Abstract

This thesis deals with the description of the completion of the international *ad hoc* criminal tribunals' activity as they have been established for fulfillment of the special task and as they are not concerned permanent tribunals.

This thesis draws the analysis of the rules for completion of the activity of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR) and their application in particular cases.

The establishment of the two most famous international criminal tribunals *ad hoc*, ICTY and ICTR, and their jurisdiction is described at the beginning of this thesis as introduction to completion of the international criminal tribunals activity topic.

The analysis of the completion strategies of the ICTY and ICTR, completion strategy measures taken by the ICTY and ICTR, analysis of the transfer of the cases to national courts and switch to the national investigation and establishment of so called residual mechanism constitute core of this thesis.

Special chapter is comprised by introduction of the Rule 11 *bis*, which determines conditions for possible transfer of cases to the national jurisdictions, including evaluation of this rule in particular cases.

In this thesis I discuss the practical point of view of the ICTY and ICTR completion strategies with respect to postponed dates for ICTY and ICTR activities completion. I evaluate transfer of the cases to national

jurisdictions and I try to assess, if the requested criterions according to the Rule 11 *bis* and United Nations Security Council have been fulfilled.

This thesis draws comparison of the cases, where the request for referral was withdrew and the cases already transferred to the national jurisdiction and related argumentation.

Further special chapter is comprised of the consideration of the possibility for investigation of the criminals at large as the possible process for speeding up the activity of the both tribunals and application of the special procedural rules for criminals at large in particular cases.

The principal finding of this thesis is that the anticipated dates for completion of trials and appeals are still postponed and with respect to the existing praxis of the tribunals and with respect to the establishment of the residual mechanism it is to be expected that these dates will not be reached.

The process under the Rule 11 *bis* of the ICTY and ICTR Rules of procedure and evidence concerning transfer of the cases is very complicated procedure, namely with respect to assessment of all important criteria for transfer by the referral bench and also with respect to subsequent transfer of the accused as such to the relevant state which is subject to strict formal rules and the corresponding need for submission of all facts by the relevant documentation.

Residual mechanism which was also established by the UN Security Council resolution is kind of successor of both tribunals and will take over their functions. Residual mechanism will consist of two branches, one for ICTY and one for ICTR. Residual mechanism may be considered a reduced model of both tribunals.

Even though the UN Security Council urged states to cooperation regarding arrest of fugitives in its resolutions, it did not establish any mechanism for preservation of potential evidence for the future trial when the fugitives are arrested. This had to wait until 2009, when the new rule 71 *bis* was adopted for the Rules of procedure and evidence ICTR. With respect to ICTY, no such rule was adopted and thus no evidence could be preserved in this way in cases of fugitives. Arrest of two remaining fugitives helped ICTY to move closer to completion of its activity.

Another important finding of this thesis is the fact, that neither ICTY nor ICTR enable trial in absentia of the accused in sense of the Czech Criminal procedural code. The Rule 71 *bis* ICTR enables preservation of evidence against fugitive accused in special process of examination for the future trial when the fugitive accused are arrested. This is not duplicate process in sense of the Czech process against fugitive accused because there is no decision on guilt of the accused in the process according to the Rule 71 *bis* ICTR. In this process the evidence is preserved only for the future trial. The financial point of view is also important as it is not duplicate process and no useless expenses occur.

The only one reproach for ICTY is non implementation of the Rule 71 *bis* to its Rules of procedure and evidence, when money and time should be saved by preserving of the evidence against fugitive criminals Karadžić and Mladić.

As for the main proposition set out in this thesis, that is confirmation or disproval of unimportance of further existence of *ad hoc* tribunals in the UN field, it has to be declared that with respect to the carried out analysis within this thesis, the proposition was not confirmed. Both tribunals did their best in last years and they carried out many measures towards fulfillment of their completion strategies. Moreover,

the residual mechanism has been established and it will continue in their functions. It was established based on UN Security council resolution.

Continuing in the activity of both tribunals, or rather their residual mechanism is for sure of significant importance, especially with respect to the strengthening of the international justice and to moral satisfaction of the victims. It would not be possible to terminate their activity in one moment. I consider establishment of both tribunals as revolutionary event in the international criminal law field.