

ICTY And PIC: 'Non-Co-Operation Looms Larger Than Ever'

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Having already contacted the United Nations Security Council verbally and in writing five times in the last three months; submitted a report and personally addressed the General Assembly; and having written to the heads of states and governments of the countries participating in the Peace Implementation Council (PIC) - whose job is to supervise the implementation of Dayton Agreement -, President McDonald last week addressed the Ministerial Conference of the PIC in Madrid with an impassioned speech.

"As we close the third year of peace implementation" President McDonald told Foreign Ministers of some fifty states members of the PIC - "the problem of non-co-operation looms larger than ever. In particular, the authorities of the Republika Srpska and the Government of the Federal Republic of Yugoslavia persist in refusing to arrest and transfer indictees on their territory to the Tribunal, while the latter also refuses to allow the Prosecutor to enter Kosovo to conduct investigations. Although SFOR continues to assist the Tribunal with respect to the Republika Srpska, the Prosecutor believes that more than 25 indicted individuals remain at liberty there. I urge the PIC, member states and organisations to continue in your efforts to ensure that they are unable to enjoy impunity, and the Republika Srpska is unable to flout your will, any longer."

"I wish to be very clear:" - McDonald concluded - "the Government of the FRY is blatantly violating international law. It is violating its obligations under numerous Security Council resolutions and the Dayton Agreement. Its conduct and statements are an affront to the Security Council that established the Tribunal, and to this Council that is charged with overseeing the implementation of the Dayton Agreement. I urge you: end this obstruction now. Failure to do so will imperil all of the Tribunal's work to date. One state must not be allowed to dictate the agenda of the international community. One state must not be allowed to impede the work of the Tribunal, the first practical measure in the last half century to create a world in which human rights, to equality and to justice, are more than words on paper."

Prosecutor Arbour, who accompanied Tribunal's President McDonald at the PIC conference, took an opportunity to lecture Russian Foreign Minister, Igor Ivanov, on international law in response to a spate of Russian objections and protests against the so-called "sealed indictments."

Taking part in the debate at the conference, Minister Ivanov expressed "serious concern over arrests affected on the basis of the "sealed" indictments," which, he contended, were not based on the Statute and Rules of Procedure and Evidence. This way, Ivanov said, the "willing states" are prevented from co-operating with the Tribunal fully, and even the indictees are thus stripped of their right to surrender themselves.

As far as the "legality" question is concerned, Prosecutor Arbour replied to Minister Ivanov, it is a legal, rather than political question. Consequently, it could be "challenged only through the courts, ... and should not be subject of political debate."

As to the second charge, Arbour said that local governments in Republika Srpska and FRY "had had plenty of opportunity to show their willingness", with some 25 public indictments and warrants of arrest still outstanding in Republika Srpska and three in the FRY.

Upon their return from Madrid, Arbour told the journalists assembled at the Tribunal that she finds "puzzling" the criticism of a very effective method of arrest while at the same time not proposing any other method of apprehension of indictees. Russia's criticism, according to Arbour, is not only "very aggressive", but also inconsistent with its "professed support" for trying war criminals indicted by the Tribunal. Arbour

added that whereas she had urged Minister Ivanov to utilise Russia's influence over Republika Srpska and FRY to make them cooperate with the Tribunal, she had received no assurances from the minister.

Tribunal was given a prominent place in conclusions of the Madrid conference of the PIC. The fact that 26 indictees are currently in the Tribunal's custody, it has been noted, "has strengthened the peace implementation process." The Council "remains convinced" - the statement continues - "that all indictees, including Radovan Karadzic and Ratko Mladic, must be brought before the ICTY, and calls upon the authorities of BiH and all relevant countries to co-operate fully with the ICTY to insure this obligation is met."

Whereas it abstained from pointing directly at the FRY, the PIC "call[ed] upon all states concerned to abide by the relevant terms of UNSC Resolution 1207 and to cooperate with the ICTY as set out therein."

All states concerned are, in this case, FRY and FRY alone, since Resolution 1207 addresses only the Belgrade authorities, demanding from them "the immediate and unconditional execution" of the arrest warrants against three officers of former Yugoslav People's Army (JNA) - the "Vukovar Three" - who were indicted for the Vukovar massacre, and full co-operation with the Kosovo investigation.

Location: Stavropol
Russia
North Ossetia
Kosovo

Focus: International Criminal Tribunal for the former
Yugoslavia

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