

counts of murder and sexual mutilation due to insufficient evidence. He was found not guilty on 11 counts of grave breaches of the 1949 Geneva Conventions, as the Conventions were found inapplicable. This finding hinged on the Trial Chamber's conclusion that the Serbian army was not effectively controlled by the JNA (Yugoslav army) and that the conflict was therefore not an international conflict in those circumstances. The American judge, Judge McDonald, dissented on that point.

In January 1997, the Tribunal issued subpoena orders to Croatia and Bosnia and Herzegovina ("BiH"), as well as the Croatian Defence Minister and the BiH Defence Minister, requiring the production of specified documents. Croatia challenged the legal authority of the Tribunal to issue a subpoena to a sovereign state, arguing that it was immune to subpoenas. In July, the Trial Chamber of the Tribunal held that it has the power to issue subpoena orders to sovereign states and individuals, including government officials. The issue is before the Appeals Chamber, which invited states, non-governmental organizations and individuals to submit *amicus curiae* briefs on the issue. On September 15, 1997, Canada and New Zealand submitted a joint brief, supporting the power of the Tribunal to issue orders for the production of evidence to states and individuals, including high government officials. Similar briefs were submitted by Norway and the Netherlands, and a contrary brief was submitted by China.

b) Rwanda Tribunal

The International Criminal Tribunal for Rwanda ("ICTR" or "the Tribunal") was established by Security Council resolution 955 (1994) to prosecute individuals responsible for genocide and other serious violations of international humanitarian law in the territory of Rwanda in 1994. Following the transfer of an indicted person from Switzerland, and the dramatic arrest and transfer of nine persons Kenya in July and August, the Tribunal now has twenty-one people in custody in Arusha. Another indicted person is in custody in the United States. Trials began this year.

In response to reports of considerable administrative problems with the Tribunal, the U.N. General Assembly ordered the Office of Internal Oversight Services (OIOS) to audit and investigate the Tribunal. The results of the OIOS investigation were released in a report on February 6, 1997. The OIOS found serious management and operational deficiencies with the Tribunal, but did not find evidence of corruption. The OIOS report was particularly critical of the Registry, finding that not a single administrative area functioned effectively. The UN Secretariat was criticized for failing to provide the necessary administrative support.