

International Criminal Tribunal for former Yugoslavia  
Re: Judge Flugge's statement in Des Spiegel on June 6, 2009  
Date: 06/05/11

Dear Judge Robinson:

I am writing to you as director of the Bosnian-American Genocide Institute and Education Center (BAGI) to request a clarification of Judge Flügge's statement in Der Spiegel on July 6, 2009. With Judge Flügge's recent appointment to the Mladic case, this statement has resurfaced and been a cause of anger and protest of his appointment by several Bosnian organizations.

After having been informed of the Judge's appointment and the Bosnian organizations' protest, I set out to examine the interview published in Der Spiegel, in both its English and German version, in hope to find that his statements were taken out of context or misinterpreted. As I read and reread the interview, I found that first, the interviewer's pertinent question was based on a false premise, that the "international law experts are divided over whether the Srebrenica massacre can be defined as genocide" (emphasis added). We can maybe forgive the interviewer's ignorance about International Tribunal's and International Court of Justice February 2007 classification of what happened in Srebrenica as genocide (as per Case No. IT-98-33-A). However, the Judge, a representative of the International Court system, cannot be forgiven for attempting to distance himself and not educating the interviewer and all of Der Spiegel's readership that Srebrenica had already been legally proven a genocide.

Secondly, although Judge Flügge attempts to avoid a direct comment about the case of Srebrenica, he continued to speak about genocide "more generally." He went on to argue against a distinction between mass murder of people who "happened to be" in the same place and genocide, which is defined by the UN Genocide Convention as "any act committed with intent to destroy in whole or part, a national, ethnic, racial, or religious group." This questioning of the distinction undermines the international community's work thus far in prosecuting, educating about and preventing genocide.

As an organization that focuses primarily on education and prevention, the Bosnian-American Genocide Institute requests to see Judge Flügge publicly clarify his stance and insist that Der Spiegel publishes a clarification, in case the interviewer misinterpreted the Judge's statement.

As a genocide scholar, I believe that genocide deniers should be prosecuted for continuing the cycle of ignorance and hatred. Sixteen European countries already have laws that prohibit the denials of the Holocaust, and some of them have also included other forms of genocide.

With all the above in mind, I find it crucial in the interest of maintaining the public's knowledge and supporting the work that has been done by international courts, for Judge Flügge to clarify his statements.

Sincerely,

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