# Official Transcript: Erik Møse (Part 2 of 14)

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| **Role:** | Judge |
| **Country of Origin:** | Norway |
| **Interview Date:** | 22 October 2008 |
| **Location:** | Arusha, Tanzania |
| **Interviewers:** | Robert Utter<br>Donald J Horowitz |
| **Videographer:** | Max Andrews |
| **Interpreter:** | None |

## Interview Summary

Erik Møse addresses the mission of the ICTR, his role and contributions as both judge and Vice President of the court. He speaks about the various lessons learned by the institution; the need to increase efficiency by adding trial judges and establishing a separate prosecutor dedicated to the ICTR and not shared with the ICTY, and amending the court rules of procedure and evidence. He discusses the relationship between common and civil law, and between judges and court interpreters. He speaks about the cases he has been involved in, and about the role of victims in the justice process.

***The transcript of Part 2 begins on the following page.***

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## Part 2

**00:00** **Robert Utter: What did you see as the mission or role of the ICTR in general?**

00:08 Well, this is of course an international criminal court and as such it main task is to show that international justice works. We have a special responsibility to prove that, because some time has elapsed since Nuremberg and Tokyo. These are new institutions, the ICTR and ICTY, and it was not obvious that these institutions would become a success.

00:43 I think they have succeeded fairly well and the main task therefore would be to show that these two institutions and the Arusha tribunal is fulfilling its task as an independent, impartial court which delivers justice within the requirement of fair trial guarantees established by international law. That is, I think, is the main task.

01:11 But you can also broaden the perspective of course and see this more generally as important human rights work. It supplements the state responsibility for human rights violations with individual responsibility, maybe the criminal responsibility when the state cannot or will not act against mass violations.

01:35 And in addition, clearly, the fact that we have control over about 65 indictees brought here to Arusha, one prime minister and 14 ministers, show that we have been able to address the question of whether these persons were guilty or innocent for what happened in 1994. With other words, we have the main portion of the leadership in 1994 here in Arusha.

02:14 I think that's a main achievement and it is important that the task to decide on their guilt and innocent is done in an – performed in an impeccable way.

**02:26** **RU: What do you feel has been your major contribution to the process here?**

02:32 I think we are all here to contribute. I think it's a great privilege to be part of this process. It's a once of a li-, once in a lifetime experience. I'm lucky to be at the age I am now when these two tribunals are existing, and my tribunal in particular. I've done as best as I can, like most of us, in order to make a contribution and I think in all modesty that I've done so both as a judge and as an administrator being President and Vice President.

**03:08** **RU: I had the privilege of reading some writings you did on work here with the tribunal. There was a chapter in one of your writings on Lesson Learned, Lessons Learned. What were those lessons for the camera and I'd appreciate your comments on it?**

03:25 Well, there are many lessons learned and, and, and it's almost an endless list you could begin with. But just to focus, first of all we have learned that there was a need to amend the statutes in various ways in order to make the tribunal more efficient because of the complexity of the cases. They are so demanding that there was a need for more than the six judges originally envisaged.

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04:13 As you know, we have later increased them to nine and then afterwards to 18 trial judges through the ad litem judges who have performed an excellent, have performed excellent work together with the permanent judges. In practice there is no difference between the contributions of the two groups.

04:34 Another statutory amendment of course relates to the need for a separate Prosecutor for the ICTR. That was an important reform. Now I understand very well the need in the beginning of the existence of the tribunal to opt for the solution where the Prosecutor was common to both tribunals. It was important to ensure the same prosecutorial policy for these two tribunals that were new . . .

**05:04 RU: And you refer there to the Yugoslav tribunal and the Rwandan tribunal? I'm sorry to interrupt . . .**

05:08 Yes, yes, yes. So it followed from the statute that the ICTY and the ICTR had the same Prosecutor. In the beginning, Richard Goldstone that you know, followed by others later on. But, but we found out in 1999 approximately or a bit later – 2003, 2003 – that it would be better if the ICTR got its own Prosecutor.

05:44 By then, case law, a prosecutorial policy had to some extent been established and the work load for the Prosecutor of one tribunal is tremendous . . .

**05:59 RU: Yes.**

05:59 . . . let aside two. So even if the previous Prosecutors – Goldstone, Arbour, del Ponte – did their very best and traveled between the two tribunals, The Hague and Arusha, as best as they could, it goes without saying that it would increase the focus and I think also the efficiency, the daily focus and efficiency, within the prosecution if you have your own prosecutor.

06:26 So that's also an important lesson learned and I'm very happy with the way the present system has worked since 2003 with our own Prosecutor. So these were the two main lessons learned at the statutory level I think – increasing the number of judges and splitting the Prosecutor.

06:48 And of course we still have the same appeals chamber so the end result is still guaranteed. There will still be the same case law coming from the two tribunal. There is no risk of divergent legal opinions.

07:06 Apart from that, there has been a huge learning experience in terms of amending our rules of procedure and evidence, and there I could mention very many examples.

**07:17 RU: Please do. This is for history so (____) them if you can.**

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07:20 Alright, alright. Well, first of all i-, in the beginning, the tribunal had to decide all motions in writing. It was only ’99 that we changed the rule so as to allowed for – I have to take that again. In the beginning, all motions had to be decided orally. They had to be pleaded. And it was only ’99 that we realized that of course that was a very unpractical way of doing it.

08:05 It should have been in writing, so it was only in ’99 that that change was made to allow for written pleadings. And that increased the efficiency enormously. You can imagine what an unpractical situation for lawyers coming from West Africa, New York or London to plead a small little motion in Arusha. Of course it wasn’t practical. So that’s one.

08:28 Also the possibility that only one judge can decide on a motion, not the most important ones in practice, of course, but when they are routine methods, very important. The ma-, the issue of increasing the efficiency of the trial chambers in everyday work, very many amendments have been made in the rules of procedure and evidence there as well.

08:56 One of them for instance allowing judges, in case they are ill for a few days or indisposed, to be away and the case carries on with two judges. Of course we still will have it all in the transcripts and we also have it on our video and the judge will immediately see what happened when he comes back or she comes back.

09:18 But the fact that the case doesn’t stop is something which was also new. And again that was a learning lesson and that has increased our efficiency.

**09:27 RU: What year did that change take place?**

09:29 In ’99.

**09:30 RU: Nine-, ’99.**

09:32 Yes.

**09:33 RU: Please continue. These are very helpful.**

09:36 Or let me be certain about the date. The written procedure was in ’99. The single judge was in ’99. Maybe the issue of allowing the five days lapse of absence was a little bit later. I don’t have that on the top of my head now but it was pretty early. Very many changes in the rules of procedure but that becomes a bit formal and maybe a bit boring.

10:13 Could I say – I think it’s a learning process also in the courtroom to see how international proceedings should be conducted, which is not necessarily exactly the same way as you do it in the national proceedings because of the different languages involved, the different culture involved, the different legal systems involved, this of course being a mixed system.

10:39 And I have found it particularly fascinating to try to work out how you can most fairly and efficiency ensure that the persons in the courtroom feel that this is an efficient and fair

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court of law in spite of their different backgrounds and perception of justice. Of course we all as lawyers have more or less the same ideas, but when it comes to everyday life, there may be changes. That's something I found fascinating.

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