



United Nations
Nations Unies



International
Criminal Tribunal
for the former
Yugoslavia

Tribunal Pénal
International pour
l'ex-Yougoslavie

PRESS RELEASE

(Exclusively for the use of the media. Not an official document)

PROSECUTOR

The Hague, 12 December 2008

PR1295e

Address of Serge Brammertz, Prosecutor of the International Criminal Tribunal for the former Yugoslavia to the United Nations Security Council

12 December 2008

Mr. President, Excellencies,

I am honoured to once more appear before you to present the report of the Office of the Prosecutor on the implementation of the Tribunal's completion strategy.

In my presentation, I will provide you with an update on the work of the Office of the Prosecutor in the following areas: the ongoing judicial proceedings, the cooperation of States, the interaction with prosecution services in the former Yugoslavia and organizational matters.

Mr. President, Excellencies,

During the reporting period, prosecution work in trials and appeals has been intense. We are currently prosecuting 26 individuals in seven trials. Two fugitives remain at large: Ratko Mladić and Goran Hadžić. Their arrest today remains the highest priority. To fulfil the mandate of the Tribunal, they must be arrested and brought to trial as soon as possible.

The cases that are now before the Tribunal are broad and complex. Bringing evidence forward to prove charges of the magnitude contained in our indictments is a substantial undertaking and in every case a major challenge. All cases involve senior political and military figures from the conflict in the former Yugoslavia. Several involve the prosecution of six or more political or military leaders. In one such case, the trial is awaiting judgement. In the two other cases, the prosecution phase is complete and the trial is well into the defence phase. These multiple accused trials can be considered as major achievements and vindication of the use of joinder as one of the key pillars of the Tribunal's completion strategy.

The appeals work in the Office of the Prosecutor continues apace. The Office is currently working on 10 active appeals cases. We expect a marked increase in our caseload in the second half of 2009 after the trial judgements of the multiple accused cases. By then, we expect to have an overall inventory of more than 23 appeals cases.

In the reporting period, my Office has also conducted a number of important contempt cases. My Office prosecuted individuals involved in the divulgation of information about protected witnesses and the interference with protected witnesses.

Internet address: <http://www.icty.org>

Media Office/Communications Service

Churchillplein 1, 2517 JW The Hague. P.O. Box 13888, 2501 EW The Hague. Netherlands

Tel.: +31-70-512-8752; 512-5343; 512-5356 Fax: +31-70-512-5355

We remain strongly committed to the Tribunal's completion strategy. In all cases before the Tribunal, we have taken steps to present cases more efficiently and expeditiously. We have reduced the scope of the criminal conduct charged, streamlined indictments and submitted evidence in written form thereby reducing the amount of live witness testimony. We also continue to submit motions proposing to introduce evidence that has already been adjudicated in other trials. As a result, progress has been made in addressing the length of trials and in moving through the Tribunal's trial programme.

While trials and appeals are progressing, I remain concerned about the problems of witness interference, particularly in the form of witness intimidation, which directly affect our ability to present a case in an effective and timely manner. Where appropriate, we have addressed these concerns with the Registry and Chambers. I also ask States in which witnesses reside to continue assisting the International Tribunal in this respect. It is important to create a climate that is conducive for witnesses to testify and provide the necessary guarantees to witnesses who decide to speak before the Tribunal.

Mr. President, Excellencies,

In order to succeed in completing the trial and appeals programme, we still rely heavily on cooperation from the States of the former Yugoslavia and the support of the international community. Cooperation from the States of the former Yugoslavia remains critical in several areas: the access to archives and the provision of documents, access to and protection of witnesses, the search for, arrest and transfer of the remaining fugitives.

Bosnia and Herzegovina has continued to grant access to Government archives and to provide documents requested. We hope that the political and institutional difficulties currently faced by Bosnia and Herzegovina will not negatively impact on the satisfactory cooperation it is providing to my office today. We also continue to encourage the authorities in Bosnia and Herzegovina to adopt a pro-active approach to investigating and prosecuting those that support fugitives evading justice.

Croatia has responded to most requests for assistance from the Office of the Prosecutor. However, we continue to seek access to key documents and archives in the Gotovina case. Over the past year and a half, these specific documents have been at the centre of discussions with Croatian authorities. After several failed attempts to obtain these documents, at the request of the prosecution, the Trial Chamber ordered Croatia to provide a detailed report specifying the efforts undertaken to obtain the requested documents. In response to the Chamber's order, Croatia provided a report and supporting documents. Since my written report, Croatia also provided additional documents requested by my Office, thereby complying in part with the court order. However, still, at this date, key military documents remain unaccounted for and in our view, further steps remain to be taken. The matter remains before the court. As the trial is in progress, it is crucial that the remaining requested key documents be made available immediately.

Since my last report to the Security Council, Serbia's cooperation with my Office has significantly improved. The changed general political environment has led to a more decisive and proactive approach to cooperation by authorities at the political, judicial and operational levels.

The assistance provided by Serbia during the reporting period in terms of access to archives and the provision of documents has improved. Serbia has provided timely responses to the majority of requests for assistance and provided significant assistance in the provision of important documents relevant for trials. Serbia's National Council for

Cooperation with the ICTY has played a key role in this area. Significant improvements have also been achieved as a result of the Serbian authorities recently participating in working meetings with my staff which has facilitated the identification of relevant documents in their archives. Further cooperation is needed to obtain information in relation to certain important missing documents from these archives which are critical to the cases. My Office also continues to seek access to certain key military documents in the trial against Momčilo Perišić. The Trial Chamber has in that case ordered Serbia to investigate and produce a report in relation to the missing documents. Since my written report, Serbia provided a response which we are currently reviewing and which may require further follow-up.

The most critical area of cooperation remains the apprehension of fugitives. The arrests of Stojan Zjuplanin and Radovan Karadžić, carried out by the authorities of Serbia, were important milestones in Serbia's cooperation with my Office. They were the result of improved effective leadership and coordination between political and judicial authorities, and security services.

Agencies in charge of tracking fugitives have stepped up efforts to locate and apprehend the two remaining fugitives, Ratko Mladić and Goran Hadžić. Planning and coordination between the different security services has improved and the authorities are conducting more pro-active, comprehensive and widespread actions to arrest these fugitives. However the work of the present authorities is complicated by the need to overcome shortcomings of the previous management of the civilian intelligence services, in particular their failure to analyse and act upon information obtained in relation to the search for the two fugitives.

During my visit to Belgrade last November, the authorities presented their action plan to search for and arrest the two remaining fugitives. Should these plans be successfully implemented, the analytical capacity reinforced and the necessary political support maintained, additional positive results could be achieved.

I also encourage States and international and regional organizations to continue supporting the States of the former Yugoslavia in cooperating with my Office.

Mr. President, Excellencies,

The transfer of investigative case files and material to competent national jurisdictions and efforts to strengthen the capacity of national jurisdictions remain key components of our completion strategy.

We are well advanced in the process of transferring cases and investigation files to the States of the former Yugoslavia. All but one of the ten cases involving 13 accused transferred pursuant to Rule 11*bis* to the States of the former Yugoslavia have been completed at the trial level. At present, Rule 11*bis* transfer procedures have been fully used and no further cases appear suitable for transfer. With regard to the investigative material or category II cases, the Office of the Prosecutor has transferred material involving a total of 15 suspects covering seven municipalities. In 2009, we intend to transfer the last batch of investigative material with some 20 identified suspects to prosecutors in Bosnia and Herzegovina.

During the reporting period my Office remained actively involved in responding to requests for assistance submitted by national judicial authorities from the States of the former Yugoslavia. In this reporting period, we have responded to a total of 57 requests for assistance from authorities in the former Yugoslavia.

My Office continues to support efforts to strengthen the capacity of the judiciaries of the former Yugoslavia to deal with war crimes cases at the national level. International support to national courts in the former Yugoslavia will remain crucial in the coming months and years. In this context, my Office supports international and national efforts to strengthen the Special Department for War Crimes in the Office of the Prosecutor of Bosnia and Herzegovina. Trials, including trials transferred by the Tribunal could otherwise be jeopardized.

We strongly support the improvement of cooperation in judicial matters between States in the region. Due to obstacles preventing the extradition of nationals and legal barriers precluding the transfer of war crimes proceedings between these States, there is a danger that many lower and mid-level perpetrators of war crimes committed in the early 1990s in the former Yugoslavia will evade justice. To address this impunity gap, these issues should urgently be addressed by all authorities concerned.

Mr. President, Excellencies,

Despite efforts aimed at speeding up trials and appeals proceedings, there will be delays in the timelines for current, future trials and appeals. These are principally caused by the recent arrests of Radovan Karadžić and Stojan Župljanin and a number of factors in ongoing cases such as the sickness of accused, the change of defence counsel and cases proceeding slowly because accused have elected to represent themselves. We therefore predict that we will require our current staff levels through 2009. Without the retention of that level of resources, it will be extremely difficult to complete the Tribunal's remaining trials and appeals. A revised budget has therefore been submitted reflecting the projected trial and appeals workload for 2009. We ask that the downsizing process in relation to the staffing for trials should not take place before the end of 2009 and into 2010.

To complete this work, we will also need to rely on our dedicated and committed staff members. I therefore once more ask the Security Council and other organs of the United Nations to support measures that will allow identified staff members to stay at the Tribunal until the cases which they work on are completed.

We will also continue to participate in consultation with the President and Registrar in discussions with the Security Council on the establishment of an international residual mechanism.

Mr. President, Excellencies,

I would like to express my gratitude for all the support provided by the Security Council to the International Tribunal. Without this assistance, the achievements of the Tribunal would not have been possible.

Your support will remain crucial in this final phase of the International Tribunal's existence in order to obtain the arrest of the two remaining fugitives, Ratko Mladić and Goran Hadžić and to successfully complete our work.

Thank you for your attention.
