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Tribunal Pénal
International pour
l'ex-Yougoslavie

STATEMENT

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PROSECUTOR

The Hague, 3 December 2009

Address of Serge Brammertz, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia to the Security Council on 3 December 2009

Mr President,
Excellencies,

I am pleased to present to you the 12th report of the Office of the Prosecutor on the implementation of the International Tribunal's completion strategy.

This morning I will address you on the key elements related to the completion of our mandate which moved into a significant new phase. Specifically I will speak of the status of our trials and appeals; the cooperation between my Office and States; our capacity building efforts throughout the region; and, lastly, our plans to downsize the Office of the Prosecutor in the coming years.

During this reporting period, the Trial Chamber delivered its judgement in Lukić & Lukić. The two accused were successfully prosecuted for brutal crimes in Višegrad, Bosnia and Herzegovina, and convicted on 20 July 2009. Milan Lukić was sentenced to life imprisonment. Sredoje Lukić was sentenced to 30 years. The case is now on appeal.

Another important development in recent months was the completion of the Prosecution and Defence cases in Popović et al., one of the Tribunal's three ongoing multi-accused leadership cases. The case relates to crimes committed in Srebrenica, Bosnia and Herzegovina, in 1995. Proceedings against the seven accused began in 2006, and totalled 425 trial days. Judgement is expected early in 2010.

At present the Office of the Prosecutor is working on eight trials involving 17 accused. The last trial to start at the ICTY, with the exception of the fugitives, is scheduled to commence on 17 December 2009.

On 27 October 2009, the trial started in the case against Radovan Karadžić, with the Prosecution presenting its opening statement. The Prosecution is prepared and remains ready to proceed with the first of its witnesses.

As with other cases, my Office has balanced various competing requirements associated with such large cases. It will present a case which is representative of the crimes committed, yet streamlined and manageable.

The Karadžić indictment charges crimes arising from the ethnic cleansing of Bosnia and Herzegovina, the shelling of Sarajevo, the hostage taking of United Nations peacekeepers and the attack on the United Nations safe area of Srebrenica. Because of Karadžić's senior position and the magnitude and gravity of the crimes charged, his trial is important not only to the victims of these crimes, but also to the international community as a whole.

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At the start of the trial against Karadžić, I met with representatives of victims associations. I was encouraged to hear that they continue to support the efforts of the Office of the Prosecutor. For the victims, the crimes remain in the present and are not historic events of the past. As we proceed with the evidence of what happened, we are reminded of the fact that Mladić remains to be arrested. As an indicted accused, Mladić's place is before the Trial Chamber, with Karadžić.

The arrest of Ratko Mladić, and the other remaining fugitive Goran Hadžić, remains one of my Office's foremost priorities. Prosecution lawyers are currently reviewing the Mladić indictment and I expect to file a proposed amended indictment shortly.

In the past six months, appeals hearings took place in three cases. Further, the Appeals Chamber rendered judgement in the case of Dragomir Milošević on 12 November 2009. There are presently five cases on appeal.

Through the next biennium, appeals cases are expected to double. Plans have been implemented to transfer posts and necessary resources to the Appeals Section of my Office to address this increased workload. As a result, my Office is fully prepared to meet the work as appeals hearings increase and continue into 2013.

Mr. President,
Excellencies,

The cooperation of States remains a key condition to the successful accomplishment of our mandate and meeting the completion strategy goals.

In recent weeks, I met with authorities of Bosnia and Herzegovina, Croatia and Serbia at the political, judicial and operational levels, to assess their level of cooperation with my Office. The purpose of the missions was also to further our relations with national prosecution services.

Since the last briefing to the Council, Serbia's cooperation with my Office has continued to progress. Prosecution requests to access documents and archives are being dealt with more expeditiously and effectively. It is important that the authorities continue to provide this level of assistance, which will remain crucial during current and future trial and appeals work.

The most critical aspect of Serbia's cooperation is the need to apprehend the fugitives. This remains one of my Office's highest priorities.

My Office recognizes the professionalism and commitment of operational services tasked with the tracking of fugitives. I am in regular and direct contact with officials in charge of these operations. These services are now working more efficiently and in a co-ordinated manner. Moreover, a variety of operational activities including search operations are currently being conducted. Serbia must maintain these efforts with the clear objective of apprehending the fugitives.

With regard to Croatia, we continue to work on a regular basis with the Ministry of Justice and the Office of the State Prosecutor which are assisting in responding to the Prosecution's requests.

The central issue of concern remains the still unresolved request to locate and obtain key military documents related to Operation Storm of 1995.

I welcome, however, the personal initiative of the Prime Minister of Croatia to establish in October 2009 an Inter-Agency Task Force aimed at locating these documents, particularly as there had been virtually no activity in the administrative investigation since my last report in June 2009. A report of the Task Force received this week is helpful in revealing gaps in the administrative investigation and in identifying further investigative steps to be taken. These and all other available investigative steps must be urgently undertaken in order to complete a comprehensive and credible investigation into locating the missing documents.

Bosnia and Herzegovina continues to respond to all Prosecution requests. My Office interacts on a regular basis with the Special Department for War Crimes of the State Court.

I am, however, concerned about the possible departure of international personnel and support staff from the Special Department for War Crimes. Despite repeated requests from judicial institutions in Bosnia and Herzegovina, the mandates of international staff ending in December have not been renewed due to the lack of a political will. If this matter is not urgently addressed, ongoing trial proceedings and war crimes investigations could be jeopardised. There will also be serious repercussions for the Tribunal's work, since they also act on investigative material transferred by my Office. Immediate action is needed.

Mr. President,
Excellencies,

My Office will soon complete the hand over of investigative files to prosecutors in Bosnia and Herzegovina, Croatia and Serbia. In addition to the Rule 11bis cases transferred on the basis of judicial decisions, in total, my Office has handed over 17 investigative files (involving 43 suspects) to authorities throughout the former Yugoslavia. We will continue to provide comprehensive assistance to local prosecutions based upon those files.

A fundamental aspect of the Tribunal's completion strategy is the strengthening of the judicial system in the States of the former Yugoslavia. As a concrete example, I would like to mention the successful project for National Prosecutors and Young Professionals from the former Yugoslavia. This project was set up jointly by my Office and the European Commission. In June 2009, three prosecutors from the region (one from Bosnia and Herzegovina, one from Croatia and one from Serbia) began working as liaison prosecutors within the Office of the Prosecutor in The Hague.

The joint project also offers funded internships to young legal professionals from the former Yugoslavia with a special interest in war crimes proceedings. By investing in the education and development of young lawyers, this initiative directly contributes to the future capacity of countries in the region to deal effectively with complex war crimes cases.

Domestic prosecutors have to continue the work that my Office had originally undertaken, for instance, by working on cases and material that has been transferred to the region.

As I have indicated in the past, national prosecution services and judiciaries continue to face significant legal obstacles and challenges with regard to the prosecution of war crimes. The prohibition on extraditing nationals to other states threatens successful investigations and prosecutions, as do legal barriers to the transfer of war crimes cases between states.

State Prosecutors are encouraged to maintain an open dialogue and to find ways to cooperate in the most efficient and professional manner possible.

Mr. President,
Excellencies,

Downsizing mechanisms have been agreed and communicated to staff, and will be implemented starting 1 January 2010. Initial staff reductions in the Office of the Prosecutor will begin immediately in the new year and will increase throughout the year, reflecting the completion of trials.

My Office's budget proposal for 2010/11, which was discussed with the Advisory Committee on Administrative and Budgetary Questions, proposed a series of cuts in staff numbers as trials are completed. Specifically, we have called for nearly a 40% reduction in the Office of the Prosecutor's posts as trials end over the course of next year, including abolishing one of the two directors posts within my Office. Over the next two years there will be a reduction of 60% of staff positions within the Office of the Prosecutor.

In the meantime, Prosecution trial and appeals teams will continue to work at maximum capacity, to ensure that trials proceed expeditiously and in accordance with the completion strategy.

Mr. President,
Excellencies,

Thank you for your attention today. On behalf of everyone in our Office, I would like to express my appreciation for your ongoing support of our work.