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l'ex-Yougoslavie

STATEMENT

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PROSECUTOR

The Hague, 18 June 2010

Address of Serge Brammertz, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia to the Security Council on 18 June 2010

Mr. President, Excellencies,

It is a privilege to once again address you on the progress we are making in the Office of the Prosecutor to complete the Tribunal's mandate. This is now our 13th report, and for my Office it marks a significant step forward in achieving the completion strategy, especially in finishing trials, securing the cooperation of States and accelerating the downsizing process.

Mr. President, Excellencies,

For the first time, since the implementation of the Completion Strategy, I can report that we have no more trials at the pre-trial stage. The cases of all the accused we have in custody are now in the active trial phase: nine cases involving 18 accused are on trial.

On 10 June 2010, the Trial Chamber delivered what we consider to be a milestone judgement in the Popović *et al.* case for crimes committed against Bosnian Muslims during and after the fall of the Srebrenica and Žepa enclaves in July 1995. The Trial Chamber convicted seven former high-ranking Bosnian Serb military and police officials of genocide, war crimes and crimes against humanity. Among those convicted, Vujadin Popović and Ljubiša Beara were found guilty of genocide, extermination and persecution as crimes against humanity and murder as a violation of the laws and customs of war. Both were sentenced to life imprisonment. Drago Nikolić was convicted for aiding and abetting these crimes and was sentenced to 35 years imprisonment.

It is an important judgement, first of all, for the victims of these crimes, for the other cases of the Tribunal, and, I hope, for the prosecution of lower and mid-level accused in the former Yugoslavia. Moreover, the Chamber's findings are further confirmation that those found guilty in the Popović case worked under the orders of other indictees, such as Ratko Mladić, who remains at large. The Popović judgement confirming that genocide occurred in Bosnia and Herzegovina reminds us once again of the urgent need to bring Ratko Mladić to justice.

Despite the various achievements made in moving trials forward, it is regrettable to see slippage in the trial programme. Trials of this nature are complex and beset by a broad range of legal and practical difficulties, many of which are beyond our control. They include the unpredictable length of defence cases, especially where accused are self represented, the interruptions due to contempt proceedings, as well as the late emergence of important, newly-discovered evidence. We nevertheless remain committed to the expeditious and efficient completion of our work, while respecting the fairness of proceedings.

The complexities, of course do not end at the conclusion of the trials. Our expanded Appeals section also continued to work at full capacity and I expect its workload to continue to increase. An appeals judgement was rendered in the case of *Boškoski and*

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Office of the Spokesperson for the Prosecutor
Churchillplein 1, 2517 JW The Hague. P.O. Box 13888, 2501 EW The Hague. Netherlands
Tel.: +31-70-512-5493; 512-8958 Fax: +31-70-512-5358

Tarčulovski. The Prosecution has completed appeals filings in several cases and will continue to be dealing with judgements in other cases.

Mr. President, Excellencies,

To fulfil our mandate and meet completion strategy goals, my Office continues to rely on the cooperation of States and international organisations.

Over the past six months, Serbia has continued to respond adequately to our requests for assistance, by providing access to documents, archives and witnesses. At this moment, there are no outstanding requests.

The Serbian authorities have provided notebooks containing the handwritten war-time notes of Ratko Mladić, and associated tapes. These were seized during a search operation conducted by the Action Team in charge of tracking fugitives in February 2010. The valuable, voluminous material recovered is currently being analysed, and we have sought and will continue to seek its introduction as evidence in several trials.

The arrest of the fugitives Mladić and Hadžić remains the highest priority for my Office. Since my last report, operational services in Serbia continued their efforts to search for the fugitives. However, these efforts have thus far produced few tangible results. We therefore strongly believe that Serbia's current operational strategies need to be reviewed. We have recently asked Serbian authorities to step up search efforts by broadening their investigations, intensifying search operations and increasing their operational capacity. Decisive and intensified action by the operational services and political authorities is critical for obtaining the arrest of the two fugitives.

I have expressed these concerns at the European Union's Foreign Affairs Council on 14 June. I reiterated to the Ministers that the support of the European Union in securing cooperation of States has not only been extremely effective in the past, but will remain essential in the future.

During this reporting period Croatia has, generally, been responsive to our requests for assistance. However, the issue of the missing important documents related to Operation Storm in 1995 remains outstanding. In October 2009 Croatia established an inter-agency Task Force to take over their administrative investigation. While there has been a general improvement in the quality of the interviews conducted, no full account of the whereabouts of the important missing documents has been provided. In addition, key investigative avenues remain unexplored.

During the past weeks, I have been assured by the authorities that the administrative investigation will pursue additional leads and expand its work as suggested by my Office one year ago. I hope that these activities will result in effective action and concrete results. While the matter remains before the Trial Chamber, I await the results of these efforts by Croatia to see whether Croatia intensifies its administrative investigation and fully accounts for the missing documents before the end of trial.

The authorities of Bosnia and Herzegovina continue to respond adequately to our requests for assistance. I continue to encourage the authorities to take all necessary measures against the networks supporting fugitives. We welcome the assistance provided by the Office of the High Representative and other international organisations in this regard.

With regard to judicial proceedings, my Office supports national prosecutions and the important work of the Special Department of War Crimes in the Office of the State Prosecutor of Bosnia and Herzegovina. We strongly encourage the authorities of Bosnia

and Herzegovina, and the international community, to carry on providing the necessary support for the prosecution of war crimes cases.

Mr. President, Excellencies,

My Office continues to provide assistance to national prosecutors in order to ensure the transition to domestic prosecution of war crimes cases. Building the capacity of local courts to try war crimes is not only critical to the success of the Tribunal's completion strategy and legacy, but is also essential for lasting justice.

As forecast in my last report, we have now completed the transfer of cases and investigation files to courts and prosecution offices in the region. There is still a regular exchange of information and knowledge in relation to the material that was transferred.

We also continue to support ongoing cooperation and capacity building projects. In this regard, I would specifically like to record my gratitude to the European Union for extending the funding for the project of liaison prosecutors and young professionals from the region who work in my Office. The project, which was established one year ago, has been applauded by the European Union and the regional prosecution offices as being very valuable and effective in facilitating the exchange of information and know-how between the international forum and national prosecution services.

I also encourage all authorities in the region to strengthen regional cooperation in order to address war crimes cases. I note recent improvement in certain areas, and the conclusion of important judicial cooperation agreements. However, further efforts are necessary if there is to be a coordinated approach to war crimes prosecutions across the region.

As the High Representative Mr. Valentin Inzko said in this Council a few weeks ago, recent conciliatory gestures from political leaders in the region have led to the creation of space for a new and constructive dialogue. It is only in such environment, which is void of provocation, that the prosecutors and courts can do their work and further build upon the work of the Tribunal.

Mr. President, Excellencies,

As announced last year, the Office of the Prosecutor has begun downsizing. It is the first of the Tribunal's organs to do so. In line with the step-by-step progress in trials and appeals, we have abolished 22 posts thus far. Despite the slippage in the trial schedule, and the fact that additional expenditure may be required, we are nevertheless continuing to follow a strict policy of decreasing staff levels as trials end.

The actual process of downsizing is proving to be difficult and complex. It affects all our dedicated staff, who are working under extremely high pressure. Due to uncertainty about their future, experienced and highly skilled staff may decide to leave. While, of course, we support initiatives designed to help our staff find jobs elsewhere when their contracts end, it is nevertheless crucial that we retain the necessary resources to complete our work.

In the longer term, our eyes are also now on the eventual closure of the Tribunal and what lies beyond. As our final trial work progresses in The Hague, discussions within the Working Group on the creation of a future residual mechanism are well underway. I welcome efforts already undertaken and important progress made in this regard by the Austrian chairmanship, the members of the Working Group and the Secretariat.

Mr. President, Excellencies,

In July, it will be 15 years since the genocide which took place in Srebrenica, Bosnia and Herzegovina. Since then, an important number of high level accused have been tried in The Hague, and progress has been made in domestic war crimes prosecutions. However, the human tragedy of the war is still a vivid memory, as victims, the peoples of the former Yugoslavia and the international community continue to seek justice. The painful chapter of recent history can only properly be closed when all those responsible for serious violations of international humanitarian law have been brought to trial. Therefore, there can be no alternative to the immediate arrest of the fugitives.

I thank you for your continued support.