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Plenary Session on Cooperation

Reflections on 25 Years of Cooperation

Segment II: Technical Intervention on Arrests (Overview and Outlook)

The issue of arresting fugitives remains a complex one, subject to the conjunction or combination of two elements: the Court's own available resources and the political support it enjoys.

This is clear both from the 2014 Arrest Strategies Report and from the Review of the International Criminal Court and the Rome Statute System.

Through the combination of these two elements, a number of successful arrests have been made which could be classified into 3 categories.

- The transfer to the Court of suspects detained by the competent national authorities. This category includes the largest number of arrests (Thomas Lubanga, Germain Katanga, Mathieu Ngudjolo Chui, Laurent Gbagbo, Blé Goudé, Al Mahdi, Al Hassan, Alfred Yekatom, Said, Mekom).
- Voluntary Surrenders: These include Jean Bosco Ntaganda, Ongwen and Abd-Al-Rahman, who surrendered to the authorities who facilitated their subsequent transfer to the Court, although for Ongwen and Ali Muhammad Ali Abd-Al-Rahman this was also the result of efforts to locate, track, establish contacts and mobilise partners and networks. The case of Ntaganda is also part of these efforts, but he took the decision to surrender without any prior contact with the Court in this respect.
- Arrests following a successful strategy:
 - The case of Bemba: he was arrested by Belgium following an arrest warrant issued under seal on 23 May 2008 and executed by Belgium on 24 May 2008. The issuing of the arrest warrant and the subsequent arrest were the result of information that made it possible to track his movements and presence in Europe.

- ~~Compris~~ Patrice-Edouard Ngaissona: He was arrested by the French authorities on 12 December 2018 following his tracking - including through flight records, an arrest warrant was issued under seal on 07 December 2018 and lifted on 13 December 2018 - one day following his arrest. This arrest demonstrates that cooperation between port of entry authorities (customs/immigration), airlines and other national law enforcement authorities is paramount in the tracking and arrest of travelling suspects.

Well, this is all with respect to the overview of what has been achieved so far. As far as the outlook is concerned, I must make it clear from the outset that I will limit myself to giving the specific outlook from the perspective of the Office of the Prosecutor, given that my colleague from the Registry will certainly do the same for the Registry.

The analysis of the aforementioned arrests allows us to grasp the key role of cooperation, but also leads us to the bitter observation that the Court's limited involvement, and in particular that of the Office of the Prosecutor through the team tracking down suspects at large, represents a valid strategy.

There are a number of reasons for this. The monitoring and investigation unit is inadequately staffed, developed and organised within the Office.

Its current form, moreover, is not suited to its purpose and will not be able to deliver the results desired by the Prosecutor.

Since its creation, the Suspects At Large Tracking Team (SALTT) has not had sufficient resources to fully develop all the necessary activities.

This presents a strategic risk for the Office identified in its 2023 - 2025 Strategic Plan which can undermine both the confidence and impact of the Office's work.

In this context, it remains crucial for the Office to have a professional and operational monitoring capacity that is capable of fully meeting its needs. Indeed, the tracking and tracking of suspects will have to form an integral part of an overall investigative activity and cooperation strategy and, where possible, should be undertaken prior to the lodging of an application for an arrest warrant with a Pre-Trial Chamber.

To this end, there are a number of areas on which efforts need to be focused:

1. The definition of roles and responsibilities for the SALTT team, primarily between the OTP and the Registry in relation to tracking and arrest, but also internally with the Unified Teams, the External Affairs Section of the OTP and the immediate Office of the Prosecutor;
2. The establishment of processes, protocols and guidelines;
3. The establishment of a network of partners and collaborators who can be called upon to assist with identification, location and arrest strategies,
4. Adequate and sufficient staffing to implement the desired change and manage the existing and evolving workload,
5. Guarantee the operational effectiveness of the SALTT team through the adoption of an intelligence-led approach by ensuring that each case can collect, analyse, exploit and operationally benefit from intelligence from all sources in a timely manner.

The transition to the Harmony project will incorporate the latest cloud-based innovations in evidence management and artificial intelligence. In addition to the benefits it will bring to investigations, it will help the SALTT to bridge information gaps, filter and exploit all sources of information and improve operational data queries through the use of cutting-edge technologies and increased automation.

6. Greater access to key information sources by the Suspects-at-Large Tracking Team (SALTT): Open Source Intelligence (OSINT), Social Media Intelligence (SOCMINT), Human Intelligence (HUMINT), Key Location Data – imagery intelligence; geospatial intelligence; signals intelligence (IMINT, GEOINT, SIGINT), Financial Intelligence (FININT) for Tracking, and so forth.
7. Finally, develop the visibility of the position: In addition to obtaining the necessary resources, drawing up standard operating procedures and developing the necessary skills and techniques, fugitive tracking is a task that is largely invisible internally and non-existent for the general public. It is therefore recommended that the SALTT team and its role be made more visible to the wider Bureau internally and that proposals be further developed to promote the SALTT team externally.

In conclusion

Although the ultimate responsibility for the actual arrest of a suspect rests with the territorial State, the OTP in its capacity as the entity responsible for requesting the issuance of arrest warrants should be the primary driver for the identification, preparation and implementation of tracking (and arrest) strategies for the Court's suspects at large as an inherent part of its investigations.

To this end, the tracking functions should have sufficient resources, access to relevant intelligence, the ability to liaise directly at the operational level and advance notice of forthcoming warrants from the Unified Teams to ensure sufficient time to prepare intelligence-led profiles of suspects.

Thank you