

A word from the President

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Sometime in the future, say in 2012 or 2013 when my successor is writing his annual report, he may well be rejoicing in the condemnation handed down by the International Criminal Court on Omar al-Bashir and in other up-to-the-minute developments in the field of international justice which have contributed to forcing such despots to relinquish power. At the same time he, or she, might recall that it was back in the year 2008 that this affair first gained public attention.

He may also recall that it was in 2008 that the Swiss Federal Assembly began the process of incorporating the Statute of the ICC into Swiss law thus allowing our country to initiate several proceedings against torturers or war criminals present in Switzerland. His annual report will remind readers of the important role played by TRIAL in this process which helped to ensure that the legislation which was adopted was efficient and in conformity with International Law.

He might well also point out that it was in 2008, that the Advocacy Centre of Trial (ACT) really took off, that the ICC Legal Tools project came into being, that TRIAL began to take a serious interest in the money which dictators had placed in Swiss banks with the aim being the restitution of such funds to the victims of these repressive regimes. In addition, he might also underline the fact that it was in 2008 that TRIAL went on from being a small association full of energy and bright ideas into a more structured, efficient and widely recognized professional organization whose vocation could be summarized as follows: to apply the full force of law in order to render justice to the victims of the most serious international crimes.

Turning to the present, it is also my belief that the year 2009 will see TRIAL continue to reinforce the strong commitment it has to its goals. Indeed, in today's world, the need to apply elementary norms of basic justice is still seriously lacking.

Finally, I would like to add here my thanks to all of those who, not only over the past ten years but also today, contribute to making TRIAL the success that it has become: its employees, its numerous interns and researchers, the committee members, the volunteers, and of course, all of the Association's members. My heartfelt thanks go to all of you for your continued support.

I hope that you will enjoy reading our 2008 Annual Report.



Swiss Coalition for the International Criminal Court

From the very creation of the Swiss Coalition for the International Criminal Court (SCICC), which brings together 11 Swiss non-governmental organizations, TRIAL has been responsible for the secretariat and coordination amongst its members.

On 17 July 2008, on International Justice Day, the SCICC adopted its agenda on the subject of international criminal law covering the years 2008-2009. This agenda was presented to the public at the same time as the ICC was celebrating the tenth anniversary of the adoption of its statute.

On 30 August 2008, during the International Day of the Disappeared, the SCICC took part in a demonstration sponsored by the International



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Coalition against Enforced Disappearances (of which TRIAL is also a member) demanding rapid ratification and effective implementation of the new United Nations Convention against Enforced Disappearances.

Shortly afterwards, in September 2008, the SCICC wrote to the Head of the Federal Department of Foreign Affairs demanding that Switzerland, in application of article16 of the Rome Statute, oppose the suspension by the Security Council of the proceedings brought by the ICC in Darfur.

In addition, since the end of 2008, the SCICC has been campaigning to have a law, which would criminalize torture, written into the Swiss Penal Code.

Finally, since the end of 2008, TRIAL has been able to rely on the services of Richard Greiner to implement the SCICC agenda. This will allow TRIAL to multiply its activities in 2009.

* * *

The Advocacy Center of Trial

During the course of 2008, the Advocacy Center of Trial (ACT) really got underway. ACT offers free legal assistance to victims of international crimes in order to take their cases to international human rights bodies, such as the European Court of Human Rights, the Human Rights Committee and the United Nations Committee against Torture.

Despite having only a small team, ACT was able to submit no less than 18

individual complaints in 2008. ACT began its activities in the autumn of 2007 and had already submitted three complaints before the end of that year.

In view of the time that these proceedings normally take, none of these complaints had been adjudicated during the course of last year.

Bosnia-Herzegovina

Since February 2008, ACT has been able to count on the services of a specialised human rights consultant in Sarajevo, Leila Hadzimesic, who provides valuable assistance to ACT's operations in Bosnia–Herzegovina, especially concerning links to local organisations representing victims of the war.

During 2008, the Director of ACT, Philip Grant, went on several missions to the Balkans, including trips to the Republika Srpska and Serbia. Subsequently, in September 2008, six applications to initiate proceedings before the European Court of Human Rights



were submitted on behalf of several families of persons who had disappeared following a particularly savage massacre in 1992 during which more than 200 people were murdered. These families are still seeking the bodies of their missing loved ones and insist that proceedings be taken against the perpetrators of this massacre.

Algeria

ACT has submitted seven cases concerning eight people who disappeared during the civil war in the 1990s to the United Nations Human Rights Committee. In addition, an eighth case was submitted to the United Nations Committee against Torture on behalf of the family of a person who was arrested in 1998 and eventually died from the effects of the torture to which he had been subjected during his detention.



Algeria seems to have turned a deaf ear to these complaints since, by the end of 2008, it had issued no statement whatsoever on any one of these cases.

Libya

In 2008, ACT, in partnership with another NGO, Alkarama, submitted to the United Nations Human Rights Committee four cases against Libya concerning relatively recent cases of enforced disappearances and torture.

During December 2008, ACT was extremely pleased to receive a visit from Doctor Idriss Aboufaied one of the persons on behalf of whom, together with his brother, a complaint had been lodged by ACT in 2008.

Mr. Aboufaied had just been liberated prior to this visit. He was formerly a

> political refugee in Switzerland and had been given authorisation to return here for health reasons.

> His brother, on the other hand, still remains unaccounted for in Libya as do two other victims whose cases have been taken up by ACT.

> The last case also relates to a disappeared person,

On March 18, "Television Suisse Romande" aired a broadcast on ACT. Please click <u>here</u> to watch (requires

ACT IN TV

Realplayer).



TRIAL - SCHWEIZERISCHE GESELLSCHAFT FÜR VÖLKERSTRAFRECHT

but whose family subsequently learned that he had died whilst in detention.

Other Activities

During the course of last year, ACT was contacted by numerous individuals, lawyers and organisations from several countries, notably from Romania, Uruguay, Nepal and Sri Lanka requesting its legal expertise.



In November 2008 the Director of ACT accepted an invitation from the International Commission of Disappeared Persons to participate in a regional seminar in Belgrade, in order to present ACT's work to the other Associations present. The main aim was to demonstrate how the submission of a complaint to the relevant international bodies could contribute to obtaining justice for some families of victims.

In order to make its activities widely known, it should also be pointed out that ACT presents its activities on the internet in Spanish, Russian, Arab, German and Bosnian.

Because of its small size, ACT has had to put exceptional effort into handling all of the above cases and their related activities in such a short period of time. In addition it should be noted that the work of ACT is not simply concerned with drafting complaints. A considerable amount of time is given to contacting the relatives of victims, to meeting with them locally when necessary to conduct interviews, to assembling the required documentation, to having translations made, to understanding the legal problems involved, to carrying out the necessary research and finally to following up on the cases submitted to the various international bodies.

* * *

Law

ICC Legal Tools

In 2008, TRIAL was able to devote itself to a new major project: participation in the "ICC Legal Tools Project," which was envisaged by the Office of the Chief Prosecutor of the International Criminal Court (ICC).

This project intends to create the most extensive data base ever assembled in the field of international criminal law, which will contain an extraordinary amount of legal documentation from all over the world. TRIAL is taking part in this project together with partners from other organisations (for the most part academic institutions) from throughout Europe. The work involves gathering, analysing and classifying documents from 45 countries related to their national legislation and practice with respect to crimes falling within the jurisdiction of the ICC (war crimes, crimes against humanity, genocide).

TRIAL's participation in this project was made possible thanks to the financial support of the Swiss Federal Department of Foreign Affairs (FDFA). By the end of 2008, TRIAL was able to demonstrate to

TRIAL: A FEW STATISTICS

TRIAL WATCH

More than a million: this is the number of visitors to the Trial Watch data base. As of today, the data base contains more than 600 profiles (see p.8)

MEMBERS

On 31 December 2008, the Association numbered 179 paying members, an increase of 8 members over the previous year

INTERNS

In the course of 2008, 10 highly qualified and motivated persons completed an internship at the secretariat of the Association for periods varying from three to six months.

IN ADDITION...

- 18: this is the number of dossiers submitted by ACT (see p.2)
- 3: this is the number of criminal complaints on which TRIAL has worked in Switzerland. One was submitted but filed and disposed of, one is still underway, and the third, finally, was not lodged.
- 28 m2. this is the surface area of the new office which TRIAL moved into in 2008. With the increase in our activities, there will be a need to move into larger offices in 2009.
- 16: this is the number of press releases relayed to the press and members of the Association
- 10,000: this is the amount in Swiss francs of the largest single private donation received in 2008.

the FDFA that the project was well advanced and thus obtained confirmation that it will receive a renewed financial contribution for 2009.

In order to manage and coordinate this project, TRIAL decided to employ Mrs. Karen Oliveira da Costa in 2008. With the help of a qualified team of researchers, she was able to register more than 2500 documents (on national legislation and jurisprudence, accompanied by legal commentary) concerning Argentina, Canada, United States, Luxemburg and Russia in the central data base of the project.

Within the framework of the legal tools project, another particularly interesting programme, entitled "Case Matrix" was developed. This legal tool should go towards facilitating legal inquiries in cases of serious violations of human rights and international humanitarian law by national judicial authorities whether they be prosecutors, defence lawyers or judges.

Two TRIAL committee members, Magali Maystre and Elisabeth Baumgartner, are members of the Case Matrix Advisory Group, a small team working actively with the coordinator of the legal tools project, Morton Bergsmo, in order to assist and advise those wishing to use Case Matrix on the optimum usage of this tool.

In this context, Magali and Elisabeth travelled to London and Beirut in November 2008 in order to install Matrix and to give help and advice to users such as Amnesty International, to the International Bar Association and to the UNIIIC (United Nations International Independent Investigation Commission in charge of the inquiry into the death of Rafik Hariri) as well as to the United Nations Regional Office for Development. The latter, would like to put in place an Arabic translation of the Case Matrix within the framework of its project on the rule of law in Arab countries.

For further information visit: <u>http://</u> www2.icc-cpi.int/Menus/ICC/Legal +Texts+and+Tools/Legal+Tools/

Conferences

TRIAL Meeting Events

It was in 2008 that we initiated "TRIAL meeting events," a series of opportunities offered to Trial members to meet people actively involved in the field of International Justice in an informal setting.

At the first of these events, Reed Brody of Human Rights Watch, - the pivotal force in trying to bring to justice the former dictator of Chad, Hissene Habré over the last eight years,- came to speak about his work and the prospects for a trial in Senegal or elsewhere of the former Chadian tyrant.

At the second of such TRIAL meeting events, the invitee, Pierre Hazan, a wellknown authority on questions of international and transitional justice, made a lively and enjoyable presentation on the role of Truth Commissions.

In the future, it will now be up to Céline Glütz, a former intern with Trial, to ensure the organisation of these meetings which for the time being are held only in Geneva.

If this meeting formula attracts wider interest, it could be reproduced in other locations.

* * *

Federal Policy

Incorporating the Rome Statute into the Swiss Penal Code

At the time the Statute of the International Criminal Court was ratified, the Federal Council announced that it would send to the Parliament a proposal to vote into Swiss criminal law the crimes contained in the ICC Statute in order to be able, where appropriate, to implement the principle of complementarity. According to this principle, the ICC only intervenes in any given case if the national authorities are unable, or do not wish themselves, to prosecute the crimes in question.

In 2003, the Federal Parliament limited the application of universal jurisdiction in Switzerland for war crimes, by requiring that anyone in violation of an international humanitarian law could only be tried in Switzerland if he had a close link to the country, a condition which is contrary to the Geneva Conventions.

On the basis of this 2003 modification, the Federal Council, proposed in its draft bill to adopt the close link condition not only for war crimes but also for crimes against humanity and genocide.

As a result of a persuasive campaign by TRIAL during the consultation procedure, (TRIAL had notably gathered the signatures of around sixty law professors opposed to the inclusion of the close link clause in the criminal code), the Federal Council reviewed its position and transmitted to the Parliament a much more acceptable draft.

In the autumn of 2008, the National Council analysed this text, and adopted it in early 2009 without making any amendments.

TRIAL continues to follow this dossier very closely, and offers its expertise to interested parliamentarians.



TRIAL - SWISS ASSOCIATION AGAINST IMPUNITY

ANNUAL REPORT 2008



Novel Project.

Virtual violations of the Geneva Conventions. International Humanitarian Law in Video Games.

Certain video games such as the "3D-Shooter-Games" depict scenes showing acts which would be considered an infringement of international law if they were committed in real life. Even if these games take place in a virtual world and the players are more or less conscious that this is the case, it is worthwhile to examine these abuses more closely. Indeed, although these games create an unreal world environment, they nevertheless change the legislative and ethical framework in which the players operate and illustrate actions as being acceptable when in fact they are forbidden by law in the real world.

TRIAL got hold of this theme in 2007 and came up with an idea for a project, whose objective was to evaluate the compliance of different video games software programmes with international humanitarian law, through a legal analysis of the problem scenes in such video games.

After winning the second prize in the contest, "We have a dream" ("Wir haben einen Traum"), at the Human Rights Forum in Luzern in 22 April 2008, preparations for this analysis could get underway. With the collaboration of the "Pro Juventute" organisation, which has been a partner in the project since March 2008, twenty games were selected

according to very strict and specific criteria.

Since then, a team of expert players quite simply started playing the selected games, and recorded the questionable scenes. After being recorded, these scenes were analysed by international humanitarian law experts, under the guidance and support of Professor Marco Sassoli of the Geneva Academy of International Humanitarian Law and Human Rights.

By December 2008, most of the scenes in question had been scrutinized to the extent that the final report should be completed and available by the spring of 2009. Its aim will be to inform the media, the players, the producers and other interested parties of the results of our analysis, thereby drawing greater attention to this problem.

Moreover, the project will be presented and debated in the "Mega Buster" magazine to be published in the spring of 2009. This will be issued as a compilation of various articles in the form of a booklet put together by the Interpixel organisation and which will touch upon the theme "Child's room, war zone" ("Kriegsgebiet Kinderzimmer"), in an imaginative way using a variety of texts from different fields.

Reading material

TRIAL Journal

The TRIAL Journal made a new start in 2008, transforming itself from an internal information bulletin into a bona fide legal magazine directed at a wider public. Its presentation has been greatly improved thanks to the help of Erik Grobet of Solidaridad Graphisme in Geneva, who contributed most kindly to the preparation of the new print mock-up. The page layout of each number is prepared by David Lounici, another colleague who does not count the hours he spends in turning out such a high quality publication.

With respect to the subject matter, the contributions have become longer and allow for an in-depth analysis of specific legal issues. Increasingly, there are articles which come from specialists in the fields of international law, human rights and international criminal law who thus make their contribution to improving the quality of the journal. The co-editors of the journal give generously of their time and effort, and are most grateful to the writers and translators for their commitment.

Each issue of the journal is a challenge, but a challenge that is easy to justify, given the increased requests from libraries or people from the media to subscribe to the TRIAL Journal which is published three times per year.

2009 A few of TRIAL's projects for the coming year.

Map of the World	"International Justice: a world map." It is under this heading that TRIAL will launch a new information tool in the spring of 2009. It will aim to offer in a clear manner information which is not readily available from usual media sources, by showing on an interactive world map references to events concerning the fight against impunity. The map will be circulated the internet and by e-mail once a month.		
Creation of the G-50	By June 2009, our Association hopes to gain the support of at least fifty sponsors within a group known as the "G-50," a support group aimed at providing TRIAL with a preliminary sum of at least CHF 20,000, which will in turn be invested in a fund raising campaign. We then hope to reach our ultimate goal of raising up to CHF 200,000 by the year 2010.		
ACT increased activity	In 2009, not only will ACT continue to handle the cases already submitted to the European Court of Human Rights, the Human Rights Committee and the United Nations Committee against Torture, but will also research, prepare and submit several new complaints. There are partnership projects being finalised which will allow ACT to participate in proceedings concerning Romania, Nepal and Chechnya. Further developments are envisaged for later in the year. Without attaching too much importance to the actual numbers, it is foreseen that ACT will submit between 15 and 20 cases to the European Court of Human Rights, and some 20 to 25 cases to the United Nations Committees.		
SCICC Coalition	In 2009 the SCICC, for which TRIAL holds responsibility for the secretariat and coordination amongst members, will campaign for the ratification of the Convention on Enforced Disappearances. It will get involved in the issue of the definition of crime of aggression in the Rome Statute of the ICC. It will also advocate the introduction of an article in the Swiss Penal Code, criminalising torture and will consider setting up a "War Crimes Unit" to improve the chances of proceeding against perpetrators of international crimes present in Switzerland.		
Implementation of the Rome Statute	TRIAL will closely monitor the Federal Parliament debate on the adoption of a law to insert in the Swiss Penal Code crimes penalized under the Statute of the International Criminal Court, and will ensure that information on this subject is widely broadcast. An update of its legal handbook "The Fight against Impunity in Swiss Law" ("La lutte contre l'impunité en droit Suisse") is also envisaged.		
Trial Watch	Consideration will be given to adding Spanish as a language with which to consult the profiles in the Trial Watch data base. All of the current profiles will be reviewed, updated and completed. The objective is to have 650 profiles in total by the end of the year and reach 1'200'000 site visits over the entire year 2009.		
Legal Affairs	Being unable to comment much on this subject, TRIAL can only say that it is currently working on several cases, both civil and penal, which might lead to interesting proceeding being brought during the coming year. We shall inform you of developments as they occur.		
ICC Legal Tools	Our association will continue its collaboration this year with the ICC within the framework of the Legal Tools project. A new appointee to manage this project will be designated in March 2009.		

Summary of finances

Revenue (CHF)	Accounts	Budget
	2008	2008
Individual members' fees	19'670.00	15'000.00
Group member's fee	1'200.00	3'000.00
Private donations	17'130.39	15'000.00
Allocated donation: Amnesty International – Swiss section	20'000.00	10'000.00
Support TRIAL Watch	5'000.00	20'000.00
Support Advocacy Center	67'836.00	177'000.00
Agir Ensemble pour les Droits de l'Homme Pro Victimis Other sources of	4'836 53'000	4'800 52'200
funding for 2008/2009 (Karl Popper Foundation)	10'000	120'000
Extraordinary revenue (parties, events)	25.00	15'000.00
Swiss coalition for the International Criminal Court	1'200.00	3'000.00
Legal services to third parties	7'700.00	2'000.00
Bank interest, various revenue	330.04	1'000.00
Support ICC Legal Tools Project (CH Dpt of Foreign Affairs)	50'000.00	95'000.00
Extraordinary judicial actions	-	20'000.00
Support video games project	3'000.00	6'500.00
Total REVENUES	193'091.43	382'500.00

Charges (CHF) TRIAL Watch Database Mandate for project coordination Computer specialist Advertising Various costs (supplies, travel, translations,	Accounts 2008 9'480.00	Budget 2008
Mandate for project coordination Computer specialist Advertising	9'480.00	
Computer specialist Advertising		20'000.00
Advertising	8512	1'2000
0	-	3000
	- 968	2000
interns)	300	3000
Advocacy Center	144'122.45	179'000.00
Salaries and social welfare contributions/co	102'454.05	110'000
Fundraising mandate	-	6'000
Operation of Sarajevo office Costs Algiers lawyer	8'584.02	10'000 7'500
Rent and operation of Geneva office	5'475.55	8'000
Travel expenses	7'523.70	8'000
Public relations (information services,	101050 55	101000
maintenance of website, internet, newsletter, mailings to	12'352.55 3'730	10'000 7'000
members)	1'269	3'000
Translations	2'400	7'500
General and financial oversight	333.08	1'000
Interns	-	1'000
Rewards to volunteers Miscellaneous expenses		
Secretariat	33'126.06	43 '500.00
Secretary's salary	17:394.10	28'000
Newsletter	8'822.55	10'000
Documentation centre	536.82	500
Office supplies and various equipment	3'543.54	1'500
General overheads Travel expenses	921.35 1'371.65	2'000 500
Conferences	536.05	1'000
Swiss Coalition for the International	200.00	3'000.00
Criminal Court	51010.00	
Legal Group	5'218.20	9'000.00
Participation in conferences (GTDV, AEP,)	-	1'000
"Victims" project: research, website, flyer Implementation of the Rome Statute	-	5'000 3'000
Coalition NGO PEP	5'218.20	
Judicial Group (special action)	12.60	20'000.00
ICC Legal Tools Project	51'108.89	95'000.00
Salaries for coordinator (50%) and	36'817.55	64'500
researchers	431.40	2'500
Overhead and administrative costs	2'510.00	10'000
Rent Travel expenses: Legal Tool Network Meetings	2'600.19 4'315.10	5'000 10'000
Travel expenses: Case Matrix Advisory Team	4'434.65	3'000
Computing		
Video Games Project	333.05	6'500.00
Games purchase	196.40	1'000
Compensation for participating jurists	-	2'500
Compensation for "players" Administrative costs, shipping, various other	- 136.65	750 750
costs	-	1'500
Computer specialist		
Costs Postal Office account	167.61	250.00
Total COSTS 2	243'768.86	376'250

DEFICIT 2008: CHF 50'677.43

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TRIAL and the fight against

the PEP

On 2 July 2008, the Federal Office of Justice (FOJ) decided to maintain the freeze on the Duvalier assets deposited in Switzerland. The FOJ considered Duvalier and his family to be a criminal organisation and imposed a deadline on him to prove the lawful origin of these funds failing which they would be returned to Haiti. By its decision dated 12 February 2009, the FOJ ordered the confiscation of these funds and their restitution to their legitimate owner, Haiti.

These decisions rounded off the sustained lobbying activity and the solid groundwork put in on the part of the Swiss Coalition for the Restitution of the Duvalier Funds, a coalition in which TRIAL is a member. To this end, in 2008, TRIAL carried out indepth research into the crimes committed by Jean-Claude Duvalier during his presidency (1972-1986), which proved the existence of an authentic criminal organisation, helping thereby to endorse the decision to confiscate the funds.

In order to engage more effectively in the fight against international criminals who, over and above the numerous violations of human rights, are also to be found guilty of misappropriation of funds in their own country, the Federal Council announced on 5 December 2008, a project to draft a law on the confiscation of the assets, of illegal origin, of politically exposed persons (PEP).

During the past year, TRIAL was already actively involved in this process by

multiplying its contacts with both federal parliamentarians and the administration. TRIAL fully intends to pursue its efforts in 2009, by participating in the drafting of the future government bill.

Trial Watch

The Trial Watch data base continued to benefit from increasing visibility in 2008. More than a million profiles were visited this year, bringing the total number of visits since the site was opened up to almost 4,400,000. Thanks to the enthusiasm of our contributors, more than 600 profiles are currently accessible on the site.

Trial Watch allows both lawyers and nonlawyers alike to obtain information from a trustworthy source pertaining to cases concerning international criminal law which are increasingly a feature of the daily news. One only has to think about recent events such as the arrest of Radovan Karadzic, the start of the Thomas Lubanga Dyilo trial or the arrest warrant against al-Bashir to realise how true this is. In order to guarantee the quality of this information, the Trial Watch team set in motion at the end of 2008, a quality control procedure to ensure the accuracy and uniformity of the contents of the data base.

The site has also had installed a flash banner which allows direct access to the most visited profiles.

ANNUAL REPORT 2008

THE COMMITTEE IN

President: Philip Grant Vice-Presidents: François Membrez, Anna Petrig

Secretary: Elisabeth Baumgartner Accountant: Jean-Luc von Arx Members: Michael Duttwiler, Anya George, Sandrine Giroud-Roth, Michel Heinzmann, Chantal Marrès, Magali Maystre, Aurélie Planas, Carolin Würzner.

Permanent personnel in 2008 Philip Grant, Leonor Vilas Costa, Anna Katulu.

Temporary personnel or

CONSUltants IN 2008 Adineh Abghari, Rustam Alizada, Elisabeth Baumgartner, Sandrine Giroud-Roth, Lejla Hadzimesic, Katerina Kappos, Tahmina Karimova, Magali Maystre, Rachid Mesli, Sébastien Moretti, Karen Oliveira da Costa.

Interns in 2008

William Assanvo, Alexandra Brutsch, Deborah Francesca Casalin, David Furger, Amaury Gillier, David Hein, Julie Jarno, Glenn Payot, Poala Salwan Géraldine Ruiz.

TRIAL wishes to thank:

Xavier Aurey, Béatrice Bartoli, Céline Glütz, Richard Greiner, Erik Grobet, David Lounici, Claire Menuet, Poala Gaeta, Marco Sassoli.

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