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Criminal Tribunal
for the former
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Tribunal Pénal
International pour
l'ex-Yougoslavie

STATEMENT

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PROSECUTOR

New York, 10 December 2014

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

Mr. President, Excellencies,

Thank you for this opportunity to address you on the Office of the Prosecutor's progress towards the completion of our mandate.

In this reporting period, we completed our work in the trial of Radovan Karadžić, having submitted our final trial brief and presented our closing oral arguments. Over the course of the trial, more than 550 witnesses testified and over 10,000 exhibits were submitted, totaling 165,000 pages of transcripts and documentary evidence. It is an immense record of the crimes and those responsible. The judgment is expected next Fall.

The Office of the Prosecutor remains grateful to all victims and witnesses who participated in the trial and contributed to ensuring justice and accountability for these horrific crimes. Without their courage, this trial, like all others, would not have been possible.

In the courtrooms, there are now only two remaining trials, Mladić and Hadžić. In both, the Defence is currently presenting its evidence.

Appeals proceedings are ongoing in five cases. During the reporting period, the multi-accused Prlić case was a major focus of the Appeals Division's work. Convicted at trial, the six accused have submitted 168 grounds of appeal, for which the Appeals Division is preparing responses, in addition to preparing the Prosecution's four grounds of appeal.

However, as events during the reporting period have demonstrated, the ultimate conclusion of trials and appeals is beyond our control.

In Hadžić, the Prosecution closed its case in October 2013. Unfortunately, time saved in the Prosecution case has since been lost, as the proceedings are now further delayed by newly-arisen concerns regarding Hadžić's health.

The issuance of the trial judgment in the Šešelj case has been delayed again, as the replacement Judge has indicated he will require additional time to prepare for deliberations. The OTP understands and shares the frustration of many that the trial judgment has not yet been issued when the last witness testified in July 2010 and the trial closed in March 2012.

The Trial Chamber took the initiative to provisionally release Šešelj under limited conditions. His disregard of the Tribunal's orders and insults to victim communities made it necessary for my Office to ask the Trial Chamber to revoke his provisional release. That motion is currently pending.

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The intensity of the reaction to Šešelj's release and his revival of rhetoric from two decades ago remind us that reconciliation remains fragile. It should encourage us to redouble our efforts to ensure accountability for serious violations of international humanitarian law and to firmly stand against all forms of revisionism.

Mr. President, Excellencies,

Day-to-day cooperation between the Tribunal and the countries of the former Yugoslavia continues to meet our expectations. We thank national authorities for their cooperation and fully expect it will continue in the next reporting period.

In relations to national war crimes prosecutions, however, my written report noted that further improvements are needed.

Regional cooperation agreements have been signed, but not yet widely put into practice. Fugitives continue to avoid accountability by finding safe haven across borders.

Significant investments have been made in building the capacities of national justice sectors, but there have not yet been proportionate results. The resources are there; this must now be matched by the will to use the resources in the most efficient manner.

While cases continue against low-level perpetrators, there needs to be a greater focus on cases against senior- and mid-level suspects.

We recognize that in recent days, prosecutors in Serbia and Bosnia and Herzegovina successfully carried out a joint cross-border arrest operation in preparation for prosecutions in both States. This is a very positive development that demonstrates how much more can be achieved through effective cooperation. We urge prosecutorial authorities in the region to build on this success.

During the reporting period, I undertook two missions to Bosnia and Herzegovina to discuss national war crimes prosecutions with the Chief Prosecutor and other officials.

Five Category II cases still remain unresolved. Cases continue to be broken up into individual indictments. Previous undertakings to correct these issues remain unfulfilled. This must change.

More generally, the National War Crimes Strategy Supervisory Board and the state-level Judiciary reported their concerns that the work of the Prosecutor's Office is not moving in a positive direction. They fear that quality is being sacrificed to increase the quantity of indictments. They also believe that far more indictments should charge crimes against humanity.

Nonetheless, while the list of challenges is long, good management and leadership in the Prosecutor's Office can put matters back on the right track to build upon past achievements.

We will continue to support accountability efforts in Bosnia and Herzegovina and other States in the former Yugoslavia through the transfer of information and evidence to national prosecutors, as the Security Council has directed. Our liaison prosecutors project remains an important component of our support, and serves as a precedent for cooperation between international and national prosecutors.

During my missions to the region the many victims I met with reminded me that prosecutions are not the only issue that deserves attention. Reparations for victims of the

conflict have not yet been fully and fairly addressed. And while the discovery of the mass grave in Tomašica was an important success in the search for missing persons, many families throughout the region still do not know the fate of their loved ones. Efforts to search for missing persons must be maintained and intensified.

Mr. President, Excellencies,

This time last year, I reported that the relationship of trust between the Tribunal and the public was under strain. Unfortunately, among victims and the Tribunal's supporters, many do not believe that the situation has improved.

They point to cases that are delayed time and again. Many express their view that not enough information is provided to explain what they see as controversial decisions.

Critical reflection is still needed at the Tribunal.

And as in national courts around the world, at international tribunals there should not be tension between judicial independence and efficient case management.

The Tribunal's legacy, though, should not be measured by the past few years alone. There have been many important achievements in ensuring accountability for crimes committed during the conflicts in the former Yugoslavia. We are currently prosecuting some of the most important cases in the Tribunal's history. In just a few years, the Tribunal will complete all of its outstanding work and close its doors. Only then can the Tribunal's legacy be fully assessed.

Mr. President, Excellencies,

In conclusion, finalizing our work in accordance with the Completion Strategy continues to be the foremost objective for the Office of the Prosecutor. We remain fully focused on completing our remaining work as efficiently and expeditiously as possible. And we will continue implementing our downsizing in line with the completion of trials and appeals, while supporting our staff as they transition to new careers.

Thank you for your attention.