

**Remarks by Chief Prosecutor Serge Brammertz
United Nations International Criminal Tribunal for the former Yugoslavia**

**“The International Tribunal and Beyond:
Pursuing Justice for Atrocities in the Western Balkans”**

**Joint briefing of the Tom Lantos Human Rights Commission
and the Commission on Security and Cooperation in Europe**

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Honorable Chairpersons, Members of Congress, Ladies and Gentlemen,

I am grateful for the opportunity to brief you today on the work of the International Criminal Tribunal for the former Yugoslavia, or “ICTY”, and the future of justice for atrocity crimes in the Western Balkans.

Just a few weeks ago, the ICTY completed its mandate with the delivery of its final judgments. For twenty-four years, the Office of the Prosecutor, which I have had the honor to lead in its final phase, fought to bring to justice those most responsible for the horrific atrocities committed during the conflicts in Bosnia and Herzegovina, Croatia and Kosovo.

As I reported to the United Nations Security Council last week, I believe we achieved credible results in our mandate. We indicted 161 individuals for genocide, crimes against humanity and/or war crimes. The Tribunal completed its proceedings against 109 of these individuals, with 90 convictions and 19 acquittals. Another 13 individuals were referred to national courts in the former Yugoslavia for prosecution.

We are also the only international criminal tribunal that has accounted for all fugitives, including men like Radovan Karadžić and Ratko Mladić who for many years were among the world’s most wanted men.

But numbers alone do not tell the story of the ICTY.

All of us remember the atrocities and devastation in the Western Balkans that shocked humanity’s conscience. The widespread and systematic ethnic cleansing campaigns in first Croatia, then Bosnia and Herzegovina and later Kosovo that victimized so many. The campaign of terror against the civilian population of Sarajevo. And in July 1995, the Srebrenica genocide, during which more than 7,000 Bosnian Muslim men and boys were exterminated while 30,000 women, children and elderly were terrorized and forcibly displaced from their homes.

Impossible as it was to imagine twenty-four years ago, and despite what seemed at times almost insurmountable odds, I can inform you today that many of the most senior leaders who planned and implemented these crimes have been brought to justice and punished for the immense suffering they caused.

Equally, the truth of what happened has been proved in a public court of law. That men in positions of great authority used propaganda and lies to incite fear, division and hate. That these leaders then abused their power to commit horrific atrocities in order to achieve their political and military aims.

In large measure, then, the ICTY has achieved what it set out to do. In accordance with universally-recognized principles of law, we independently and impartially investigated the crimes, prosecuted senior leaders from all parties to the conflicts and held them individually responsible for their crimes against the victims and indeed all of humanity.

Reflecting on our work for the last two decades, I would like to offer three points.

First, what we concluded in the courtroom began in the halls of government, particularly here in Washington, D.C. and European capitals. The United States, together with European partners, mobilized and led the international community in support of justice and accountability for the former Yugoslavia. This resulted in the establishment of the ICTY, and its sister tribunal for Rwanda, by a unanimous Security Council.

At the same time, you correctly recognized that continued diplomatic and political support was needed if we were to achieve our mandate. The greatest challenge my Office faced was obtaining the cooperation of the States of the former Yugoslavia, particularly in access to evidence and the arrest of fugitives. For many years, the governments of Bosnia and Herzegovina, Croatia and particularly Serbia refused to provide cooperation, hindering our investigations and delaying our trials.

Yet with bi-partisan commitment across multiple administrations, the United States government's support was decisive to achieving justice. To take the most dramatic example, the 106th Congress in coordination with the George W. Bush Administration successfully secured the arrest of Slobodan Milosevic. By conditioning foreign aid on full cooperation with the ICTY, Congress ensured that authorities in Belgrade adhered to their international legal obligations by arresting Milosevic and transferring him to the Tribunal's custody.

This conditionality policy was then continued by the European Union. Linking progress in the EU accession process and Euro-Atlantic integration to cooperation with my Office, conditionality policies resulted in the arrest of all remaining fugitives, most notably Radovan Karadžić and Ratko Mladić.

The lesson is clear: if there is a clear political agenda in support of justice, and if the international community speaks with one voice, those most responsible for atrocity crimes can be held accountable.

Second, even after it closes the ICTY's legacy can support further efforts to achieve justice for atrocity crimes. The ICTY's establishment led to the creation of international tribunals for crimes committed in Rwanda, Sierra Leone, Cambodia and elsewhere. Today and in the future, the ICTY will continue to be a symbol of justice to other victims and survivors, such as the Yazidi and religious communities who have suffered from Daesh's horrific crimes.

But the ICTY is not just a symbol. We greatly developed the law and practices needed to bring war criminals to justice. Our work prosecuting conflict-related sexual violence is notable in this respect. My Office spent more than four years reviewing and documenting our lessons learned from prosecuting rape, sexual enslavement, torture and other crimes of sexual violence in more than 50 cases. We identified what worked, what didn't and the key recommendations we can offer to other investigators, prosecutors and judges. These lessons have now been published in a book that focuses on improving capacities in other justice institutions. We also prepared a training program that we are offering to national prosecutors in Africa, the Western Balkans and elsewhere in the world.

This leads me to my third point and what may be my Office's under-appreciated legacy, our support to national prosecutors and judges in the countries of the former Yugoslavia. As the Chief Prosecutor of the ICTY, I have been intimately involved in the sustained cooperation and coordination between my Office and prosecutors throughout the former Yugoslavia in support of national investigations and prosecutions of atrocity crimes. This cooperation included numerous capacity building activities and close cooperation on concrete cases. Looking at the ICTY's experiences, we can see clearly how international justice can help reestablish the rule of law in countries devastated by conflict.

This has been an important lesson. To have more impact, there should be an integrated, global solution to justice for atrocities crimes. If international tribunals focus on those most responsible for the crimes, there will need to be national courts to bring other perpetrators to justice in order to avoid significant impunity gaps. As the ICTY has shown, if international and national justice mechanisms work together, meaningful justice can be achieved. In the future, collaboration and intense cooperation between the international and national should be the rule, not the exception.

By way of conclusion, I would like to look to the future.

The ICTY is closing not because full justice has been achieved for crimes committed during the conflicts, but because the Security Council decided to transition responsibilities from the ICTY to national judiciaries in the former Yugoslavia. The truth is that much more remains to be done, and many victims from all communities are still waiting for justice. Thousands of cases remain to be processed, particularly hundreds of complex cases against senior- and mid-level suspects.

So the completion of the Tribunal's mandate is not the end of war crimes justice, but the beginning of the next chapter. Further accountability for the crimes now depends fully on national judiciaries in the former Yugoslavia.

It is clear that for this strategy to succeed, our national colleagues will need as much – if not more – support as the ICTY and my Office received. As my Office has reported over the last few years, accountability for atrocity crimes in the national courts of the former Yugoslavia faces many challenges, with negative trends often overshadowing the positive.

At the same time, it is also clear that reconciliation has not yet been achieved in the Western Balkans. As reactions over the last two weeks have reminded us, the crimes have left wounds that still have not healed. Convicted war criminals continue to be seen by many as heroes, while

victims and survivors are ignored and dismissed. Difficult facts continue to be denied and rejected.

So the question is why reconciliation remains a significant challenge today. Unfortunately, there is still no true will within the region to accept the immense wrongdoings of the past and move forward, most of all among the political leadership.

This is not just an issue of the past, but a risk to peace and security in the Western Balkans today. When irresponsible officials use fear and division to secure power, conflict and atrocities can gain a logic of their own. That was true two decades ago, and it remains true now. With the closure of the ICTY, it is more important than ever to address this challenge.

So ultimately, I believe that the ICTY's legacy is not simply measured by our own work, but by whether the countries of the former Yugoslavia build the rule of law, demonstrate they can secure meaningful justice for the victims, and show the courage to accept the facts and pursue meaningful reconciliation.

Following the ICTY's closure, I will continue to serve as the Chief Prosecutor of the Mechanism for International Criminal Tribunals. My Office is committed to continuing and strengthening our assistance to our national colleagues. At the same time, the region's partners, like the United States and European Union, can also strengthen their engagement, and ensure that national war crimes justice is at the top of the diplomatic agenda.

If we speak with one voice, and provide our full support, more victims from all communities will receive a greater measure of justice, and hopefully the countries of the former Yugoslavia can achieve real reconciliation.

Thank you for your attention.