

# TRIAL

Track Impunity Always



Swiss Association against Impunity

ANNUAL REPORT  
2009

## THE COMMITTEE

Philip GRANT, *President*, Anna PETRIG, *Vice-president*, François MEMBREZ, *Vice-president*, Elisabeth BAUMGARTNER, *Secretary*, Anne ALTHAUS, Jonathan CUENOUD, Michael DUTTWILER, Anya GEORGE, Michel HEINZMANN, Sandrine GIROUD-ROTH, Richard GREINER, Chantal MARRES, Magali MAYSTRE, Carolin WUERZNER

## THE GENEVA OFFICE

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**Interns** - Audrey BAETE, Claire CATHERINET, Kathleen FEURICH, Elise HANSBURY, Stefano MARINELLI, Raphaëlle MONTY

## THE PROJECT TEAMS

**ACT** - Philip GRANT, *Director*, Gabriella CITRONI, *Legal adviser*, Lejla HADZIMESIC, *Consultant in Bosnia-Herzegovina*, Lejla MAMUT, *Consultant in Bosnia-Herzegovina*, Alexandra BRUTSCH, *Consultant in Nepal*, Rachid Mesli, *Consultant for Algeria and Libya*

**Trial Watch** - Jonathan CUENOUD, *Director*, Jean-René OETTLI, *Project coordinator*, Katerina KAPPOS, *Project coordinator*, Frida CASTILLO, *Coordinator for the Spanish version of the website*, Alexandra BRUTSCH, Donald J. CRAMER, Marion DENIAUD, Jac FORTON, Thomas GRANT, Vanessa GREE, Eszter MAJOR, Raphaëlle MONTY, Tali PACHOUD, Ihrmild SAUTHOFF

**ICC Legal Tools** - Elisabeth BAUMGARTNER, *Co-Director*, Magali MAYSTRE, *Co-director*, Evelyne SCHMID, *Project coordinator*, Maria Isabel HENAO, *Research coordinator*, Rustam ALIZADA, Marie GERMAIN, Orsolya KIZER, Natālija KOVALENKO, Laurie LEANDRI, Helen OBREGON, Ekaterina ORTIZ, Natalia PAVALACHI-TISCIC, Matthew SANDS

**World map** - David FURGER, *Coordinator*, Claire MENUET, Raphaëlle MONTY

**News** - Julie JARNO, *Coordinator*, Audrey BAETE, Claire MENUET

**Journal** - Anne ALTHAUS, Elisabeth BAUMGARTNER, Magali MAYSTRE

**Conferences** - Céline GLUTZ

**SCICC** - Anna PETRIG, Richard GREINER

**PEP** - Sandrine GIROUD-ROTH

**Video games** - Frida CASTILLO, Elisabeth BAUMGARTNER, Carolin WUERZNER

**Corporate Responsibility Project** - Damien CHERVAZ, Philip GRANT

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## A word from the President



What a year! The past year has witnessed TRIAL: obtain consultative status to the United Nations; develop a project concerning the responsibility incurred by companies in the commission of international crimes; prepare three criminal complaints, including the renowned Soltani case; release a report for the respect of international humanitarian law in video games involving war, which had a wide echo in the media; lodge 10 more affairs applications before the European Court of Human Rights and United Nations Committees; prepare an *amicus curiae* for submission to the Inter-American Court of Human Rights; take action before the United Nations Working Group on Enforced Disappearances concerning the situation in Bosnia-Herzegovina, which promoted the Working Group to hold its next session there; start up a new program and sending an emissary to Nepal; start work on dossiers sent from Burundi; continue collaboration as the only NGO in the Legal Tools Project of the International Criminal Court (ICC); become involved in several dossiers related to Swiss federal politics (for instance, parliamentary debates on the incorporation of the ICC Statute into Swiss law, the ratification of the Convention against Enforced Disappearances, the issue of the restitution to foreign States of funds improperly placed in Swiss banks); prepare the Spanish version of its internet site; and in addition to all of the above, continue with its everyday activities (Trial Watch, conferences, the Journal, Swiss Coalition for the ICC, etc).

On some days, up to 10 people were working in our small office in Geneva, not to mention the contributions of others, both professionals and volunteers, in Milan, Sarajevo, Tokyo and Tehran, all of whom contributed to the completion of an impressive workload. As a whole, in 2009 TRIAL staff completed over 6000 paid working hours, while volunteers contributed more than 7000 working hours, or the equivalent of 3.5 full-time positions.

Without these volunteers, nothing could have been accomplished. And, of course, nothing could have been achieved without you.

Your support is vital to us. TRIAL faces some important challenges: its activities and challenges are ever more numerous and require greater proficiency in our working methods. We are only partially able to meet these new and increasing developments. With your help, however, there is no doubt that we shall continue to press forward. Thank you most sincerely for your support and confidence.

Philip Grant,  
President

## THE ADVOCACY CENTER TRIAL

In 2009, the Advocacy Center TRIAL (ACT) submitted ten cases to the European Court of Human Rights and the United Nations Committee against Torture, six of which dealt with Bosnia-Herzegovina and four with Algeria. Since its foundation in 2007, ACT has brought thirty cases before international human rights organs and hopes to submit thirty more in 2010.

In addition to our partnership with three associations of families of disappeared persons in Bosnia-Herzegovina - one in the region of Prijedor, one in Vogesca and one in Sarajevo-Romanija - ACT has concluded new partnership agreements with the Lawyers Forum for Human Rights (LAFHUR) in Nepal and the Burundian League for Human Rights in Burundi (ITEKA). The first cases concerning these two countries should be filed in 2010.

Together with the World Organisation against Torture (OMCT), ACT submitted an *amicus curiae* to the Inter-American Court of Human Rights. This affair is important in that it is the first case pertaining to the murder of women in Ciudad Juárez in Mexico - where close to 400 women have been kidnapped, raped and murdered since 1993 - to be brought before an international human rights body.

In June 2009, TRIAL addressed the United Nations Working Group on involuntary or enforced disappearances, drawing attention to the obstacles holding up the implementation of the 1992 Declaration of Acceptance by Bosnia Herzegovina, and asked the Working Group to transmit its concerns to that government with a request for comments. As a result of this initiative, the government has proposed that the Working Group hold its next session in Bosnia Herzegovina in June 2010.

**The Team:** Gabriella Citroni, a former consultant to ACT, was retained as a legal advisor for the program in October 2009, to assist its Director, Philip Grant. Alexandra Brutsch traveled to Nepal in November in order to supervise the start-up of the LAFHUR project. Lejla Mamut has taken over from Lejla Hadzimesic in Bosnia-Herzegovina to manage ACT's local office there.



Yuba Katwal, one of the victims defended by TRIAL, in discussions with Bishnu Luitel of LAFHUR.

## LEGAL ACTIONS IN SWITZERLAND

In 2009, the TRIAL team worked on three criminal complaints, two of which remain confidential. The third became public when M. Boguerra Soltani, the alleged torturer of a victim defended by TRIAL, M. Nouar Abdelmalek, narrowly escaped from Swiss justice, probably due to leaked information.

M. Bouguerra Soltani, head of the Islamist party *Movement of Society for Peace*, and a former Algerian government minister, was visiting Geneva and was scheduled to continue his journey to Fribourg in order to participate in a conference of the Swiss Muslim League. However, soon after his arrival in Switzerland, he left precipitously for France, probably with the help of the Algerian Embassy.

Ever since the Pinochet affair - an event which lent impetus to the foundation of TRIAL - the hunt for torturers and war criminals has gained in strength thanks to an increasingly close knit network of victims and NGOs, which patiently, step by step, is establishing itself throughout the world. Despite the final outcome of the Soltani affair, it goes to show that those responsible for war crimes and torture can no longer benefit from total impunity when travelling the world.

**The Advocacy Center of TRIAL (ACT) aims at fighting impunity by lodging complaints with international organs involved in the protection of Human Rights with authority to adjudicate on individual cases. ACT's main goal is to employ these mechanisms to the to assist victims of the most serious crimes in their pursuit of justice.**



## TRIAL WATCH

Trial Watch is an online data base offering the public easy access to proceedings involving international crimes in international tribunals and national courts. It contains around 650 profiles, each one providing a brief explanation of the facts, a summary of the legal proceedings and useful links to other documents, thereby allowing anyone with a specific interest to gain a deeper insight into the dossier in question. These documents relate to judgments, reports by non-governmental organizations, bibliographies, press cuttings etc. Moreover, each visitor can “subscribe” to any case in which proceedings are underway, in order to be kept informed of events as they unfold.

**The Team:** In September 2009, Jean René Oettli, who is serving his alternative military service with TRIAL, took charge of the overall coordination of the project, taking over from Katerina Kappos. In October he was joined by Frida Castillo, in order to prepare the Spanish version of Trial Watch. The team is currently made up of some twenty individuals who draft and translate profiles, a number which will be increased in 2010 to include more German and Spanish speaking staff members.

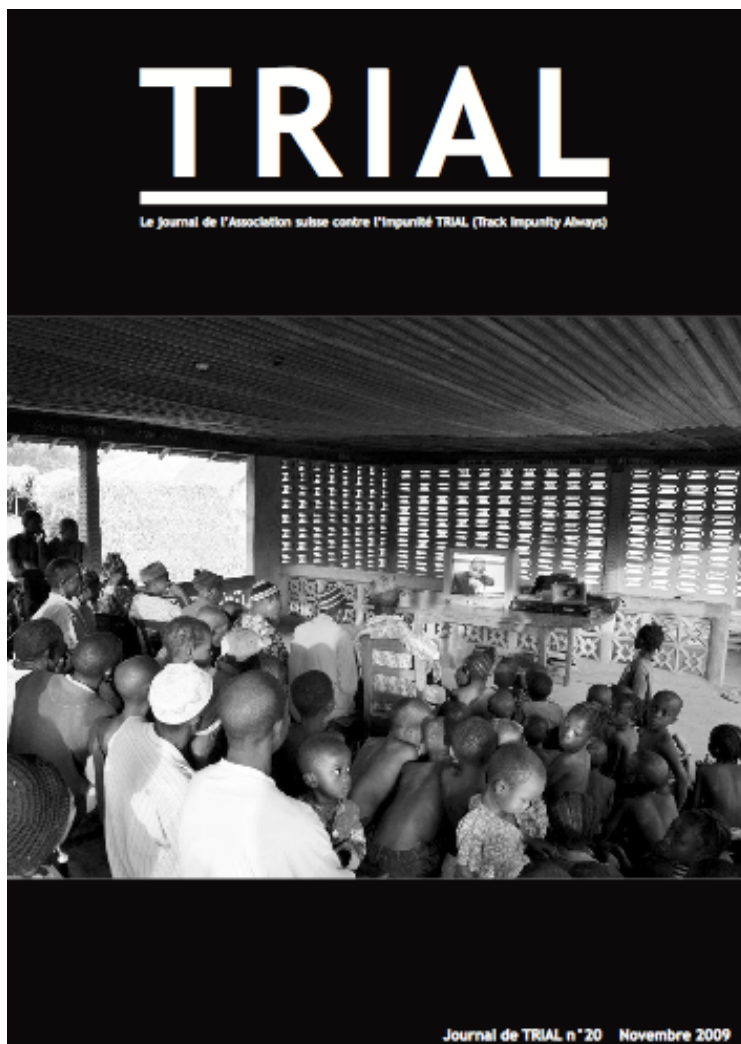


Trial Watch receives more than 4'000 visitors a day!



## CONFERENCES

TRIAL has organised seven conferences and round tables on the following themes: justice and peace, the selection of cases by the International Criminal Court, funds coming from dictators, the Pinochet affair, Switzerland confronted with criminals of the Second World War and enforced disappearances.



## PUBLICATIONS

The TRIAL Journal was published in February, July and November 2009. It has recently become available in a tri-lingual version.

The end of April saw the launch of “International Justice Map”, a monthly summary of the latest developments in the field of international criminal law.

TRIAL continued to publish a daily synthesis of news on international criminal law on its internet site and forward it weekly to more than 1600 subscribers.

## LEGAL TOOLS OF THE INTERNATIONAL CRIMINAL COURT

In 2009 we were able to complete our research on approximately 15 jurisdictions, notably in Latin American countries, Canada, and the majority of countries in Eastern Europe as well as a number of Caribbean jurisdictions. More than 4800 resources and documents in their various original languages were identified, analysed and recorded.

Within the framework of their work for the *Case Matrix database*, Magali Maystre and Elisabeth Baumgartner carried out several missions in 2009 in order to assist and train the users of the database. Amongst those who were able to take advantage of this service were the Special Court for Sierra Leone, the Chief Prosecutor for Argentina, the defence team for Mr. Bahar Idriss Abu Garda before the ICC, the Swiss Federal Prosecutor and non-governmental organisations.

The Legal Tools of the ICC represents a complete online electronic library dedicated to justice and to international criminal law. Alongside several academic research centres, TRIAL is the sole NGO to have concluded a partnership agreement with the ICC within the context of this important project. The task consists of gathering, analysing and classifying documents from 46 countries related to legislation and national practice with respect to the crimes within the jurisdiction of the ICC (war crimes, crimes against humanity, genocide).

**The team:** Evelyne Schmid took up her position as project co-ordinator at the beginning of 2009 and has efficiently overseen a team of qualified researchers from a variety of countries. She has been ably assisted by Maria Isabel Henao since the end of 2009.



## VIDEO GAMES

**The Team:** The games selected were appraised by specialists in International Humanitarian Law under the technical guidance of Marco Sassoli, Professor and Director of the Department of International Public Law and International Organisation at the University of Geneva.

The project was aimed at investigating whether virtual war games, which depict the reality of war, contained scenes which might push the players into infringing international humanitarian law. The results of the study illustrate that the norms of international humanitarian law are reflected very minimally in the scripts of the war games videos, thereby giving the illusion that violence has no limits. TRIAL and its partner, Pro Juventute, have therefore requested that the producers of these videos incorporate, in an imaginative and efficient manner, respect for Human Rights and International Humanitarian Law when producing such games by, for example, including the ICRC or international tribunals as full fledged participants

in their scenarios. The initial idea to launch this study came from TRIAL and it was rewarded with a Prize by the Lucerne International Forum of Human Rights in 2007.



On 19 November 2009, the day prior to the annual celebration of children's rights on International Children's Day, TRIAL and Pro Juventute published their research report on video games, which received wide acclaim by the media, both in Switzerland and abroad.



Symbolic act in front of the Federal Palace before submitting the signed petition against enforced disappearances.

## THE SWISS COALITION FOR THE INTERNATIONAL CRIMINAL COURT

Ever since the establishment of the Swiss Coalition for the International Criminal Court (SCICC), a grouping of 11 Swiss non-governmental organisations, TRIAL has fulfilled its functions as the groups's secretariat.

On 6 February 2009, the SCICC invited the Federal Council to sign and ratify the UN Convention on Enforced Disappearances. With no reply having been received, a petition was launched under the aegis of the association "Garden of the Disappeared" (*Jardin des Disparus*), which the majority of the SCICC members have joined. The petition campaign was launched on 30 August 2009 on the occasion of the International Day of the Disappeared. A silent demonstration was held on 1 March 2010 in Bern, at the end of which the petition was deposited at the Federal Palace.

In a letter dated 9 March 2009, the Coalition requested the Head of the Federal Department for Foreign Affairs (FDFA), to take a commitment that Art.16 of the Rome Statute not be used to block the criminal proceedings taken up by the ICC against the President of Sudan Omar al-Bashir.

## “PERSONNES EXPOSÉES POLITIQUEMENT”

### CONFISCATION OF FUNDS ILLEGITIMATELY ACQUIRED BY DICTATORS AND KLEPTOCRATS

The year 2009 was rich in new developments in Switzerland in the fight against funds illegitimately acquired by dictators and kleptocrats. The Mobutu and Duvalier funds were, once again, in the news. Unfortunately, the Mobutu case can be considered a failure since the funds found their way back into the pockets of the former dictator's inheritors. By contrast, the Duvalier case resulted in a partial success. After Swiss courts initially decided to restore the funds to Haïti, the Federal Tribunal annulled the decision, thereby forcing the Swiss government to renew the proceedings aimed at blocking the funds. These results stem in part from Swiss legislation which is wanting in this domain.

Throughout the year, TRIAL, working in concert with other specialised NGOs, kept a close eye on this problematic situation, finally taking a position publicly in favour of the confiscation of these funds within the limits of the State of Law and the rights of the victims. In addition TRIAL made its expertise available in this field by actively participating in the preparatory debates concerning a project of federal law on the confiscation of illegal funds, which Swiss Authorities are currently reviewing. This federal law project will be one of TRIAL's priorities in 2010.

On 17 August 2009, TRIAL was invited to a hearing of the Legal Affairs Committee of the Federal Council in order to give its position concerning the implementation of the Rome Statute in Switzerland. TRIAL, which has been working on this important project since 2006, proposed several modifications to the proposed law including, amongst others, the close link requirement and the principles of non-retroactivity and of superior responsibility.

# Accounts 2009

Association - Project	Revenues 2009		Differences	
	<i>Effective</i>	<i>Budgeted</i>	<i>Effective</i>	<i>%</i>
Office costs	39'275.64	68'000.00	28'724.36	73.1%
Advocacy Center TRIAL	189'757.73	260'000.00	70'242.27	37.0%
ICC Legal Tools	100'000.00	100'000.00	0.00	0%
Trial Watch	285.00	15'000.00	14'715.00	5163.2%
Groups and Projects	9'000.00	20'000.00	11'000.00	122.2%
Swiss Coalitions for the ICC	1'727.00	3'000.00	1'273.00	73.7%
Fundraising	15'361.90	20'000.00	4'638.1	30.2%
<b>Total Annual</b>	<b>355'407.27</b>	<b>486'000.00</b>	<b>130'592.73</b>	<b>36.7%</b>

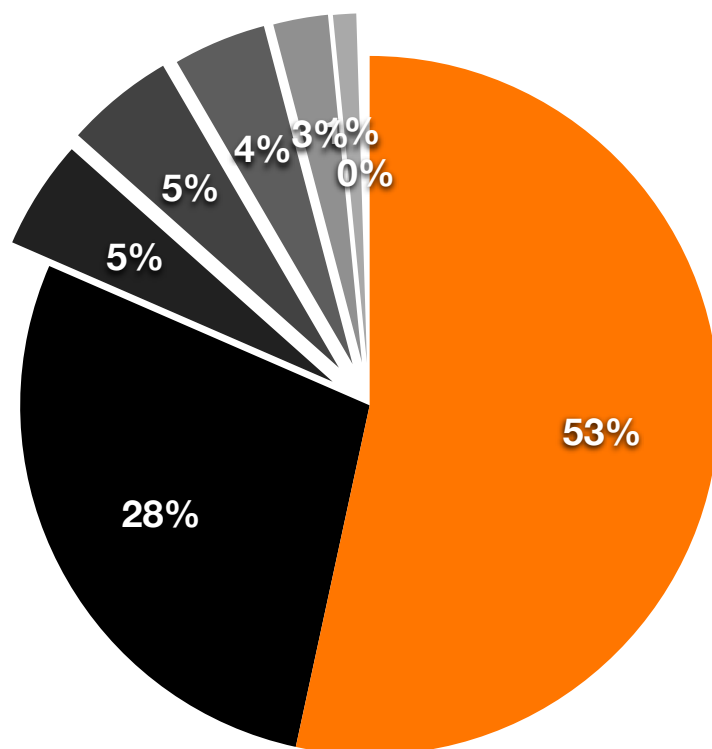
Association - Project	Expenses 2009		Differences	
	<i>Effective</i>	<i>Budgeted</i>	<i>Effective</i>	<i>%</i>
Office costs	68'858.31	43'500.00	-25'358.31	-36.8%
Advocacy Center TRIAL	189'715.02	255'000.00	65'284.98	34.4%
ICC Legal Tools	99'046.42	100'000.00	953.58	1.0%
Trial Watch	7'601.77	19'000.00	11'398.23	149.9%
Groups and Projects	10'683.78	29'500.00	18'816.22	87.2%
Swiss Coalitions for the ICC	897.00	3'000.00	2'103.00	234.4%
Fundraising	1'910.95	35'000.00	33'089.05	1'731.5%
<b>Total Annual</b>	<b>378'713.25</b>	<b>485'000.00</b>	<b>106'286.75</b>	<b>28.1%</b>

**Annual Result 2009**

**23'305.98**

**1'000.00**

Federal Department of Foreign Affairs  
 Pro Victimis Foundation  
 City of Geneva  
 Permanent Mission of the Kingdom of the  
     Netherlands to the United Nations  
 Embassy of the Netherlands in Sarajevo  
 Amnesty International, Swiss Section  
 Foundation Antenna International  
 Agir Ensemble pour les Droits de L'Homme  
 Commune of Meinier  
 Commune of Bardonnex  
 Commune of Onex  
 Members of TRIAL and the SCICC  
 Various individual donations



- Subsidies Advocacy Center TRIAL (53%)
- Subsidies ICC Legal Tools (28%)
- Membership fees (5%)
- Donations (5%)
- G-50 (4%)
- Subsidies Corporate Responsibility Project (3%)
- Miscellaneous (1%)
- Swiss Coalition for the ICC

## Financial Support 2009



# Some of our projects for 2010

## Advocacy Center TRIAL

- ☑ Submission of **30 to 40 new cases** to international human rights organisations, coming from Algeria, Bosnia-Herzegovina, Libya and more recently from Burundi and Nepal. Follow up of the cases already submitted
- ☑ Submission of an *amicus curiae* to the Constitutional Court of Bosnia-Herzegovina
- ☑ Submission to the United Nations Committee on the Elimination of Discrimination against Women on the subject of sexual violence during war
- ☑ Submission to the Special Rapporteur concerning violence against women, its causes and consequences

## Legal actions

- ☑ **Preparation of two cases**, which are still confidential, relating to the responsibility of companies with respect to the most fundamental human rights and humanitarian law
- ☑ Preparation of other cases as required

## IT tool for the submission of cases

- ☑ **Setting up an IT tool** to help lawyers and local NGOs to prepare and draft cases to be submitted to international human rights bodies

## ICC Legal Tools

- ☑ Completion of the research project
- ☑ Continuation of the activities for the *Case Matrix*

## Recruitment campaign 25 years / 25 francs

- ☑ Special offer open to students who wish to become members of TRIAL for CHF 25.-

## Trial Watch

- ☑ Launch of a new **Spanish version**
- ☑ Quality control and update of **German and French versions**
- ☑ Drafting of **new profiles**
- ☑ **New research function:** in order to meet the ever increasing demand of users of the Trial Watch data base as a reference tool, new research criteria will be introduced in the “advanced research” function on the site. These research criteria will cover different categories of crimes, procedural aspects and recurrent themes.

## Swiss Coalition for the ICC

- ☑ Preparation of a position paper to submit to the Swiss delegation attending the **Review Conference of the Rome Statute**, to be held from 31 May to 11 June 2010 in Kampala, Uganda.
- ☑ Campaign to promote the **ratification by Switzerland of the Agreement on Privileges and Immunities of the ICC (APIC)**
- ☑ **Submit the petition against enforced disappearances** on 1 March 2010 at the Federal Palace.

## Conferences, Round tables and Events

- ☑ **Screening of the film “Storm”** in March, notably at the Film Festival and International Forum on Human Rights in Geneva, as well as in Bern and Zurich. The theme of this film is the role of victims before the ICTY
- ☑ Special event on the occasion of the “International Justice Day”
- ☑ Various conferences and round tables

## Publications

- ☑ Continuing publication of the Journal, the Map of the World and Daily News

## Internal Projects

- ☑ Centralisation of TRIAL’s electronic data
- ☑ Creation of a pool of volunteers
- ☑ Appointment of a communications officer for the Swiss-German region.

# TRIAL

**fighting against impunity** for the instigators and perpetrators of the most serious crimes (genocide, crimes against humanity, war crimes, torture and enforced disappearances), including any accomplices involved.

**defends the interests of victims** before Swiss courts, international organs involved in human rights and the International Criminal Court.

**heightens public awareness** about the need to promote international justice for the most serious crimes.

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