

Diplomatic seminar

Statement of Serge Brammertz, Prosecutor of the ICTY

The Hague, 28 May 2009

Excellences,
Mesdames et messieurs,

Je vous souhaite la bienvenue et vous remercie d'être venus si nombreux à ce rendez-vous biannuel.

Ces derniers mois, j'ai passé pas mal de temps dans la région, à Sarajevo, Zagreb et Belgrade, pour y rencontrer des responsables du monde politique et judiciaire, et aborder des questions relatives la coopération. Afin de pouvoir achever nos activités judiciaires avec succès, l'interaction avec ces Etats reste un aspect particulièrement crucial de notre travail.

Nous attachons également beaucoup d'importance à la coopération avec les bureaux des procureurs des pays de l'ex-Yougoslavie. En fait, je reviens de Croatie où j'ai participé à une conférence de procureurs de la région, spécialisés dans la poursuite de crimes de guerre.

Nous soutenons activement le processus de renforcement de la justice nationale et la coopération entre ces Etats. Ceci fait partie intégrante de la stratégie d'achèvement de nos travaux dans la mesure où ces procureurs devront continuer la poursuite de responsables de crimes de guerre. Tout en reconnaissant le progrès accompli ces dernières années, nous constatons qu'il existe toujours des déficiences et que des lacunes législatives n'ont pas été comblées. J'y reviendrai.

Permettez-moi tout d'abord de vous donner un bref aperçu de nos activités judiciaires, un sujet déjà abordé par le Président.

Excellencies,
Ladies and gentlemen,

The prosecution of cases remains our core function. Today, 21 accused, all senior political and military figures, in seven trials are being prosecuted. Two of these trials are in the final argument stage while the others are at various stages of the proceedings and progressing well. Only four cases remain in pre-trial and are expected to go to trial very soon. Two fugitives remain at large, Ratko Mladic and Goran Hadzic.

We continue to seek to implement measures to speed up proceedings while respecting the rights of the accused. However, we must recognize that there have been some delays in certain cases. The Seselj, case, for instance, which was near the end of the prosecution case has been adjourned, due to difficulties in securing the remaining witnesses' evidence. We expect even further delays which makes it difficult to plan ahead.

We have also encountered delays in the Stanisic and Simatovic case due to the ill health of the accused. We are making efforts to ensure that the other cases are prepared and we are ready to proceed in the Stanisic and Zupljanin case. The trial is now expected to start soon.

The Karadzic case will be ready to proceed on the trial date which we expect will be set shortly. However, I should point out that, in this case, much time and resources are being devoted to responding to the multiple motions filed by the accused who is self represented and assisted by a number of legal advisers.

My Office remains fully committed to complete its work and meeting the objectives of the completion strategy. A serious and comprehensive downsizing process will start next year. We are currently preparing a plan which envisions a gradual but substantial reduction of resources and staffing levels, starting in 2010. It will also be part of our budget submission to the United Nations Secretariat. The downsizing process is entirely based on the projected pace of ongoing and future trials and appeals. According to the plan, there will be an overall decrease in the Office of the Prosecutor's staffing levels, except for the Appeals Division where the workload is logically increasing. As a result, the post of Director of Operations in my office will be redeployed to the Appeals Division.

As I have already mentioned on many occasions in the past, the arrest of the two fugitives, Ratko Mladic and Goran Hadzic remains a high priority for my office. After the arrest of Radovan Karadzic last July, there was an expectation that the two other fugitives would be apprehended shortly thereafter. Unfortunately, this was not the case. Now time has passed, the possibility of joining the Ratko Mladic case to the Radovan Karadzic case has become extremely slim. This means that when the two remaining fugitives are arrested, it is likely that they will be tried separately.

We will continue our discussions on the establishment of a Residual Mechanism with the United Nations Security Council Working Group next week. One of the functions of this Residual Mechanism will be to provide a framework for the trial of the fugitives in case they are arrested after the closure of the Tribunal in its current form.

Please allow me to say a few more words on the cooperation of States with the Tribunal, an area which 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 level and judicial level to discuss these outstanding issues. Recent developments will be reflected in my report to the Security Council. I would like to take this opportunity to thank the representatives of these States for their assistance in facilitating contacts with their authorities. I look forward to continuing our open professional relationship.

Let me now give a brief update on cooperation with Serbia, Croatia and Bosnia and Herzegovina.

Serbia has made further progress in its cooperation with the Office of the Prosecutor. With regard to documents and archives, there has been overall progress.

The arrest of the two remaining fugitives remains a priority for my Office. The authorities in charge of locating and arresting the fugitives are conducting widespread operations on the ground and in-depth analysis of all available information. This cooperation must continue and hopefully will lead to further concrete and positive results. I expect the political authorities and government officials to provide all necessary support to the professional work done at the operational level.

With regard to Croatia, the remaining outstanding issue is the request for a number of key military documents which remain unaccounted for in the Gotovina case. The administrative investigation which was undertaken by Croatia in this case has thus far provided limited results. This matter is still before the Court. We continue to urge Croatia to meet its obligations. I am in regular contact with the Minister of Justice and hope to make further progress in this area.

With regard to Bosnia and Herzegovina, there are no specific pending issues in relation to our trials. I should point that, during my recent visit to Sarajevo, discussions with the authorities focused to a large extent on the efforts undertaken to strengthen their judicial capacity in coping with war crimes cases. The recently adopted national strategy of war crimes is in this regard a positive development. I also note that Stankovic, who was transferred by the Tribunal and convicted in Bosnia, is still at large and expect the authorities to take the necessary measures against those who assisted him in his escape. Another issue which was discussed with the authorities in Sarajevo is the need to maintain an international presence in judicial institutions, such as the State Court, which I support.

As a key component of our Completion Strategy, it is important to ensure continuity of war crimes prosecutions at the national level.

My Office remains actively involved in several areas to support domestic prosecutions. Our Transition Team has a central role in facilitating this cooperation. It continues to provide assistance with regard to the Rule 11bis cases which were transferred to the region and monitored through the OSCE. One case is still at trial. Within a year, all remaining trials and appeals should be completed.

The Transition Team is also currently preparing the transfer of additional investigation material. Three cases involving ten suspects are ready to be transferred soon. Another four cases involving 11 suspects will be transferred before the end of the year. This material will be transmitted to the Office of the State Prosecutor in Bosnia and Herzegovina, where the crimes were committed.

My Office continues to provide assistance to ongoing investigations and prosecutions of mid-level perpetrators which is a priority for national prosecutors. Over the past six months, the Transition Team has handled over 90 requests for assistance. Interestingly, half of those requests originated from countries outside the former Yugoslavia.

In this context, national systems continue to face important obstacles and challenges with regard to the prosecution of these war crimes cases. The prohibition on extraditing one's State nationals to another State and the legal barriers to transferring war crimes cases between States can threaten the successful investigation and prosecution of cases. This situation also affects cases, which should be prosecuted nationally, on the basis of information provided by my office. Due to the existing difficulties, these cases could possibly never come to court. To address this impunity gap, these issues should be addressed by all authorities concerned in particular by creating the necessary legal framework.

My Office continues to support the development of mechanisms to strengthen regional cooperation. We fully support and are actively involved in regular conferences of prosecutors which provide the opportunity to directly address practical issues related to cooperation. In April, my office hosted a conference in Brussels with the support of the European Commission to promote cooperation between prosecution services from Bosnia, Croatia, Serbia, Montenegro and Macedonia. I have just come back from a conference of prosecutors in Croatia where we further discussed these matters among colleague prosecutors.

Discussions have focused on strengthening their cooperation within the existing legal framework. One important achievement is the development of databases and inventories of war crimes cases in the region.

Another important development is the concrete project we have established with the support of the European Commission permitting prosecutors from the region to work in our offices while liaising with their authorities. Although these liaison prosecutors will

continue to work on their own cases, they will be working in my office and will have access to our material while interacting directly with our staff. A number of interns from the region will also join my Office and will be assisting our trial teams. I am confident that this project will have an important added value to both these prosecution services and my Office and that it will contribute to enhancing our interaction with national systems.

In this context, I would also like to mention the importance of the UNICRI manual on established practices, for practitioners, to be launched later this morning. This is another positive capacity building initiative.

Finally, I should stress that State and War Crimes prosecutors from the region have expressed the need to be able to access the Office of the Prosecutor's databases for a number of years to come. In order to address this need, it is important that a necessary support capacity taking over the Transition Team's functions is maintained in the Residual Mechanism.

Finally, I would like to stress that we will only be able to be successful in fulfilling our mandate if we can continue to rely on our experienced and specialized staff members. In the present situation, many staff members are seeking employment opportunities elsewhere and many are leaving. In order to retain our staff members, it is important that their needs are taken into consideration. I therefore support an organizational approach in creating incentives for them to stay until the end of trials.

Excellencies,
Ladies and gentlemen,

I would like to thank you who are closely following our work. I am grateful for your continued interest in our work and your support. We will continue to count on you in the future.

Thank you for your attention.
