reforms. He has written widely on international criminal law and procedure in German, English, Spanish and Portuguese. He is a member of editorial boards of several international criminal journals in Europe and Latin America. His educational background includes: study of law and political science at the Universities of Freiburg (Germany), Oxford (United Kingdom) and Munich (Germany); 1st and 2nd state exams; and "Habilitation" (post-doctoral qualification for a professorship) in criminal law, criminal procedure, criminology, comparative law and public international law at the Ludwig Maximilian University Munich (Germany).

¹⁰ **Philip Clark** is a Research Fellow in Courts and Public Policy at the Centre for Socio-Legal Studies, University of Oxford, and co-convenor of the Oxford Transitional Justice Research Group. An Australian by nationality but born in Sudan, Dr. Clark is a political scientist specializing in conflict and post-conflict issues in Africa, particularly questions of

- Maria Paula Saffon¹¹ (Faculty Fellow, Columbia University): *Limitations and potentialities of the Colombian Peace and Justice Law as an abbreviated criminal procedure for core international crimes.*

12:00 Lunch

13:30 **Panel 3: Key elements of possible abbreviated criminal procedures for core international crimes**, by

- Gilbert Bitti¹² (Senior Legal Adviser, ICC Chambers);
- Marieke Wierda¹³ (Director, Prosecutions Program, ICTJ);
- Judge Hanne Sophie Greve¹⁴ (Judge, Gulating Court of Appeals, formerly Judge, European Court of Human Rights).

15:00 Break

15:15 Richard Dicker¹⁵ (Director, International Justice Program, Human Rights Watch): *Abbreviated criminal procedures and the international criminal justice agenda.*

peace, truth, justice and reconciliation. He has a DPhil in Politics from Balliol College, University of Oxford, where he studied as a Rhodes Scholar. He was previously an RCUK Post-Doctoral Fellow at the Transitional Justice Institute, University of Ulster. Dr. Clark's current work focuses on international, national and community-based responses to mass violence in Rwanda, Uganda, Burundi, the Democratic Republic of Congo (DRC) and Sudan.

¹¹ **Maria Paula Saffon**, Faculty Fellow in the Department of Political Science at Columbia University, she holds a bachelor (Magna Cum Laude) in law and an LL.M. degree of Universidad de Los Andes (Bogota, Colombia). She is an associate researcher of the Colombian Center for the Study of Law, Justice and Society (DeJuSticia). For several years, she was a law lecturer at Universidad de Los Andes and Universidad Nacional de Colombia. She does research on transitional justice, the rights of victims of atrocities, internal forced displacement, and international human rights, among others. She has published several articles on the subjects, as well as a co-authored book titled *Transitional Justice without transition? Truth, Justice and Reparations for Colombia*.

¹² **Gilbert Bitti**, Senior Legal Adviser to the Pre-Trial Division, ICC (2005-); Chair, *ICC Legal Tools Advisory Committee* (2005-); Member of the French Delegation during the ICC negotiations in the Ad Hoc Committee (1995), Preparatory Committee (1996-1998), Rome Conference (1998) and Preparatory Commission (1999-2002); Counsel of the French Government before the European Court of Human Rights (1993-2002); former Professor assistant at the Faculty of Law in Paris.

¹³ **Marieke Wierda** is Director of the Prosecutions Program of the International Centre for Transitional Justice. A Dutch national born and raised in the Republic of Yemen, Marieke Wierda earned an LLB at the University of Edinburgh in Scotland and an LLM at New York University, specializing in international law and human rights. She has worked with the United Nations, including as an associate legal officer for the International Criminal Tribunal for the former Yugoslavia (ICTY) from 1997 to 2000. Prior to this, Ms. Wierda volunteered with the Office of the Legal Counsel at the UN in New York, the UN High Commissioner for Refugees in London, and Interights in London. She is a member of the New York Bar and has taught international criminal law at the University of Richmond. She has a number of publications, including a book on international criminal evidence, co-authored with Judge Richard May of the ICTY.

¹⁴ **Hanne Sophie Greve** is Vice President of the Gulating High Court, Norway; and President of the Council of Europe Group of Experts on Action against Trafficking in Human Beings. She has previously served *inter alia* as an Expert in the UN Commission of Experts for the Former Yugoslavia established pursuant to UNSC resolution 780 (1992), (1993-94); and Judge at the European Court of Human Rights (1998-2004). In the United Nations she has moreover, held office as a UNHCR assistant protection officer (1979-1981, duty station Bangkok) and as a mediator for the UN Transitional Authority in Cambodia (1992-beginning of 1993, duty station Phnom Penh). She has had several consultancies in and lectured extensively on international law (human rights, refugee law and criminal justice).

¹⁵ **Richard Dicker**, Director of Human Rights Watch's International Justice Program since the program's beginning in 2001; graduate of New York University Law School, LLM from Columbia University. He then spent two years practicing civil rights law in New York. For the past sixteen years, he has worked for HRW, where he first focused on accountability issues in southern Africa and arbitrary detention in China. In 1994-95, Mr. Dicker led HRW's efforts to bring a case before the International Court of Justice charging the government of Iraq with genocide against the Kurds. Starting in 1995, he directed HRW's multi-year campaign to establish the ICC. He represented HRW in the ICC negotiations. He

15:45 **Panel 4:** *Tentative remarks on abbreviated criminal procedure for core international crimes in Bosnia and Herzegovina* by

- Gorana Žagovec¹⁶ (University of Oslo);
- Meddžida Kreso¹⁷ (President, Court of Bosnia and Herzegovina); and
- Judge Hanne Sophie Greve.

17:00 *Conclusion* by Ambassador Jan Braathu.

Saturday 10 October 2009

09:00 Departure by bus from Hotel Europe, Sarajevo, for visit to Srebrenica.

15:00 Estimated return to Sarajevo.

has led advocacy efforts urging the creation of effective domestic accountability mechanisms in the DRC and the former Yugoslavia. He has made several visits to those states to meet with officials and NGOs. Richard Dicker's views appear frequently in the press on international justice issues.

¹⁶ **Gorana Žagovec** holds a bachelor in law from the University of Sarajevo Law Faculty and an LL.M. degree in Public International Law from University of Oslo. She wrote her master thesis on abbreviated criminal procedures for core international crimes. She worked as a Research Assistant at the ICC Legal Tools Programme of the Norwegian Centre for Human Rights (2008-09). Previously she worked as a Rule of Law Monitor at the OSCE Mission to Bosnia and Herzegovina (2007-08). She did her practice in the Legal Department of the Court of Bosnia and Herzegovina, supporting the War Crimes Chambers.

¹⁷ **Meddžida Kreso** graduated from the Law Faculty of the University of Sarajevo in 1970. Having passed the bar exam in 1973, she was appointed Municipal Prosecutor in Mostar where she worked until 1978 when she was appointed District Court Judge there. She served as President of the Labour Court in Mostar from 1989 to 1992. From 1996 to 1998 she worked as an attorney, and from 1998 to 2001 in the legal department of a bank. In 2001 she was appointed as the Deputy Prosecutor of the Federation of Bosnia and Herzegovina and served until the end of 2002. When the Prosecutor's Office of Bosnia and Herzegovina was established in 2003, she was appointed Deputy Chief Prosecutor of Bosnia and Herzegovina in January 2003. On 10 October 2004, Judge Kreso was appointed Judge and President of the Court of Bosnia and Herzegovina.