



UNITED NATIONS

International Residual Mechanism for Criminal Tribunals

The International Residual Mechanism for Criminal Tribunals ("Mechanism") was established on 22 December 2010 by the United Nations Security Council to continue the jurisdiction, rights, obligations and essential functions of the International Criminal Tribunal for Rwanda ("ICTR") and the International Criminal Tribunal for the former Yugoslavia ("ICTY") after the completion of their respective mandates.

STATEMENT

MECHANISM

(Exclusively for the use of the media. Not an official document)

The Hague, 23 July 2018

Speech delivered by Judge Carmel Agius on the occasion of the conferment of the Peace Award to the ICTY by the Centre for Peace and Multi-ethnic cooperation

23 July 2018, Mostar

Good evening,

I don't know where to begin from. This is quite an emotional moment for me - especially since you have chosen me, as the last President of the International Criminal Tribunal for the former Yugoslavia, which closed down at the end of last year, to receive on its behalf this prestigious peace award from the Center for Peace and Multi-ethnic Cooperation. As a judge of the ICTY for 16 years, and as its last President, I know, and I want to say it loud and clear, that with this award you are making all those who ensured that the ICTY was a successful initiative, proud of their achievement. I know, how hard the judges, the prosecutors, the registrars and the hundreds of loyal and dedicated staff of the ICTY worked between 1993 and 2017 to make of the ICTY a great success story. We all believed that we had a mission to accomplish, namely to prove that international criminal justice, in particular the fight against impunity, was possible, and we were aware that the ICTY was the first instrument of the modern era to undertake such a mission. Everyone did their part, and this evening, as I accept this prestigious award, I salute them all, without distinction, and with the utmost admiration and respect for their commitment to international justice and their unstinting efforts to promote it. Like you, I also want to salute the first President of the ICTY, Antonio Cassese who is no longer with us and who got the ball rolling almost a quarter of a century ago. He was a pioneer and certainly a giant in the then developing world of international criminal justice. I remember that we the judges of the ICTY were gathered in a retreat in Berlin when the sad news of his demise reached us. I saw tears in my colleagues' eyes that day and I wiped away my own. What an enormous contribution he made. You have done well in recognizing our friend and colleague posthumously and, on behalf of the ICTY, I heartily thank you.

Today's is a peace award and it is very appropriate because, indeed, there is no peace without justice. After all, the ICTY was created by the Security Council of the United Nations under Chapter 7 of the United Nations Charter, which deals with Peace and Security. Was it an easy ride for the ICTY, for the United Nations, for the republics of ex-Yugoslavia and their people? My answer is a clear NO. It was a very difficult ride and sometimes, over the years, the Tribunal had to overcome various obstacles and

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attempts to undermine its work. In this respect, I wish to pay special thanks to the Secretary General of the United Nations, the Security Council, the General Assembly, and the UN Office of Legal Affairs. It is true that at times we received criticism from the same UN that created us, especially because of the length of time being taken to conclude the ICTY's mandate and the enormous costs involved. We were of course not perfect, no institution is, but we did our best in the difficult circumstances in which we operated. While it was not easy for us, ultimately it goes to the credit of the UN that until the very end, the Tribunal was always provided with the funds and resources needed to complete its work. It was a more difficult ride for the Tribunal here, in this beautiful land formerly known as Yugoslavia. During its 24 years of operations, the ICTY was not well looked upon at all by some governments, politicians and people, and, barring a few exceptions, for a considerable time, cooperation was almost inexistent. For years the Tribunal was the target of a systematic and negative public-relations campaign, motivated purely by politics and nationalism. You know, those who commit crimes and those who provide the perpetrators with cover and protection, do not like Justice. For these people, being discovered and punished, and being stripped of power, is what they sought to avoid. Things gradually improved for the Tribunal but not as much as we would have liked them to. Unfortunately it was and remained difficult for some to accept that indicting individuals for genocide, war crimes and crimes against humanity did not mean indicting their country or government, and much less the people of the same ethnic group. Unfortunately, in spite of plenty of lip-service in favour of justice and the ICTY, many a time nationalism came first, and the ICTY was perceived as good or bad depending on whether each judgment rendered was favourable to a particular government or people. There is still a long way to go. Thankfully, there is no war any longer in ex-Yugoslavia in the true sense of the word, but you all know that there is no real peace either, especially in BiH. In my mind the main reason for this is because there hasn't been readiness to accept justice as it should be. In my 16 years as ICTY judge I have seen how numerous individuals who were found guilty by the Tribunal for the most serious of international crimes are welcomed home as heroes by the highest authorities following their early release. I have also seen how the worst of crimes continue to be denied even though they have been repeatedly established by the Tribunal. I have seen so much complacency at the highest level. I could continue talking about all the challenges and difficulties we encountered for hours on end, but I will not because today is instead day for celebration.

Today we are acknowledging the contribution of the ICTY towards justice and peace. Particularly during the last year of its existence, the Tribunal had occasion to hold several activities to consolidate and mark the myriad aspects of its legacy. One such aspect was its role as a trail-blazer. The ICTY was a bold experiment by the Security Council, and the first of its kind, in attempting to stop impunity in the face of egregious crimes and to bring the perpetrators of such crimes to justice. Within its first 5 years, the ICTY had achieved enough to convince the international community that the UN initiative was a good and viable one and could lead the way towards the creation of a permanent international criminal court. Since then, international criminal law and justice have come a long way, with not only the ICC being created but also numerous other *ad hoc* tribunals. This development – this huge paradigm shift – has been enormously important, both symbolically and also practically. I submit to you that humanity is far better off for this development, even though the current international scenario is rather bleak. Admittedly, when one sees what has been happening in the world around us, in Syria, in Libya, in many locations around the world, one feels tempted to concede failure and feel pessimistic about the future. Further, it appears that presently the international political will to seriously provide justice is still not there. Even when one sees the difficulties that the ICC encounters, one tends to have these negative



feelings confirmed. While at times I feel discouraged and sad, in my heart of hearts I continue to believe that it is worth it; that it makes a difference; and that in the end, people, States, governments, will come to realize that the only way to lasting peace is through pursuing justice. Pursuing justice is not easy: it entails belief in justice first and foremost, and also requires openness, responsibility-taking, honesty, strong leadership and immense determination.

Today, in giving this peace award to the ICTY you are not only acknowledging its contribution towards peace but you are sending out a clear and unambiguous message reminding others who have still not seen the light, that there is a way towards the achievement of peace. That road is named justice. You are the torch-bearers showing the way towards that road; I congratulate you and I thank you. I am honoured to be with you.
