

VLADIMIR TOCHILOVSKY: First, like most others, I would like to say that I will speak in my personal capacity and not on behalf of the Office of the Prosecutor of the ICTY, where I work.

Given the limited investigative resources and the broad scope of investigations, the Office of the Prosecutor may not be able to investigate each and every crime and each and every perpetrator. Investigations will have to be focused, streamlined and trial-orientated. The OTP may have to focus mostly on perpetrators in leadership positions and suspects related to crimes of a particular gravity.

As it is envisaged in the draft policy paper, material from ICC investigations related to other potential perpetrators can be made available for domestic prosecutions. The suspects will be mostly those superiors who did not physically perpetrate murders and rapes personally. In leadership cases, the crime-base evidence will mostly consist of so-called partum evidence rather than evidence related to each and every individual incident and individual criminal actor. In most cases the massive scale of the crimes will prevent the Prosecutor from identifying many of those who killed and those who raped. Quite often it will be sufficient to identify them as a group in leadership cases.

It is true that investigation against perpetrators in a leadership position involves comprehensive analysis and piecing together the evidence linking those perpetrators to those atrocities. However, one still has to prove that crimes were committed; one still has to collect crime-base partum evidence. This will involve field investigations, interviews of witnesses/suspects, examination of crime scenes, and so on.

Investigation in international jurisdiction is not only white-collar type of investigation. Neither is it only investigation of regular offences such as murder and rapes. It is a combination of both,

and such combination will require a blend of relevant investigative skills and experiences. There will be a need in both type of investigators; those with experience in investigations of offenses such as murder and rape and those who have experience in investigating white-collar-type cases. There will be a need of investigators who can do routine work in the office, sitting at a desk, rather than in the field, reading and analysing documents, and there will be a need in those who have experience in interviewing officials, including high-ranking ones.

According to the draft policy paper, the prosecutors with extensive trial experience will be involved in investigations from the very beginning. Such prosecutor's role in the investigation will ensure and shall ensure that the investigation is trial-orientated, that the possible defences are anticipated and addressed at the very beginning of the investigation, and that evidence collected is relevant and admissible.

Actually, it is not unusual that the Prosecutor is actively involved in investigations. Such an active Prosecutor's role in investigations is envisaged in the UN guidelines on the role of the Prosecutor.

It is assumed, finally, in the policy paper that this same senior prosecutor who supervised the investigation will then present the case which he or she supervised before the judges.

There are risks when the attorneys who were involved in investigation then prosecute the case. For that reason, in some domestic jurisdictions only the most experienced prosecutors are permitted to direct the investigation.

Thank you for your attention.