



United Nations
Nations Unies



International
Criminal Tribunal
for the former
Yugoslavia

Tribunal Pénal
International pour
l'ex-Yougoslavie

STATEMENT

(Exclusively for the use of the media. Not an official document)

PRESIDENT

The Hague, 8 October 2009

Address of Judge Patrick Robinson, President of the International
Criminal Tribunal for the Former Yugoslavia,
to the United Nations General Assembly

Your Excellencies,

President,

It is an honour to appear before you today in my capacity as President of the United Nations International Criminal Tribunal for the former Yugoslavia and to present to the General Assembly the Tribunal's sixteenth Annual Report.

I am proud to speak in this distinguished forum on behalf of an institution that has had an unprecedented impact upon the development of international humanitarian law, international criminal law, and international criminal procedure. During the nearly sixteen years of its operation, the Tribunal has shown that international justice works, and it has led the way in putting an end to the culture of impunity. The Tribunal's achievements would not have been possible without the support of the members of this Assembly, and I would like to take this opportunity to convey my gratitude to you for the support you have given to the Tribunal, support that remains essential to the completion of our work.

The Tribunal's commitment to its completion strategy remains steadfast, and all our efforts are aimed at finishing the Tribunal's work as quickly as possible in accordance with our mandate. During the reporting period, three appeal judgements were rendered, bringing to 86 the number of appeal cases fully completed. Additionally, three trial judgements were rendered, bringing to 50 the number of trials that have been heard. At our peak, we ran eight trials simultaneously in three courtrooms, taking advantage of gaps in trial schedules. In this regard, I must award a special commendation to the indefatigable efforts of the newly-appointed Registrar and the staff of the Registry for the competent support they provide to the Chambers of the Tribunal and to the Office of the Prosecutor. Without translation and interpretation both in and out of court, without the support to victims and witnesses, without the technical assistance and the endless number of other services that are quietly and consistently delivered by the Registry, the Tribunal would immediately cease to function.

Currently, only two cases remain at the pre-trial stage, and these will commence this year. Our current estimates are that all but four of our trials will conclude in 2010, with three finishing in early 2011, and the final trial, that of Radovan Karadžić, ending in early 2012. Unfortunately, two fugitives still remain at large, Ratko Mladić and Goran Hadžić. If they are not brought to justice, it will leave a stain on the historic contribution of the United Nations to peace-building in the former Yugoslavia. I urge Member States to do all within their power to ensure the apprehension of these fugitives as a matter of urgency.

Internet address: <http://www.icty.org>

Media Office/Communications Service

Churchillplein 1, 2517 JW The Hague. P.O. Box 13888, 2501 EW The Hague. Netherlands

Tel.: +31-70-512-8752; 512-5343; 512-5356 Fax: +31-70-512-5355

During my presidency, I have taken measures towards ensuring the orderly completion of our work. A comprehensive assessment of all present and anticipated appellate work has been carried out, and mid-2013 has been identified as the completion date of our proceedings. At the same time, the Tribunal is continually looking for new and creative ways to increase the productivity of our work. While it is impossible to foresee all causes of delay in a judicial environment, responsible management dictates that potential obstacles be identified, controlled, and ultimately dispelled.

One specific factor of critical concern to the Tribunal is the retention of the Tribunal's highly qualified staff. This I wish to stress because it is a factor which is not entirely within the Tribunal's control. The importance of retaining the staff necessary for completing the Tribunal's work, while simultaneously downsizing those whose tasks have been discharged, places the Tribunal in an extraordinarily difficult position. Upholding the morale of an institution during the final stages of its lifespan is a great challenge, and many staff will be tempted to seek more permanent employment elsewhere, long before their posts in the Tribunal are abolished. This is a great risk to the productivity of our work. In fact many have already left and currently we are losing staff at a rate of one per day. If that rate of attrition continues, by the end of the year we would have lost 30% of our staff.

In this regard, I am extremely grateful to the General Assembly for its adoption of resolution A/RES/63/256, which recognises this difficulty and allows the Tribunal to offer contracts to staff, in line with the dates of planned post reductions and in accordance with trial schedules.

However, while this measure is a beneficial one, it is not enough. Highly qualified and professional staff essential for the completion of the Tribunal's work, continue to depart at alarming rates. When a staff member who has served at the Tribunal for a number of years decides to leave, the problem which arises involves more than just filling a vacant post—a process that incidentally consumes precious Tribunal resources in and of itself. Our jurisdiction is a very specialised one, requiring a high level of expertise and hands-on experience. Even a very knowledgeable and experienced professional person needs time to obtain the skills needed to successfully function at the Tribunal. The flow of essential staff away from the Tribunal needs to be stemmed now. Failure to take swift action in this regard will extend the amount of time needed for the completion of the Tribunal's mandate because of its impact on the efficiency of our work.

The Tribunal has long been active in bringing this matter to the attention of Member States of the United Nations, but other than General Assembly resolution A/RES/63/256, no further supportive action has been taken. I am aware that significant changes to the contractual regime in the United Nations are on your fall agenda that could be of great assistance to our efforts to retain staff. In particular, the Continuing Appointments will offer some of the stability that we sorely need. The end of service grant is another initiative that could help us to slow our attrition rate and ensure that we are able to complete our mandate as expeditiously as possible. I also urge you to assist the Tribunal in devising other measures to retain its highly qualified staff.

Another matter I wish to bring to your attention is the work the Tribunal is carrying out to ensure that it fulfils its mandate of contributing to the maintenance of peace and security in the former Yugoslavia and to ensure that local jurisdictions have the capacity to continue with the prosecution of war crimes cases in accordance with Security Council resolutions 1503 and 1534. While working full speed on its trial and appeals, the Tribunal has enlisted the expertise of other international organisations and engaged in a series of capacity building initiatives. I am happy to report to you that the projects brought to your attention last year by my predecessor have now been concluded, resulting in the publication of a manual that describes the practices of the Tribunal in unprecedented

detail, as well as a comprehensive assessment of capacity building efforts in domestic jurisdictions throughout the former Yugoslavia. On the basis of this assessment, the Tribunal is deepening its cooperation with UNICRI and the OSCE Office for Democratic Institutions. And, together with them, we are preparing an ambitious project to guarantee that the national justice systems in the region have the capacity to deal with their growing war crimes caseload, as the Tribunal heads towards the completion of its core activities. Generous funding from the European Commission is expected for this timely undertaking. The Prosecutor's Office has also been active in its capacity building efforts, forging strong partnerships with its counterparts in the region. Toward this end, the Prosecutor—again, with funding from the European Commission—has established a visiting professionals program, where prosecutors from the region work with the Office of the Prosecutor on cases at the Tribunal in The Hague.

There is another matter, which I feel obliged to bring to your attention. It is a matter which I strongly believe must be addressed if there is to be lasting peace and reconciliation in the region - namely, compensation to victims for the atrocities they suffered during the conflicts in the former Yugoslavia. As President of the Tribunal, I have met on a number of occasions with victims groups who have expressed their anguish at the failure of the International Community to provide any kind of compensation for their suffering. In many respects, these victims feel that they have been forgotten by the international community and that their rights have been disregarded. With respect to their right to compensation, I must agree that the international community has forgotten them. Currently, there is no effective mechanism by which victims can seek compensation for their injuries, despite the fact that their right to such compensation is firmly rooted in international law. I need only refer to this Assembly's 1985 Declaration of Basic Principles for Victims of Crime and Abuse of Power, but reference can also be made to the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law, which was adopted by the Commission on Human Rights in April 2000. The Statute of the International Criminal Court provision addressing victim compensation contrasts sharply with the absence of comparable provisions in our Statute. These instruments were established by the international community because justice is not only about punishing perpetrators but also about restoring dignity to victims by ensuring that they have concrete means to rebuild their lives. The Declaration itself identifies sources of compensation, including the offender, or national funds, but in circumstances where the State is unable to compensate the victim, it proposes that other funds be established for this purpose. This was a matter that then President Jorda brought to the attention of the Security Council in November 2000, recommending "to the Council and to the Secretary-General that methods of compensating victims of crimes in the former Yugoslavia, notably a claims commission, be considered by the appropriate organs of the General Assembly." But to date, nothing has been done, and I fear that failure by the international community to address the needs of victims of the conflicts that occurred in the former Yugoslavia will undermine the Tribunal's efforts to contribute to long-term peace and stability in the region. It is for this reason that I implore you to support the establishment of a claims commission as a method of complementing the Tribunal's work by compensating victims of crimes in the former Yugoslavia.

In closing, I would like to reflect once again upon the tremendous achievements of the Tribunal. Its establishment in 1993 ushered in a new era in international affairs and led to the establishment of other international criminal justice institutions. In that regard, the impact of the Tribunal on the development of international justice has been profound. I would urge the General Assembly to ensure that this work is not unnecessarily tarnished by the continuing flight from justice of the remaining two fugitives.

I would also like to re-emphasise that the Tribunal is doing all it can to complete its work expeditiously and fairly, while upholding the highest international standards of a

United Nations international court. But if the Tribunal is to meet its current target dates, it needs the help of Member States in ensuring that the orderly completion of its work is not hampered by the departure of its highly qualified and still very necessary staff.

Together, we strive towards the same objective: fighting impunity and bringing justice to victims of gross violations of international law. As the Tribunal completes its mandate, the torch will be passed to the judges, prosecutors, and defence counsel in the former Yugoslavia to continue this ambitious endeavour.

His Excellency, Mr. Ban Ki-moon, during his remarks commemorating the tenth anniversary of the adoption of the Rome Statute of the International Criminal Court, stated,

QUOTE “The [ICC’s] fight against impunity started in earnest with the establishment of the International Criminal Tribunals for the former Yugoslavia and for Rwanda. These courts pioneered the emergence of international criminal justice and the enforcement of international humanitarian law.” END QUOTE

It is our hope that the entrenchment of justice and the rule of law will lead to lasting peace and prosperity in the former Yugoslavia, a peace and prosperity that is so justly deserved.

I therefore call upon all Member States of the General Assembly

- to assist us in our commitment to complete the work of the Tribunal in a successful and rational manner;
- and to provide support to national institutions in the former Yugoslavia, which will carry on our mission to fight impunity—a mission that we all share.

I thank you for your kind attention here today.