

Address of Mr. Serge Brammertz

**Prosecutor, International Criminal Tribunal for the Former Yugoslavia to the
United Nations Security Council**

6 December 2010

Madam President, Excellencies

Once again, it is my duty and pleasure to address you on the Office of the Prosecutor's progress towards the completion of the Tribunal's mandate, namely to establish accountability for the serious crimes committed during the conflict in the former Yugoslavia.

We have our eyes firmly fixed on the completion of our activities. Our challenge is to finalise our work expeditiously while at the same time preserving the integrity of our proceedings and the overall interests of justice. Everyone present today has a common interest in striking the right balance between these two important objectives.

I am conscious of the fact that the original deadline for completion of the Tribunal's work –the end of 2010 – will pass us by while we are still occupied with multiple trials and appeals. As we have explained in our Completion Strategy Reports over the years, culminating in our present Report, there are many reasons for this. International criminal justice is a complex and unpredictable endeavor. Nevertheless, I take responsibility for the delays that can be attributed to the Office of the Prosecutor. We assure you that we are continuously reflecting on our performance and devising strategies to further improve the efficiency of our work. We understand that the international community has finite resources and many competing priorities. We reiterate our commitment to ensuring that the international community's investment in justice and accountability in the former Yugoslavia pays maximum dividends within an acceptable timeframe.

In my remarks today, I will emphasise our Office's top four current priorities.

First, we are focused on the successful and efficient completion of our trials and appeals. You have a large volume of information on the progress of the Tribunal's cases before you in the reports submitted by the President and by our Office. We are moving ahead and several milestones were reached in the current reporting period: two trials and one appeal case were concluded; two other trials reached their final stage and are scheduled for completion early next year; and the Prosecution concluded the presentation of its evidence in two further trials. Another case, *Haradinaj et al*, has been remitted for a partial retrial. The Appeals Chamber's condemnation of the witness intimidation permeating the first *Haradinaj et al*. trial is an important step forward for international criminal justice. To cope with this extra work, we have had to stretch thinner the existing resources in our Office and use them in a more flexible way.

Our Office is working at maximum capacity. The increasingly frequent rates of staff departures, particularly in the critical final phase of our cases, means that we must ask more and more of those who remain. The dedication of staff in our Office is notable and through their efforts we have been able to proceed with our cases as required. Our loyal staff members deserve recognition.

Mr. President, Excellencies

The **second** priority I want to mention today is securing the co-operation of states to facilitate the successful completion of the Tribunal's mandate. In particular, the cooperation of states in the region of the former Yugoslavia is critical in all aspects of our work.

When it comes to Serbia, co-operation in our ongoing cases is proceeding well. Serbia is facilitating our requests for access to documents and archives and witness related issues are being handled satisfactorily.

However, Serbia's failure to capture the two remaining fugitives – Ratko Mladić and Goran Hadžić – is one of our foremost concerns. Serbia must bridge the gap between its stated commitment to the arrests and the effectiveness of its operations on the ground. Time is passing and we are not seeing results. In our last Completion Strategy Report, we made a number of recommendations aimed at improving the effectiveness of Serbia's efforts to capture the fugitives. In my trip to Serbia this past November, I

saw that the authorities are working on the implementation of our recommendations. But there is still much left to be done and the progress must be faster.

Overall, Serbia needs to adopt a more pro-active approach to arresting the fugitives. At the heart of this more pro-active approach should be a comprehensive strategy that integrates all relevant actors and covers all possible angles for exerting positive pressure towards the arrests. For example, in addition to the search activities, there must be a rigorous approach to dealing with individuals or networks that support the fugitives in their efforts to evade justice. The Serbian authorities must clearly signal that those who harbour the fugitives will be punished.

Serbia holds the key to arresting Ratko Mladić and Goran Hadžić. These fugitives can be brought to justice if all relevant actors are sufficiently committed and effectively work together to bring it about.

When it comes to Croatia, the authorities are generally responsive to our requests for assistance. The key outstanding issue remains our request for important military documents relating to Operation Storm. The Task Force established by the Government to locate or account for the missing military documents has now started working on exploring new investigative avenues identified by my Office more than one year ago. However, the reports sent to our Office by the authorities reveal inconsistencies and raise questions that have not been resolved. After I submitted my written report to you, the authorities sent an additional report to our Office identifying a number of the problematic areas. We encourage Croatia to address these problems and to account for the missing documents.

When it comes to Bosnia and Herzegovina, again, we have seen satisfactory responses to our requests for assistance. However, we ask that the authorities redouble their efforts against fugitive networks. The fact that convicted war criminal Radovan Stanković remains at large more than three years after he escaped from prison in Foča is a serious concern. We ask that all possible steps are taken to return Stanković to custody and to sanction those who facilitated his escape.

We continue to support the full implementation of the Bosnia and Herzegovina National War Crimes Strategy. While an important development, we encourage courts

dealing with war crimes cases at all levels of the judicial system in Bosnia and Herzegovina to further improve their working relationships.

Coordinated strategies for war crimes prosecutions are also important between the states of the former Yugoslavia. Currently, barriers to extraditing suspects and transferring evidence across state borders are impeding efforts to establish accountability for war crimes throughout the region. Solutions must be found for these problems as a matter of urgency.

This brings me to our **third** priority, namely building the capacity of our counter-parts in the region of the former Yugoslavia to establish accountability for the crimes committed during the conflict. We want to be sure that, by the time the Tribunal closes its doors, we have done everything possible to transfer information and expertise to courts in the region of the former Yugoslavia so that they can successfully manage the large number of remaining war crimes cases. A key component of our efforts in this regard is our European Union funded “liaison prosecutors” programme, whereby three prosecutors from the region (one from Bosnia and Herzegovina, one from Croatia and one from Serbia) work as “liaison prosecutors” in our Office in The Hague. The “liaison prosecutors” are integrated with our staff and have a unique opportunity to consult with in-house experts and to access Tribunal databases for the purposes of their local war crimes investigations and prosecutions.

The **fourth** and final priority I want to mention today is our commitment to downsizing our Office and ensuring a smooth and effective transition to the proposed residual mechanism. During the reporting period, our Office abolished 30 professional posts and 12 general service posts. This reduction of posts is part of a process that will continue and gather further momentum in the next reporting period as more trials end. At the same time our Office continues to engage in, and contribute to, discussions on the establishment of a residual mechanism to take over the outstanding aspects of our work when we close our doors. Designing an appropriate mechanism is a complex exercise and we are making every effort to ensure that the Working Group established by this Council carrying out this task have our support and the benefit of our experience.

Madam President, Excellencies

In concluding, I return to the theme I began with: namely our common interest in striking the right balance between the expeditious completion of our activities and the integrity of our work. We are unquestionably focused on the end of our activities but, at the same time, we need the international community's support more than ever. We need your commitment to ensuring that we have the resources necessary to complete our mandate. After 17 years of ground-breaking work and important accomplishments, we must not falter at the final hurdle.

And crucially, we need your help in securing the arrest of the two remaining fugitives: Ratko Mladić and Goran Hadžić. We have an obligation to ensure that these two individuals face the charges brought against them. We cannot abandon the victims of some of the worst crimes committed in the former Yugoslavia – including the genocide in Srebrenica – and leave them without full redress. More generally, the failure to arrest Mladić and Hadžić impedes reconciliation in the region and damages the credibility of the international legal system as a whole.

While the key to the arrests lies in Serbia, the international community also has an important role to play. With your assistance, and the effective implementation of conditionality policies, positive incentives can be given to Serbia to precipitate the arrests. With the concerted effort of all relevant actors, we can prevail over the fugitives and their support networks.

