

JUAN YANEZ-BARNUEVO: Juan Antonio Yanez. I first have to apologise for taking the floor again, but I've been encouraged by the fact that two other parities have done the same. I will be very brief.

We are being asked now of how to ensure efficient investigations with locals, and how to focus the investigations. Being no investigator and having no criminal practice whatsoever, I'm ill-placed to answer those questions.

But I want to take a step back and speak about the relationship between these items and an earlier item this morning, analysing and responding to communications, because investigation in the Statute has precise meaning and marks probably the most important decision that the Prosecutor has to make, as you say; to pass from preliminary analysis or examination or assessment of the information that he gets from various sources and takes a step to ask authorisation from the Pre-Trial Chamber for starting a formal investigation.

Now, I think it is there that the fateful decision is made, and how it is made will make clear whether the investigations will be efficient with reasonable cost and will focused or not. And here I would like to turn to what David Scheffer said this morning, and I would concur with him.

The Statute clearly says that whenever the Security Council or State Party triggers the jurisdiction of the Court, it's on the basis of referring a situation, a whole situation, to the Court, to the Prosecutor in the first place. It doesn't say exactly the same thing when the Prosecutor acts proprio motu. But I, like David Scheffer, would also encourage the Prosecutor to think in terms of a whole situation.

Now, what is a situation? Probably we would not agree among ourselves right now what is a situation, but it's all important from the beginning to have a certain policy regarding that. If we compare with

the ad hoc international tribunals, they have that made up for them already in the Statute, in each Statute. For the Rwanda tribunal, it is very clear. The situation is all the events occurring in Rwanda in the year 1994. In the case of the Yugoslavian tribunal, it may be arguable. It is an all-encompassing situation, or three or four separate situations; the crisis in Croatia, the crisis in Bosnia, the crisis in Kosovo, maybe also the crisis in Macedonia.

Now, at any rate we may have a certain idea of what a situation is because of the number, gravity, et cetera, of crimes being committed in a crisis. It is certainly the case, as you say in the policy paper, page 7, that one situation will normally require the investigation of several cases. I think this is key, to separate or differentiate between an overall situation and a number of cases involving one or several individuals involved in a given crime or series of crimes.

Now, I have just one minute, only to say that although there at least the distinction is made, in other places in the policy paper, and also in the draft Regulations, I think there is a certain confusion between the situation and cases, and I think this is a basic and most important area to think very closely and very clearly about in the months to come, as the process of consultation continues.

Thank you very much.