

Project:

ICTY ORAL History - Documented by SENSE

An Interview with

Carla Del Ponte

SENSE Transitional Justice Center

Pula, Croatia

2022

Interviewee: Carla Del Ponte (CDP)

Interviewer: Mirko Klarin (MK)

Location: The Hague, The Netherlands

Date: 6 November 2003

MK: Ms Del Ponte, you came here in September '99. Milošević was still in power in Belgrade. What strategy did you have back then to bring him to The Hague?

CDP: When I first arrived here in September 1999, my main concern was not that Milošević was not here yet. My concern was to get to know the place where I had arrived. In fact, I had left my office in Bern as the federal Attorney General on 14 September, and on 15 September I was here as the prosecutor of the International Criminal Tribunal. My knowledge of the institution as such was minimal because before my arriving here I had no time to inform myself or study the composition of this Tribunal and its functioning. So, for the first few weeks I was getting acquainted with the institution where I was going to work for at least four years. Naturally, once I had the basic knowledge, my first concern was to improve the efficiency of the Prosecutor's office. I realized that it was already well organized, but it lacked, say, the leadership of a real prosecutor with a prosecutor's experience. My predecessors did not have this experience. They were definitely excellent lawyers, especially Louise Arbour whom I knew, of course. But as regards how to conduct investigations, and especially with a focus on efficiency, namely, how to succeed in producing an indictment that is fully ready for trial, this, naturally, needed to be set right. Now, I didn't mean to say that they weren't conducting investigations. They were, but they probably lacked the experience of a prosecutor who knows from the start, from the

moment an investigation begins, what elements are necessary to draft an indictment.

So, my first concern was to reorganize the office, which, naturally, took some time, because a reorganization was to be done by discussing with all my employees what the best solution would be. So, we spent the first months working primarily on administrative legal matters. But as soon as we were satisfied with what we could achieve, we went on to see which investigations should be given priority, which indictments should be issued.

So, to come back to Milošević, who was the most responsible for the crimes that had been committed in the former Yugoslavia, I knew that there was an indictment against Milošević for Kosovo, so my first concern was to know how things stood with Bosnia and Croatia, with his responsibility for Bosnia and Croatia. And I realized that no formal investigation had been opened in that respect, although there was an ongoing investigation activity in place so, inevitably, by conducting other investigations we also obtained elements to charge Milošević as well. Therefore, I made it a priority to specifically and formally investigate Milošević's responsibility. I must say that the team that I had set up to do this investigation did not really believe that we could actually get Milošević, but they were all motivated enough so that, for better or worse, what we were going to do could be used for the other investigations too.

MK: When did you start formulating the strategy for getting Milošević? Before he fell from power or after he fell?

CDP: Of course, the first thing we did was to go to European capitals and also to the United States, to Washington, to see what was the political and judicial assessment of Milošević's situation, because the indictment was already public at the time, to know what

were the chances, according to the assessments of the international community, that we get Milošević. And, not surprisingly, we immediately realized that the chances were minimal or nil as long as Milošević was in power. We must not forget that we had no access to Yugoslavia, now this is called Serbia and Montenegro, we had no access there. We could only get in Kosovo as it was under NATO military control, but as for the rest, we had no access there at the time, because after the NATO bombing, we were prevented from entering Yugoslavia. So, in that respect this was no good news. On the other hand, I made contact, outside of Belgrade of course, with some representatives of political authorities. I can't remember the names any more, but back then we tried to make contact with ministers, officials when they traveled abroad.

And I also contacted Mr Đinđić, who was politically active at the time but had no particular responsibility, he was the opposition. For me, it was important to follow the political situation in Belgrade to know if Milošević was going to remain in power, which would make it very difficult to have him transferred to The Hague, or else we could expect to see him fall sooner or later due to the political situation. In this, we were actually facilitated by Milošević himself because he had organized early elections, believing he could be re-elected, but we knew that this could not be taken for granted as he thought, because the opposition already had information at the time that it was not so certain for Milošević. I have to say that the personal contact I had with Đinđić had to be kept completely secret, nobody was to know about it, even here in the office nobody knew about it. So, it was in fact during a weekend that I stayed in Tessin, in Lugano, that we met one Saturday morning in Lugano. I remember very well that he was accompanied by his wife, so for him it was also a relaxing weekend somewhere in Switzerland. On Saturday we met at the Lugano police

station. Naturally, nobody knew him and so we were able to speak without disturbance in the office of the chief of police. For about three or four hours we were there and we talked. And I must say that I immediately had a very positive impression of the personality of Mr Đinđić. I also remember that already at the end of this four-hour meeting Mr Đinđić told me, he promised to me that Milošević would be transferred to The Hague.

MK: Was it before October 5, 2000, or after?

CDP: As far as I remember it was before, but shortly before, Milošević's fall. I remember that it wasn't cold in Lugano, I have to check my notes to find out the exact date, but I think it could have been September.

MK: Where were you on October 5?

CDP: On October 5, the day Milosevic fell, I was in Skopje, Macedonia. I remember of course the evening - and we got the first information already in the afternoon. We stayed glued to the CNN and we followed everything that had happened, and also the next day. And we were very happy that he was no longer in power. We know it took some time because he didn't want to let go, and then there was the meeting with Koštunica and then ... In short, we followed it very closely.

MK: In January 2001 you met the new Belgrade leadership and spoke with president Koštunica.

CDP: In January 2001, an official visit was organized. We were very confident that the new government would cooperate with us without any problem, because it was time to get rid of all of those war criminals who were already under arrest warrants, and in

particular Milošević. Of course, it should not be forgotten that at that time I was already very active on Karadžić and Mladić. Well, there were also others who were under arrest warrants. So for us it was a moment of great hope. But I must say that this visit in January was a big disappointment, especially because of their president Koštunica. I had seen all the statements he had made on television, all the televisions in the world, and I saw him as a very calm person who understood very well the need for international justice. And this was to be the best step for his country, for the future of his country, to cooperate with us, and naturally, it was a big disappointment when I met him because he did not accept what we were doing. What I remember most is that he was very angry with me, for no reason, he said to me angrily, and this I will never forget, he told me that the Serbs were only victims. That the Serbs were only victims and therefore what I was doing was not good for his country. And then I understood that it was useless for me to continue, we had talked for half an hour or so, I think.

So, I left, I remember we didn't have a press conference, we had planned a press conference, but of course there was no point in having a press conference after such a meeting. On the other hand, I had also met with Mr Đinđić, I do not know if he was formally the Prime Minister yet but he was the Prime Minister-designate. And with him the discussion was altogether different, he was a man of the future, Koštunica was a man of the past, but Djindjic was a man of the future. He saw a democratic future for his country, a future of peace, and this indeed through cooperation with us. He was aware, he understood the importance of the work of the International Tribunal.

MK: After that visit you continued your contacts with Đinđić, not only officially but

unofficially too? You met at some places?

CDP: We were in telephone contact, he gave me his mobile phone number. But of course, he was very busy, because as the prime minister in the political situation at the time he didn't have so much time to see me personally. He had an assistant, a trusted person, who was in direct contact with me because, as you know, you couldn't talk so freely on the phone, so I mostly met with his assistant. As for Đinđić, I still met with him for different reasons, it was always cooperation, arrests of people under arrest warrants. I remember that I met with him once at Schiphol [Amsterdam] airport, he was on his way to the United States, and the only way for us to meet without being recognized was to walk together in the main hall of the airport where everyone was coming or going, and so the two of us, too, we walked like a couple who were going to embark somewhere. In this way we were able to exchange our secrets because he had a very difficult task because at the beginning it was more difficult, and above all it was difficult to publicly act in favor of the Tribunal. So, he always gave me a summary of the political difficulties he had, but what was positive was that at the end he always said they were trying to find this or that fugitive. He gave me concrete information and he never left me without hope that soon this or that person would be arrested.

MK: I think you said that he told you Milošević would be arrested in Belgrade on April 1?

CDP: Of course, Milošević was one of the topics, the main talking point. Because, now that he was no longer in power, I expected them to arrest and transfer him, but this wasn't as easy as I thought it would be. What I did know though was that he was working on

getting him transferred. I met with Đinđić in New York; he was there for the economic forum which was not in Davos. As I knew he was there, I arranged to meet him and it was above all an account of political activity. We learned that the prosecutor in Belgrade was going to open an investigation against Milošević, which would make it possible for them to arrest him and subsequently transfer him to The Hague. It was quite clear that the arrest was only a prelude to the transfer to The Hague. The day before Milošević's arrest in Belgrade, I was again in Skopje, Macedonia, when he phoned me and told me he had sent his assistant to give me the news. He arrived the same evening and said to me: "Tomorrow we are going to arrest Milošević." I remember he also said: "Only three or four people know this, but it will be done." And the next day we were able to follow Milošević's arrest and everything else that happened.

MK: We are talking now about the first months of the young Serbian democracy, which at that time enjoyed a lot of sympathy around the world. Did you get any suggestion from political or diplomatic sources or any pressure that you should keep a little bit down for the sake of peaceful transition, not to press too much?

CDP: I must say that when Milošević fell, we intensified our activity to make known he was to be arrested and transferred. I don't remember that the international community, namely London, Paris or Washington, told me to wait. No. I have no recollection of anyone pressuring the prosecutor not to insist too much. No, not that. But naturally, in the talks we had with diplomats, ministers, authorities, they made it clear to us that we had to be patient, that Milošević could not be transferred tomorrow. But I must say that I was told this directly by Đinđić, the Prime Minister. I had heard it from someone who was there, who had

the political power there. But I also knew he had promised to give him to me. So, we were waiting. Although we didn't avoid talking about it publicly at our press conference. It's a little less political, I'm a prosecutor, I'm not a politician, so I don't let myself be intimidated by politics. But, I knew that we had to be patient.

MK: You also had some support from some European or American politicians who tried to convince Koštunica and others to change their's position. Last night you mentioned Schröder, Chirac and Powel...

CDP: I must say that at the very beginning, after Milošević's fall, there was no question of having him transferred to The Hague yet. It was only after Milošević's arrest that we heard from the international community about a possibility of obtaining Milosevic's transfer. In this, we relied primarily on the Americans, because there was the assurance, there was the donors conference going on, so that was definitely an important moment for us. And when we knew, or believed, that the Americans would certainly try to help us as much as possible to obtain the transfer of Milošević, then I informed the French President, Mr Chirac, and Chancellor Schröder in Germany that the Americans strongly supported us and that I felt that Europe should do the same, which they immediately did and put pressure on President Koštunica.

MK: When did you find out Milošević was going to be transferred?

CDP: If I remember correctly, a court decision was to be made, I don't know if it was the constitutional court or the high court. But for weeks that we were getting information: "Yes", "No", "You have to wait." And in fact, we were simply informed about it, it was a Thursday, or a Friday morning, we were told that he was most likely going to be transferred.

We were informed because we had to organize the transport, not directly from Belgrade, because it was clear from the start that Belgrade was taking him by helicopter to Tuzla and from there it was us who had to take care of his transfer here. So, it was important that we be informed so that we can make contact with NATO states and find out who was going to take care of this, while keeping the operation very secret. And I must say that these were quite hectic hours, because until the last moment, until he was indeed in a helicopter, we did not know if this was going to be successful because we were also informed that maybe he would refuse, he would not want to get in the helicopter. So, we followed the situation on the phone with Belgrade, and with our people that we had sent there to keep us informed. And it all went well.

MK: Did you receive that information from Đinđić or...?

CDP: No. I believe that I spoke only once that day with Prime Minister Đinđić. For the rest, it was his collaborators who were in contact with us because there were telephone calls every half hour. And besides, I was all alone here at the time because my direct collaborators were all somewhere in the world since we did not expect this. So, I did spend all that day on the phone, I guess.

MK: Can you describe your personal feelings when after midnight you heard that he safely landed in the detention unit?

CDP: You know, the great thrill or, say, the great moments are when you work to get someone arrested and transferred. The moment you got him ... I remember, we were here, we celebrated, we opened a bottle of red wine that wasn't even good, frankly, we had paper glasses, it was just someone from the team, you see. It was kind of that liberating feeling

after the great work that we had done, so they brought this bottle that was lying around there, and we drank this plain wine, this red wine. I have to say that, personally, I was very tired. I had spent an incredible day, I was truly satisfied that in the end, Milosevic was going to stand his trial. Because at that moment one realizes, we had done all our investigations, we knew what the crime was, what the sufferings were, therefore the fact that we were now able to put him before judges, to have him tried, a president of state, it was for us a great success to see that neither the powerful were any longer outside the law. However, despite these considerations, you know, even before he got to The Hague, as soon as he was put on a plane in Tuzla to be taken here, I went home, I was so very tired. And I said to the chief investigator to call me when he arrives, when he has actually arrived. I was at home, I was resting, I was tired. Of course, I was waiting for the phone call to know that everything had gone well. But very soon afterwards, it was a day like any other, in the sense that we do not feel any different from before. There you go.

MK: Can you describe your first encounter with Milošević, after his initial appearance?

CDP: I met Milošević personally the day he was in court to answer to the judge's question as to whether he pleads guilty or not guilty. Of course, nothing special happened during the hearing, everyone knows. The hearing lasted a few minutes. It was a big disappointment for us - we would have preferred to have been able to read the indictment and had him hear what was in the indictment, him and everyone else. But unfortunately, the president decided differently, as is possible under the rules of procedure. So, it lasted a few minutes.

Afterwards, I asked to see him, as I do with all those who are arrested. I stayed in the courtroom, I was wearing the robe, they set up a small table there, they made him come in, he was accompanied by the security men. I must say this was not much of a meeting, in fact, because I had to speak, with an interpreter translating, to tell him what I say to everyone - that we are willing to hear if they want to be interrogated, to answer the questions. I tried to tell him right away that it would be better if he had a counsel, it was his right, and told him what the prosecutor's needs were. He reacted very badly, looking very... I thought he still felt like president because naturally he was looking down on me, and he was very aggressive. He just told me that he had studied the rules of procedure very well and therefore he knew very well that he could refuse to answer the questions and even refuse to speak, and he was exercising his right. Moreover, he began to repeat what he had said at the hearing, that he did not recognize the Tribunal, and that in any case he did not recognize the prosecutor.

And I must admit that it was my personal satisfaction that I was able to tell the security men accompanying him to take him away, so it was I who ended this meeting, not the former president. He probably always did it, for ten years he had been the one who put an end to his meetings, but this time it was I who ended the meeting. It's a little satisfaction that I gained at that point. But he also provoked it.

MK: It seems that Mr Đinđić and other people from Belgrade were much quicker than your investigators here because Milošević came here and the indictments for Bosnia and Croatia were not ready yet?

CDP: That's right, we weren't ready yet. The indictments for Bosnia and Croatia had

not been confirmed yet. And we knew that we were late. However, we thought it's just as well that we have been able to collect all the evidence, even if the confirmation of the indictment comes when he is already here. We told ourselves: "We already have the indictment for Kosovo, so now let's do our best so that we can be ready for this trial the moment it begins." So, we thought it wasn't necessary to have the confirmation before he arrived, we already had an indictment, that was more than enough.

MK: How did you choose your team for Milošević trial?

CDP: The problem was that we had three indictments in a single trial. In the beginning, the judges had decided to have three different trials, whereas we thought it was better to have a single trial and we still think so, in fact. So, I formed a team that had to ... I chose the lawyers, the prosecutors, the analysts, the specialists - the best that I had here, because we immediately realized that, given that he was defending himself, all this required very precise preparation because we didn't have an interlocutor, we didn't have a counsel with whom we could talk, come to an agreement. None of this was possible.

So, my staff had to be particularly well prepared. We had a prosecutor for each indictment and in addition yet another prosecutor who had to coordinate the three prosecutors who represented the prosecution and, naturally, could also appear in court. At the beginning my collaborators, my prosecutors, my deputies they applied the same method that had already been applied in other trials. However, we immediately understood that this was not the right method now. It was not wise to start with the crime-base witnesses, because Milošević was doing the cross-examination, which made us waste a lot

of time and which, in addition, open the possibilities for Milošević to play on it and demonstrate his great knowledge of the facts. Which is indisputable. But in relation to the victims - and they came as witnesses for establishing the crime-base - when you watched them appear publicly on television like that, you could see that he was taking up space. Therefore, we had to change the strategy and decided to do it differently, that is to say, after the first crime-base witnesses, to bring immediately witnesses who testified to Milošević's personal and criminal responsibility. So, during the Kosovo case we worked it out, whereas afterwards, when we started with Croatia, we no longer had any problems because we knew what Milošević's defence strategy was and we were able to prepare ourselves. Now we are completing the preparations for Bosnia.

MK: Are you satisfied with the work of your team in the courtroom?

CDP: They are truly committed, very motivated, and they are doing their best. And I have to say that they have worked well. Of course, you know, when you're watching from the outside - and I always have the courtroom video on for Milošević's hearings, so even while I'm doing other things I always follow Milošević - when you're outside and you have the experience that I have, you see the things that you could have done better about the questions and all that. But that is judicial refinement. However, I have to say that I have had regular contacts with prosecutors, especially the ones who are in court, and we talked, not so much about what is going well, but about what we could have done better. Because there is always something we could have done better. Still, I can tell you that in my personal opinion, I have no doubt that Milošević will be found guilty, but it is a personal opinion, because judging and evaluating is the task of the judges, it is their job. So now I have a

peace of mind. We will finish the presentation of the case, we will be able to say that we have done everything we could to put together all this evidence that we gathered during the investigation to bring him to court. Sometimes we did not succeed, some witnesses did not want to come back to court, they agreed to be interviewed but did not want to come to court. If we do not manage to have them in court, we may have difficulties, perhaps, or we should have called more witnesses. You know that the court has reduced the number of witnesses that we could present and we have had to make some very painful choices to determine which witnesses we should call or not. But we have also learned a lot. We are now very eager to see what the defense strategy of Milošević will be.

MK: In the last few months you gave a few statements saying that you were not very sure you could prove genocide charge for Milošević. It almost looked like a kind of excuse in advance. You also said that you are missing some key documents for which you know that they exist and you know where they are.

CDP: The genocide charge is one of the most difficult ones to prove if you don't have someone who confesses. Because it must contain a "dolus specialis", a specific intention. So, you have to prove the subjective element that the decision was to exterminate one ethnic group or all ethnic groups. And of course, if and when they make such decisions, they do not put them in writing, explicitly. So, this specific intent has to be constructed like a jigsaw puzzle with all the little pieces that you put together so that you can convince the judges that it was genocide in Bosnia. Of course, we know which documents we need. We have copies of some of them but we cannot produce them in court.

We are still a little angry with Belgrade because they do not give us the documents

that could resolve the genocide decision. And it also needs to be said that it is difficult to convince all the witnesses to appear in court. We have realized, but it's not only now, it was also at the time, to be very frank with you, at the time of the indictment I had prosecutors, senior lawyers who told me that, according to them, it was too risky to bring the charge of genocide, that it was true that there was evidence, but that it would be difficult to prove it in court, so maybe it would have been better to avoid that risk. You know, where I have evidence of genocide against Milosevic, I told my collaborators: "I'll put it in." I cannot personally take the responsibility for acquitting Milošević of genocide only because I have not put it in the indictment. Because the moment I don't put it in the indictment, I'm the one who has decided that there is no evidence against Milošević for genocide. So, I said: "We are going to do everything possible to prove it." And we know we can do it, naturally, if there is cooperation, if we can have the documents, if the witnesses want to appear. I'm saying it publicly to warn the ones who have the documents, not only in Belgrade, the ones who have the evidence, the international community as such, to warn them that I have problems proving the genocide because they are not cooperating with us. That's the message I wanted to get across.

MK: So, not only Belgrade?

CDP: Not just Belgrade, also some countries, let's put it that way. But when the moment comes that we can present the prosecution case then I and my prosecutors will be able to describe exactly what is missing, what we couldn't get. We will be able say that and say why we still maintain that we have sufficient evidence - we have not finished presenting the case yet but I think we have enough evidence - to convince the judges that Milošević is

quilty of the genocide in Bosnia.

MK: 43:24 Let's go to other subjects. The first is the Tribunal fatigue. Is the international community tired of the Tribunal? Do some countries want to close it as soon as possible? Do you feel that kind of pressure on the Tribunal? Is this a battle for time?

CDP: Indeed, since September 2001 or early 2002 the attention of the international community has no longer been what it was before. That is to say, and we can understand this, there are other threats - the threat of terrorism, and therefore we immediately saw, all of a sudden, the two ad-hoc tribunals were seen as two very expensive instruments. The cost was one of the first things we heard.

Already in 2002, at the Security Council, in informal meetings we were asked for how much longer we were going to continue our activity. So, we felt that the pressure was starting. In 2003, the pressure was at its peak, and then we decided to develop a completion strategy, that is to say, we, who were working identifying the senior officials, we said to ourselves: "There, we really need to make a definition of very, very senior officials." Hence, we developed this completion strategy, which is a list of suspects we are going to investigate. We had a first list of the investigations in progress, and then we had a second list of the investigations that we had suspended, because otherwise we wouldn't have been able to finish in the next seven or eight years. This, of course, for a prosecutor, this is painful. Because you have top culprits, serious culprits who are responsible for, or even killed people themselves, and you don't have the time to deal with them. The more so because you know that last year nobody dealt with them, not in Bosnia and Herzegovina, not in Belgrade, not in Zagreb. In the meantime, the situation has improved a bit in the

sense that the international community is making great efforts to push national systems to take on these cases. For our part, we had to reduce our list even further. And in fact, the Security Council resolution 1503 meant for us that we have to end in 2008, the appeals in 2010, and I have to complete the investigations in 2004. However, it needs to be said that it was us who suggested these dates to the Security Council. Therefore, the Security Council determined them according to our suggestions. So, we are the culprits, but we knew that the Security Council was waiting for a specific answer, which we gave them, and these dates are now decreed in the resolution.

MK: Do you think you still have a strong support of the international community? Don't you sometimes have a feeling that they have other priorities with those countries and they want to move in the future to economic and political cooperation and that this problem is keeping them in the past?

CDP: Undoubtedly, after ten years of activity of this Tribunal, the support is no longer what it used to be. That's understandable, isn't it? Because we are an ad-hoc tribunal which has a limited existence. The challenges, the risks, the dangers, they have shifted, so why does this Tribunal not speed up its activity a bit so that we can end as soon as possible? As for the support, of course the support is different now, right? It is no longer the full support we had a few years ago. It is now a support to finish off, and a support to finish off is something different, isn't it? Maybe a state will tell us: "You won't be able to finish off if you do the thirteen more indictments, as you said at the Security Council." There are other states who believe that we should help national systems to end these trials rather than do them ourselves. Therefore, support is still present, but it is rather the support for

the closing of this Tribunal, therefore the support needed to finish off and close this Tribunal.

MK: How do you see the evolution in the countries of the former Yugoslavia under your jurisdiction? By 2000 or 1999 old regimes had fallen, in Croatia, in Serbia. For the last two or three years there are new authorities. Do you see some movement on that?

CDP: The situation has changed a lot, has changed enormously. I remember my first trip to Zagreb, when Tuđman was still the president, and the government undeniably stood in the way of any cooperation. There was an American lawyer representing the government. I remember we had endless meetings, for hours on end with nothing to...

Naturally, this has changed a lot. Today the government, Prime Minister Račan, is fully cooperating with us, we have got all the documentation we requested. The only obstacles still present are the ones which are politically motivated, because in these countries, also in Belgrade, also in Sarajevo, they are always close to an election. So sometimes the government or the ministers are afraid of losing the votes necessary for them to be re-elected and therefore they hesitate, mostly over the arrests of people under the arrest warrant. Belgrade has also made a huge change, because with Milošević there was no cooperation. Cooperation with Prime Minister Đinđić was... anything he could do, he did it. Of course, our obstacle to full cooperation is the policy of this country. It's politics that sometimes plays against us because there are pure nationalists there, there are political parties who support even the fugitives, Karadžić is a hero in Republika Srpska.

But I have to say that the situation has changed dramatically. And I believe that if we can still manage to arrest all those who are under arrest warrant, these suspected war

criminals, this will really be a huge advantage for these countries, for their democracy, for their reconciliation, for their lasting peace. However, as long as they can stay there and can be active, not officially, but they are active, because for a milieu of extreme nationalism they still represent something and the contacts are there. And so, once we can take these last steps to have all of our accused arrested, I believe that, first of all I, as the prosecutor, will be able to be here and not travel so much, and we can take care of conducting and completing these trials within the deadlines we have been given.

MK: You are going to Belgrade with an alleged Mladić's address and to Zagreb with information about the whereabouts of Gotovina. You have a tracking team, but are you really sure that the information about the whereabouts of those people are right and that the government don't want to act on these information?

CDP: The information that we have...yes, it is certain in the sense that it is not information that we received yesterday or the day before yesterday, it is the body of information that has accumulated over the years. And, moreover, the sources are different, I don't have a single source, but the most different sources. Thus, our convictions are based on work that we have been doing for months, for years.

For example, take Gotovina, we know very well that Gotovina was there. The government was given the secret indictment so they could arrest him and not let him escape. But the fact is, the opposite happened, namely, they did let him escape. And here we have the proof that they let him flee because if the indictment is secret, the accused Gotovina should not have been informed about it, but someone thought he should be told about it and he has disappeared. Although it should have been the opposite.

And then Mladić. I believe it was publicly known that Mladić arrived in Belgrade, because he was seen there, because he was not even hiding. So how do we know? It's known in Belgrade. Because if you think: the information we receive, where does it come from? The information we receive comes from Belgrade. So, what is the government doing? This is the question we ask. What is the police doing? What is the army doing? It's easy, of course, to say ... Obviously, when afterwards we go to Belgrade and we complain that Mladić was at the football match, or that Mladić was seen in a restaurant, I remember that even a minister, a former minister, I can't now... he told me that he had seen him in a restaurant, he walked into a restaurant and he saw Mladić sitting at a table, so, naturally, he got out, he didn't come in, he left the restaurant. You can see that it is known that he is there. But then, there are certainly difficulties regarding his arrest. First of all, do you want to arrest him or not, because politically it's negative. Second, arresting him can cost lives, if he has protection and he defends himself, or else he can be killed. In short, there are certainly difficulties, but I have no information that they have seriously decided to look for Mladić and arrest him.

You know, I used to work on mafia investigations with Palermo. Mafia bosses also have protections, guards, they are armed. It's the same situation, I'd say. And yet, if one wants to do it... And I also know how we can arrest them without anything happening. So, in my opinion, the real will to do it is still lacking.

MK: Don't you think that in some paradoxal way the later they are arrested, the better for the Tribunal? There will be no pressure to close the Tribunal until those people are brought to trial, so if they are arrested this year you can have the trial in the next three

years and then you can close the door but if they are arrested in 2006 or 2007...

CDP: Certainly, at the present moment, when we have the completion strategy, we are trying to get the arrest of these people who are under an arrest warrant, especially Mladić, Karadžić and Gotovina. So much so that they are mentioned in the Security Council resolution. This means that they must be arrested, otherwise this Tribunal cannot close its doors. Our policy now is to say, we are okay with ending in 2008, but we have to arrest them. And the international community will certainly increase the pressure to make that happen.

MK: The final subject is guilty pleas or plea agreements. Can you give me your assessment why plea agreements are important for the prosecution and for the victims and to establish the truth about the facts?

CDP: Plea agreement is an institution that is contemplated in our rules of procedure. My policy is that we never, never propose a plea agreement. It must be the defence counsel who approaches us after discussing with the accused, with the client, that they want to examine the possibility to work out a plea agreement. Second, the plea agreement will not touch the facts that are illustrated in the indictment. With the plea agreement we have the possibility to change the judicial qualification on the counts. We can change the qualification but the facts remain always the same. And of course, one of the main points of the plea agreement is also the sentence range. We agree with the defence council for a minimum and the maximum of the sentence. One of our requests is that they are obliged to testify in the same trial if there are other accused or in other trials if needed.

So, with this illustration you can see the importance of the plea agreement in the

search of the truth, of the facts, because I try, because you know, sometimes the victims are not happy about plea agreement because of the sentence. Particularly Plavšić, they were very angry about the 11 [years] sentence for Plavšić. I was trying the last day to explain to the woman of Srebrenica that it's not important the sentence, if it's only 11 instead of 20 or life, that is not the importance of a trial. Important in a trial is to establish the facts, the criminal responsibility about facts, the truth of the facts, because that is what a victim wants to know. Because it is not revenge, it cannot be revenge, it must be justice and justice is human. So, of course, I was not happy about 11 years sentence of Plavšić. Our request was 20 or 25. Of course, personally, I am not satisfied, but I will not put a main concern of that. First, because the responsibility of the sentence is by the trial chamber, by the judges. And second, because it is not that main important element of the trial, it is not the sentence. It is a conviction about facts, about crimes.

MK: The establishment of facts is important for victims, but the victims say: "We know the facts."

CDP: Yes, but if facts are not recognized in trial...

MK: The victims say: We know the facts, we have been victims of those facts.

CDP: But important for the victim is that the world knows the facts and that the accused knows the facts and that the accused knows why he is convicted. After the sentence, you know, as they say: "Each head - one decision."

MK: How do you explain the fact that we have so far 16 guilty pleas, 14 of them in your time in office?

CDP: Different motivation, but with surprise one of the motivations was that some accused want to plead guilty to avoid to be transferred to the state court in Sarajevo. Other motivation is to have a sentence which is not life sentence, to reduce the sentence. Other reason is because the defence counsel want, because they don't want to have a trial that they know they will lose, because he will be convicted. You can have different reasons why, but I think that the main reason would be that they have regret of what they have done, and that is the most important and most difficult to achieve.