

Presentation by Serge Brammertz, Prosecutor

**Diplomatic Seminar
The Hague, 10 June 2008**

Excellencies,
Ladies and gentlemen,

We are making significant progress through the trial schedule. We are presently running eight trials concurrently. These cases are at different stages of proceedings, from prosecution phase to judgement. The most complex trials, the multiple-accused cases, are now in their defence phase. In the coming months, we expect to begin two further cases, leaving only two trials to be scheduled.

The progress in conducting trials has been assisted by an increased use of written evidence, either to avoid witnesses having to come to court, or to shorten the amount of live evidence they have to give if they do testify. My office continues to work with the other organs of the Tribunal to find creative solutions for speeding up trials.

The work on appeals continues at a steady pace. We expect that the volume of appeals work will increase significantly as judgements are issued in the current trials. In a multi-leadership case, for example, a single trial is likely to produce multiple defence and prosecution appeals.

We have cases where the accused are representing themselves. That means that the prosecutors are not dealing on a day-to-day basis with professional legal counsel on the other side of the table. In the preparation and exchanges that normally go on between the parties, they are not able to communicate with professional criminal practitioners who are officers of the court. This creates particularly serious challenges in complex trials. Self-representation by an accused is not conducive to speeding up proceedings.

We also realise that the courtroom can present an accused with a platform for his political activities, so that he can address a wider audience than those present. There is no simple answer to the problem, but we do hear comments about how the broadcasting of trials is being received in the region. I can assure you that we are doing all that we can to address these issues in the courtroom.

Another pressing concern at the moment is that of interference with prosecution witnesses. Fifteen years after the creation of this Tribunal it is unfortunately still difficult to persuade witnesses to come forward and testify in court. Witness intimidation strikes at the very heart of our ability to administer justice. It is a problem that affects the Tribunal as an institution and demands an institutional response. The Trial Chamber in its recent judgement in the *Haradinaj* case, for example, highlighted an atmosphere in which

witnesses felt unsafe. I cannot say more about that particular situation because the matter is now on appeal, except to stress that my office will continue to take interference with witnesses extremely seriously and pursue bringing charges against those responsible.

Two indictments have in fact been issued recently for witness interference and the disclosure of confidential witness information. Contempt of the Tribunal is an offence which attracts not only a fine not exceeding 100,000 euros but also a maximum penalty of seven years imprisonment.

Let me now address another priority – cooperation of States.

Since our last meeting, I have visited the region of the former Yugoslavia and met with representatives of state and judicial authorities in Croatia, Bosnia and Herzegovina and Serbia. The purpose of these meetings was to meet our interlocutors in the region and acquaint myself with all the relevant issues first hand. My aim is also to be as transparent as possible in our approach to cooperation. The meetings were very productive and, where necessary, they were followed with an exchange of correspondence in which we addressed all remaining issues of cooperation.

When it comes to specific issues like access to documents and archives, we have achieved some progress in the past few months. However, significant obstacles still remain. Unfortunately, both in Serbia and in Croatia, repeated requests for materials in relation to ongoing cases remain without a satisfactory response. The failure to provide these materials affects our ability to present our case in court.

As regards the fugitives – as you all know – we have had no arrests since our last meeting and Radovan Karadžić, Ratko Mladić, Goran Hadžić and Stojan Župljanin remain at large. In March, under the supervision of the Serbian War Crimes Prosecutor, the local law enforcement agencies conducted an operation to arrest Stojan Župljanin. Unfortunately, this attempt did not succeed, but it did provide important information about Župljanin's movements and confirmed that he was in Serbia.

I am very much aware of some of the statements that have been made in certain quarters about future co-operation with this Tribunal, and therefore await the formation of the new government with considerable interest. But whatever the outcome of the current political negotiations, cooperation with the Tribunal will continue to be the primary responsibility of the national authorities and the legal obligation of the Serbian State. It is of paramount importance that the Serbian Action Team, which coordinates the search for fugitives, receives full government support for its activities so that it can act in a better coordinated and more focused manner.

An important part of cooperation is our interaction with national judicial authorities.

It is my strong belief that the success of the completion strategy also depends on the ability of the local judiciaries to successfully conduct war crimes proceedings and, in that

way, continue our work. This is why assisting our colleagues in this regard is one of my priorities.

We have transferred eight cases pursuant to Rule 11*bis* and that process is now complete. Two of these have concluded before the national courts while the remaining five have been completed in the first instance. The most recent judgements, one in Bosnia and Herzegovina and one in Croatia, were delivered on 30 May this year.

We continue to transfer investigative material to national prosecutors, and provide information and access to our evidence collection practically on daily basis and will continue to do so in the years to come.

Last month, I attended a successful regional conference in Croatia where my fellow prosecutors renewed their commitment to intensify national war crimes prosecutions and strengthen cooperation amongst each other. What was impossible to imagine in the years immediately following the war is today a reality. Successful war crimes trials are being conducted throughout the region; those found responsible are sentenced to long prison terms; cases are being transferred across the national borders; and cooperation between judicial authorities improved. There are still certain obstacles, such as the non-extradition of nationals, but our colleagues are committed to work on overcoming them. They have also agreed to compile an inventory of possible cases which should assist preparation for future proceedings.

I will continue to reinforce professional ties with national prosecutors and develop true partnerships. We are also currently exploring additional methods of cooperation, such as engaging prosecutors and experts from the region in our office to facilitate the sharing of expertise and provide practical hands-on training. In this regard, I have and will continue to contact relevant international institutions directly and I would like to take this opportunity to kindly ask the international community to support such initiatives. International support to national courts in the former Yugoslavia will remain crucial in the coming months and years. In this respect, I am very concerned that future funding for the War Crimes Department in the Office of the Prosecutor of Bosnia and Herzegovina may be reduced, and that international prosecutors may leave, thereby jeopardizing the work of the State Court. I hope funds will be made available as I believe that the role of the War Crimes Prosecutor and Chamber is crucial in strengthening Bosnia and Herzegovina's still fragile justice system.

Let me now turn to my final priority – internal office management.

In the last six months, as proposed in our last budget, we have merged our former Investigation and Prosecution divisions to create a single Trials Division. The restructuring is working well. We still need to do investigations work in support of trials, but those investigations are very much geared to the requirements of the courtroom. The inter-disciplinary teams are directed by Senior Trial Attorneys, which gives us the flexibility we will need in the coming months as we move through the completion

strategy. We are also being more flexible in the deployment of staff between trials and appeals, using resources where needed.

A Deputy Prosecutor was selected in March and we are awaiting a final decision on the appointment from the Office of the Secretary General of the United Nations.

While in New York, we met with the Security Council's informal Working Group on the Tribunals and we continue our joint efforts with the Chambers and the Registry to address all issues raised by the completion strategy including possible arrangements for a downsized Tribunal.

Excellences,
Mesdames et messieurs,

Ces six derniers mois ont été particulièrement intenses pour moi: travailler avec une nouvelle équipe que j'apprécie énormément, me familiariser avec les dossiers en cours, rencontrer les responsables politiques dans la région, établir des rapports de confiance avec mes collègues magistrats dans la région...

Je tiens à remercier ceux parmi vous qui ont facilité ce travail et particulièrement les représentants des ambassades de Serbie, Croatie et Bosnie et Herzégovine. Je me réjouis de pouvoir poursuivre cette coopération constructive dans les mois à venir.

Je vous remercie pour votre attention.