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Tribunal Pénal  
International pour  
l'ex-Yougoslavie

# STATEMENT

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PROSECUTION

Luxembourg, 15 October 2007

Briefing by Carla Del Ponte, Prosecutor of the ICTY  
General Affairs and External Relations Council of the European Union  
Luxembourg, 15 October 2007

Mr. President,  
Excellencies,

It is an honour for me to be given the opportunity to address the Council and I would like to thank the Portuguese Presidency for its kind invitation.

Without the strong support of the EU and its member States, the implementation of my mandate would be an impossible mission. Permit me to remind you that, since I took office in 1999, we have brought 91 individuals into the custody of the Tribunal. Much of that great success could not have been achieved without the strong, principled and consistent support of the European Union. I therefore take this opportunity to express my gratitude to you for this crucial support and for upholding the principles of international justice.

I have been asked to provide an assessment on the current state of Serbia's cooperation with the Office of the Prosecutor of the ICTY. My assessment will focus on the two main aspects of cooperation - the access to documents and archives and the search for fugitives. After my brief address, I am at your disposal for any questions you may have and any further information you may require.

I would like to say at the outset, although there has been some progress when it comes to the delivery of documents, I still have a number of very important outstanding requests for assistance and my staff is still denied access to crucial archives. Moreover, four fugitives remain at large and the search for them appears to be extremely slow. However, I welcome the decision taken by the National Security Council of Serbia last Thursday to reward those providing information leading to the arrest of three ICTY fugitives. It is an encouraging sign of the Serbian authorities' commitment to cooperate on the arrest of fugitives.

My Office has requested from the Belgrade authorities a number of crucial documents relevant to the preparation of trials. Most of these requests had been made nearly a year ago. Since then, we have encountered numerous obstacles in obtaining them. During my visit in June, we finally received a number of important documents that we had been requesting for over a year. The same happened during my visit in September and immediately following it, in October. This can hardly be a coincidence.

There are still a number of outstanding requests for assistance. The authorities informed me that these documents are missing or have been destroyed during the NATO bombing campaign. Past experience with allegedly missing documents which were later sent to The Hague leads us to believe that that may not be true. Moreover, we were never provided with any credible information substantiating those claims, nor have we been informed of any serious investigation undertaken into the allegedly missing or destroyed

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documents. Additionally worrying is the fact that these tactics inevitably lead to a delay in the preparation for trials and potential delays in ongoing trials.

Another stumbling block is the access to archives, particularly those of the Ministry of Defence and the Security and Intelligence Service (BIA). During our most recent meeting, Minister Rasim Ljajic, President of the National Council for Cooperation with the Tribunal, confirmed earlier written agreements with the Tribunal that staff from my Office would be granted full and unconditional access to these archives. However, Tribunal lawyers and investigators were denied full access to the archives despite this clear commitment. It may not be a mere coincidence that one of the cases which will go to trial next year is that against Mr. Jovica Stanišić, the former Chief of the same Security and Intelligence Service whose archives we are unable to access. Stanišić is currently in Belgrade on provisional release awaiting trial.

The refusal to provide access to certain archives and the delay in providing documents seriously affects our work. Although there has been progress, we believe that the level of assistance provided by Serbian authorities in providing documents remains insufficient and does not match their declared political commitment.

Let me now turn to the issue of the remaining fugitives: Ratko Mladić, Radovan Karadžić, Goran Hadžić and Stojan Župljanin. As I mentioned earlier, it is thanks to the support of the international community, and in particular the European Union, that there are only four remaining fugitives. The European Union's policy of conditionality has been very fruitful thus far.

This becomes quite obvious when one looks at the most recent examples. For instance, very soon after the new government was formed earlier this year and declared European integration and cooperation with the Tribunal to be among its main priorities, I was invited to Belgrade so that we could restart cooperation. Immediately prior to my scheduled visit, Zdravko Tolimir was arrested in Republika Srpska. Less than a month later, on the eve of my arrival in New York City where I was to brief the United Nations Security Council on the same issue, Vlastimir Đorđević was arrested in Montenegro. Neither of these arrest operations would have been possible without direct involvement and assistance of the Serbian authorities.

In my report to the Security Council this summer, I stated that Serbia's cooperation with my Office was generally satisfactory. Indeed, in addition to the arrests, new government structures were established to facilitate cooperation with the Tribunal and the Serbian Government expressed its clear commitment to cooperate fully with the Tribunal. At that time, an arrangement was reached between my Office and the Serbian authorities that we would closely follow progress on the search for fugitives. My staff did this for almost three months. No concrete results were achieved during that time. We assessed that, although there had been some activity in the efforts to locate fugitives and identify networks protecting them, these actions were slow, irresolute and unsystematic.

This is why, during my visit in September, it was agreed that my Office would take a more active part in these activities. The work of the civilian and military intelligence services is becoming more efficient and more focused. However, coordination between the two needs to improve. In addition, although they have the necessary resources the police remain insufficiently involved in this process.

As a result of my most recent visit to Belgrade, the Serbian authorities had pledged to take certain measures to improve their cooperation with the Tribunal. One of these measures was to launch a nation-wide campaign to reward those that provide information leading to the location or arrest of the Tribunal's fugitives. As I mentioned earlier, I was pleased to learn last Thursday that the National Security Council had decided to launch

such campaign, which, in my view, sends a very strong signal. The Serbian authorities had also pledged to pass a law which would expand the role of the War Crimes Prosecutor to include jurisdiction over those who aid and abet war crimes fugitives. This law has not yet been adopted. Finally, the authorities have pledged to propose legislation that would freeze assets of those supporting fugitives. We are still waiting for that law to be passed as well. I believe that these initiatives could greatly assist in the search for fugitives and should be implemented immediately.

In conclusion, please permit me to be very frank as has always been my custom: I confirm that the situation today is better than it was a year ago. However, cooperation is still too slow and not yet sufficient. The fact that Ratko Mladić is still at large after all the promises and declarations that have been made over the years clearly demonstrates that fact. I am absolutely convinced that Serbia's Government possesses the resources and the means to locate and arrest the fugitives. Translating this ability into tangible results remains the principal obstacle. Therefore, I cannot give a positive assessment of full cooperation until Ratko Mladić is arrested and transferred to The Hague.

I will return to Belgrade on 25 and 26 October to assess the progress of cooperation. I will return to Belgrade once again prior to my briefing to the Security Council in December to do the same. I am prepared to brief the Council and Commissioner Rehn and provide an assessment after these visits.

In the meantime, my team will remain actively involved in activities on the ground. I therefore demand that the Serbian authorities increase the intensity of the search operations and improve coordination of their services in the coming weeks.

Let me once more stress the importance of the international community's support to the Tribunal and my Office. The European Union's policy of pre-accession and accession conditionality has thus far proven to be the sole successful tool in the recent past in stimulating States to fully cooperate with the Tribunal and obtaining the arrest of fugitives. It is, therefore, my sincere hope that we will be able to further rely on the Union's institutions and its member States' steady support, which, today, remains as important as ever.

Thank you.

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