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International pour
l'ex-Yougoslavie

STATEMENT

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PROSECUTOR

The Hague, 4 June 2009

Address of Serge Brammertz, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia to the Security Council 4 June 2009

Mr. President,
Mr. Prime Minister,
Excellencies,

Thank you for giving me the opportunity to present the 11th report on the Completion Strategy of the Office of the Prosecutor.

I will provide you with a brief update on our judicial work, cooperation of States, efforts undertaken to support the work of prosecution services in the former Yugoslavia and importantly, the organizational plans for my Office during the final phase of the Tribunal's existence.

It is expected that 2009 will be the last year of full trial activity before the downsizing of the Tribunal begins in 2010.

During the last six months, the Prosecution has made significant progress in achieving the completion strategy goals. Since I submitted my written report to the Security Council in the middle of May, the Prosecution has completed its final arguments in a trial of two accused - the *Lukić and Lukić* case - and judgement is expected in the coming months.

There are presently six cases - and 19 accused - in trial. One of these cases, a complex prosecution of seven accused persons charged with crimes committed in Srebrenica, is now in its final stages. The Prosecution's final brief in the *Popović et al.* case is due at the end of July and final arguments are scheduled for the end of August.

The other cases in trial, the *Đorđević* and *Perišić* trials are well advanced into the prosecution case, while *Prlić et al.* and *Gotovina et al.* are now in their defence phase.

Despite the prosecution's efforts to move forward through the trial schedule, some additional delays have occurred. Most notably, in February 2009, the *Šešelj* case had to be adjourned as a result of difficulties securing the remaining witnesses' evidence.

Significant progress has been made in the last four cases currently at the pre-trial stage. The Karadžić Prosecution team has been working consistently to ensure the case is ready to start trial shortly. After a lengthy adjournment due to Jovica Stanišić's health problems, the *Stanišić and Simatović* case is due to recommence in the coming weeks. The Prosecution is ready to begin the *Stanišić and Župljanin* trial, which is expected to begin in September. The *Tolimir* case should begin trial in September as well. In order to ensure the immediate commencement of new trials, we have moved quickly by re-assigning staff finishing the *Popović et al.* and *Lukić and Lukić* trials.

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Prosecution work on appeals cases remains constant and is expected to increase significantly in future months. By the end of 2009, the Appeals Division will have a continuing inventory of 24 appeals case.

The cooperation of States with my Office remains critical to the successful completion of our trials and appeals work.

We continue to request the assistance from Bosnia and Herzegovina, Croatia and Serbia in a number of areas, such as the provision of documents, access to archives, ensuring that witnesses can testify before the Tribunal, and assisting in locating and arresting fugitives. I recently traveled to these countries where I met with authorities at the political, judicial and operational levels to raise all these matters.

Since my last briefing to the Council, Serbia has made additional progress in its cooperation with my office. The large majority of requests for assistance have been complied with, including requests for access to documents and archives. As senior leadership trials are ongoing and others will start soon, we hope that this trend will continue.

The search for and arrest of Ratko Mladić and Goran Hadžić remains the central issue in relation to Serbia's cooperation. My office remains in close contact with the services in charge of tracking fugitives and closely follows their activities. During my recent visits to Belgrade, I had full briefings on their work.

Developments at the political level in the past year and the new leadership at the operational level have led to an improvement in the professionalism and the efficiency of the activities to locate and arrest the remaining fugitives.

I hope that the political authorities in Serbia will provide all necessary support to the professional work done at the operational level. Cooperation must continue and hopefully will lead to further concrete and positive results. In my report, I have also expressed my concern with regard to recent negative statements by senior government officials about the Tribunal's judicial decisions. These seem to be in contradiction with the level of cooperation on the ground.

With regard to Croatia, the remaining outstanding issue is the Prosecution's request that Croatia provide a number of key military documents related to Operation Storm in 1995. Unsuccessful efforts by my Office over a considerable period of time to obtain these documents, required the Prosecution to bring this matter before the trial chamber.

Croatia was ordered by the Tribunal to conduct an investigation into the missing documents. In response, Croatia submitted several reports, providing in its most recent submission additional information on the administrative investigation and supplementary information on the chain of custody of the missing documents. A number of meetings were held with the authorities focusing on these outstanding matters. Unfortunately, progress in the lengthy investigation has been limited and to date, the large majority of the military documents have not been submitted to the Tribunal. We have raised with Croatia our concerns about the focus, manner and methodology of the investigation conducted.

This matter remains pending before the Chamber. The trial has now entered the defence phase and is nearing its completion. It is therefore crucial that Croatia continues to focus its efforts on locating and providing these key documents. I will remain in close contact with the authorities in the hope to achieve further progress in the near future. I

also would like to take this opportunity, Mr. Prime Minister, to thank you for your personal interest and determination to resolve this issue.

With regard to Bosnia and Herzegovina's cooperation, there are no specific outstanding issues in relation to our trials. However, Bosnia and Herzegovina's judicial system continues to face serious challenges, which could have an impact on its cooperation with the Tribunal. I support all efforts undertaken to strengthen Bosnia and Herzegovina's judicial capacity in coping with the numerous unresolved war crimes cases. The national strategy for war crimes, which was adopted last December, is in this regard a promising development. Together with representatives of the international community in Bosnia and Herzegovina, I am in favour of maintaining an international presence in judicial institutions, such as the Special Department for War Crimes of the State Court of Bosnia and Herzegovina, with which we are working closely.

Another priority of my office, is the support to national jurisdictions prosecuting war crimes. Assisting our colleagues in the former Yugoslavia in successfully conducting war crimes prosecutions remains a key component of the Completion Strategy. It is the best way to ensure the successful continuation of our work.

In the next months, we will complete the process of transferring investigative material to national prosecution services. We are now prepared to transfer three cases involving ten suspects to the Office of the State Prosecutor in Bosnia and Herzegovina. The last four cases involving 11 suspects will be transferred to Bosnia and Herzegovina before the end of the year.

Responding to requests for assistance and making available documents and archives is another important aspect of this cooperation. We are providing such information to prosecution offices both within and outside of the former Yugoslavia. In the past six months, our Transition Team has handled over 90 requests for assistance. Interestingly, half of those requests originated from countries outside the former Yugoslavia.

Although cooperation between prosecution services is improving, national judiciaries continue to face significant legal obstacles and challenges with regard to the prosecution of war crimes cases. The prohibition on extraditing one State's nationals to another State and the legal barriers to transferring war crimes cases between States threatens their successful investigation and prosecution. All authorities concerned should address this issue by establishing the necessary legal frameworks. This appears to be the only way to avoid an impunity gap.

My Office has participated in several conferences with prosecutors from the region to strengthen cooperation in judicial matters between States of the former Yugoslavia. One important recent achievement is the development of databases and inventories of war crimes cases in the region.

Another important development, which I had announced during my last briefing, is the establishment, with the support of the European Commission, of a concrete cooperation project, which permits prosecutors from the region to be integrated in our office in The Hague. The first liaison prosecutors are expected to start working in my office this month. This initiative, like others, reflects the excellent interaction my office has with the State and War Crimes Prosecutors' offices in Bosnia and Herzegovina, Croatia and Serbia.

I now would like to briefly address the organizational plans of my Office for the future. A serious downsizing programme has been planned to begin in 2010. According to this plan, which will also be part of our next budget proposal, there will be an overall decrease in the size of the Office of the Prosecutor as trials end. In our budget proposal which has been submitted to the Secretariat this week, we envisage over the next two years a reduction of 60% of our posts and a 42% reduction in non-post items in the Office of the Prosecutor. There will also be a gradual redeployment of posts from the Trial Division to the Appeals Division, to meet their growing workload.

While we are fully committed to the downsizing process, I would like to once more stress the need to retain our experienced and specialized staff members to complete our work. In the present situation, a considerable number of staff members have left my Office and more could leave the institution because of other opportunities elsewhere. It is therefore crucial that their needs are taken into consideration and that ways be found to retain our staff members until the end of trials. We will continue to address these issues together with the President and Registrar with relevant UN bodies and Secretariat offices.

Finally, I would like to thank the Council once more for the continuing support provided to the Office of the Prosecutor.

Thank you for your attention.