

**UNITED
NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-23-129-Misc.1

Date: 20 February 2025

Original: English

THE PRESIDENT OF THE MECHANISM

Before: Judge Graciela Gatti Santana

Registrar: Mr. Abubacarr M. Tambadou

Date: 20 February 2025

**IN THE MATTER OF VOJISLAV ŠEŠELJ, MILJAN DAMJANOVIĆ,
MIROLJUB IGNJATOVIĆ, LJILJANA MIHAJLOVIĆ, AND
OGNJEN MIHAJLOVIĆ**

PUBLIC REDACTED

**PUBLIC REDACTED VERSION OF “SECOND MONITORING
REPORT” DATED 20 DECEMBER 2024**

Monitor

Mr. Brent D. Hicks

I. INTRODUCTION

1. On 11 August 2023, an indictment was confirmed against Mr. Vojislav Šešelj, Mr. Miljan Damjanović, Mr. Miroljub Ignjatović, Ms. Ljiljana Mihajlović, and Mr. Ognjen Mihajlović (“Accused”), for contempt of the International Criminal Tribunal for the former Yugoslavia (“ICTY”) and the International Residual Mechanism for Criminal Tribunals (“Mechanism”), pursuant to Article 1(4)(a) of the Statute of the Mechanism and Rule 90 of the Rules of Procedure and Evidence of the Mechanism (“Indictment”).¹
2. Pursuant to my appointment as a Monitor in the *Šešelj et al.* case,² and recalling the applicable Terms of Reference for this role,³ I respectfully submit this Second Monitoring Report to the President, through the Registrar. This Second Monitoring Report covers a period of one month, following the filing of my first monitoring report on 20 November 2024⁴ until the date hereof. I undertook a mission to the Republic of Serbia (“Serbia”) between 3-6 December 2024, with related details included below.
3. As a general statement, this Second Monitoring Report (and future ones) will not reiterate content that was previously conveyed – whether in the procedural history or the reporting section – unless there is a need to do so to appropriately frame the current report.

II. PROCEDURAL HISTORY

4. The First Report outlined the relevant procedural history of this case, from the Indictment of the Accused through the referral of this proceeding to Serbia,⁵ up until 20 November 2024.⁶

¹ *Prosecutor v. Vojislav Šešelj, Miljan Damjanović, Miroljub Ignjatović, Ljiljana Mihajlović, and Ognjen Mihajlović*, Case No. MICT-23-129-I (“*Šešelj et al.*”), Decision on Confirmation of Indictment, confidential and *ex parte*, 11 August 2023 (“Confirmation Decision”), p. 2. The Indictment and the public redacted version thereof were filed on 15 August 2023 and were both placed under seal pursuant to an instruction contained in the Confirmation Decision. The Confirmation Decision and the public redacted version of the Indictment were subsequently made public pursuant to a decision issued on 5 October 2023. See, *Šešelj et al.*, Decision on Prosecution Request to Unseal Public Redacted Version of Indictment and Other Matters, 5 October 2023, p. 2. See also, *Šešelj et al.*, Indictment [public redacted], 5 October 2023.

² *In the Matter of Vojislav Šešelj, Miljan Damjanović, Miroljub Ignjatović, Ljiljana Mihajlović, and Ognjen Mihajlović*, Case No. MICT-23-129-I, Order Appointing a Monitor, public, 9 October 2024.

³ The Terms of Reference were agreed upon by an exchange of memoranda between the Registrar and the President, concluded on 4 October 2024.

⁴ *In the Matter of Vojislav Šešelj, Miljan Damjanović, Miroljub Ignjatović, Ljiljana Mihajlović, and Ognjen Mihajlović*, Case No. MICT-23-129-Misc.1, First Monitoring Report, confidential, dated 20 November 2024, filed 10 December 2024 (“First Report”).

⁵ *Šešelj et al.*, Decision on Referral of the Case to the Republic of Serbia, public, 29 February 2024 (“Referral Decision”).

⁶ See, First Report, Section II.

5. On 28 November 2024, the Registrar of the Mechanism requested the redaction of identifying information from a document to be transmitted to the Public Prosecutor's Office for War Crimes ("Prosecutor's Office of Serbia") by the Mechanism's Office of the Prosecutor ("Prosecution"), pursuant to the Referral Decision, [REDACTED].⁷
6. On 29 November 2024, the Prosecution filed an urgent response, submitting that the Redaction Request has no merit and that, if granted, it would be required to cancel a scheduled mission to Belgrade intended to handover the Court Records⁸ related to this proceeding to the Prosecutor's Office of Serbia.⁹
7. The same day, 29 November 2024, a Mechanism Single Judge granted the Redaction Request, and ordered the Prosecution to implement the requested redactions prior to transferring the document to the Prosecutor's Office of Serbia.¹⁰
8. On 4 December 2024, and further to an instruction in the Decision on Protected Witnesses and Access (*i.e.*, to inform the Prosecutor's Office of Serbia of the identity of, and protective measures in force for, the implicated witnesses, including the specific pseudonym assigned to each witness),¹¹ the Registry filed a corrigendum to its previous notice of compliance, correcting the referenced protective measures as to four (4) of the implicated witnesses.¹²
9. On 10 December 2024, the First Report was filed.¹³
10. On 12 December 2024, the Prosecution filed a notice of compliance confirming that it had transferred all appropriate evidence and information relating to the referred case to the Prosecutor's Office of Serbia.¹⁴ The Prosecution's Handover Notice confirmed that

⁷ *Šešelj et al.*, Registrar's Submission Related to the Decision on Referral of the Case to the Republic of Serbia, confidential and *ex parte*, 28 November 2024 ("Redaction Request").

⁸ Per the Decision on Protected Witnesses and Access, the Court Records consist of a list of material that the Prosecution requested the Registry certify for the purpose of their transfer, which the Prosecutor's Office of Serbia was allowed access to by a Mechanism Single Judge [See, *Šešelj et al.*, Decision on Prosecution Request Concerning Protected Witnesses and on Access to Case Records, confidential and *ex parte*, 2 September 2024 ("Decision on Protected Witnesses and Access").].

⁹ *Šešelj et al.*, Prosecution Urgent Preliminary Response to Registry Submission, confidential and *ex parte*, 29 November 2024.

¹⁰ *Šešelj et al.*, Decision on Registrar's Submission Related to the Decision on Referral of the Case to the Republic of Serbia, confidential and *ex parte*, 29 November 2024.

¹¹ Decision on Protected Witnesses and Access, p. 6.

¹² *Šešelj et al.*, Corrigendum to the Notice of Compliance of 7 November 2024, confidential and *ex parte*, dated 2 December 2024, filed 4 December 2024. See also, *Šešelj et al.*, Notice of Compliance, confidential and *ex parte*, dated 7 November 2024, filed 12 November 2024.

¹³ See, First Report.

¹⁴ *Šešelj et al.*, Prosecution Notice of Compliance with Order for Transfer of Evidence and Information, confidential and *ex parte*, 12 December 2024 ("Prosecution's Handover Notice").

all of the Court Records were provided to the Prosecutor's Office of Serbia on 10 December 2024, while the material contained 1,579 files and 512 gigabytes of data.¹⁵ Simultaneously, the Prosecution advised the Single Judge of its intent to meet with the Prosecutor's Office of Serbia – [REDACTED] – to provide an introduction to the transferred material and to answer any related questions.¹⁶

III.REPORT

11. On 22 November 2024, following previous engagement with the Higher Court in Belgrade,¹⁷ a meeting was confirmed for 4 December 2024.
12. On 25 November 2024, further to my request of 20 November 2024, I was informed that the Assistant Minister, Sector for International Cooperation and Strategic Planning, at the Serbian Ministry of Justice would be travelling on official business, and therefore unable to meet in early December 2024. Additionally, I was advised that the Assistant Minister has professional commitments for the entirety of January 2025 and the beginning of February 2025, such that mid-February would be the earliest possible date for another meeting.¹⁸
13. On 26 November 2024, and after sending related inquiries,¹⁹ I was advised by the Prosecutor's Office of Serbia that, due to other obligations, a meeting in early December 2024 would not be possible. It was simultaneously suggested that contact be reinitiated in mid-January 2025, to agree on a date for a future meeting.²⁰
14. On 4 December 2024, I was welcomed at the Higher Court in Belgrade by Judge [REDACTED], the President of the Higher Court's Department for War Crimes and Organized Crime (the "President" and "Department", respectively). The President gave me an overview of the Department's operations, noting that it was formed in 2004 and has a substantial caseload, while some cases are based on dossiers received from the ICTY. She advised that, when cases are being heard, the Department can rely on hard copies of documents alongside digital copies – all original documentation is scanned and digitized and can then be electronically displayed in the courtroom as needed. The

¹⁵ Prosecution's Handover Notice, para. 17.

¹⁶ Prosecution's Handover Notice, para. 18.

¹⁷ See, First Report, paras. 20, 22, 24, and 26-27. In addition to the efforts mentioned in the First Report, there was further correspondence with the Belgrade Higher Court on 8, 14, 18, and 21 November 2024.

¹⁸ This further guidance was received on 29 November 2024.

¹⁹ Said inquiries were sent on 20 and 25 November 2024.

President confirmed that a proceeding in the referred *Šešelj et al.* case will only be activated before the Higher Court in Belgrade following the submission of an indictment by the Prosecutor's Office of Serbia. Simultaneously, she recalled that no such indictment has been submitted to date. The President noted that the Department has two (2) Chambers consisting of three (3) Judges each. When a case is initiated, one Chamber is seized of pre-trial functions, while the other Chamber oversees the trial proceedings. Additionally, the President noted that there are a series of checks undertaken, following the submission of an indictment before the Department. Initially, the formal aspects of an indictment will be examined by judges, followed by a related response from any accused. Thereafter, an indictment is either confirmed or sent back to the Prosecutor's Office of Serbia for potential revision. Finally, the President confirmed that all parties in proceedings before the Department have access to facilities for simultaneous interpretation, as may be needed.

15. Following my meeting with the President, I was provided with a comprehensive tour of the Department's facilities. Said tour included a walk-through of three (3) courtrooms, as well as translation booths, protected witness booths, holding cells, the media centre, and the audio-visual director's room. Courtroom 1 is a spacious and modern facility modelled on an ICTY courtroom, with room to accommodate all parties in the largest of proceedings – simultaneous interpretation can be facilitated in this venue. Courtroom 2, known as the "Giovanni Falcone" courtroom, is smaller than Courtroom 1, but similarly appointed (*i.e.*, including the possibility for simultaneous translation). Due to the types of cases heard before the Department, these two (2) courtrooms are enhanced by additional security measures, while available technology allows for face and voice distortion of protected witnesses. Finally, and during this tour, I was advised that transcripts of proceedings are typically available forty-eight (48) hours after a hearing.
16. On 5 December 2024, I met with personnel in the Service for Assistance and Support to Victims and Witnesses of the Higher Court in Belgrade ("Service"), [REDACTED] ("Victims & Witnesses Personnel"). The Service was founded in 2006, and currently supports around two hundred eighty-one (281) victims and witnesses involved in thirty-seven (37) active cases. The scope of assistance provided by the Service commences upon the entry of a victim or witness to the Higher Court in Belgrade, and concludes

²⁰ On 28 November 2024, I inquired whether a date and time could be agreed for a video-conference meeting in early or mid-January 2025. As yet, no response has been received to this correspondence.

upon their departure from the Court. This typically involves contact between the Service and victims and witnesses in advance of their testimony, an assessment of particular needs, and the implementation of appropriate measures (*e.g.*, emotional and logistical support, with an emphasis on mitigating risks). When a victim or witness needs additional support, post-testimony, the Service tries to refer such persons to other support organizations. While this potential post-testimony support is only available to Serbian victims and witnesses, the Service is looking into opportunities for regional cooperation to support victims and witnesses from other countries. The Victims & Witnesses Personnel inform Judges of the Department of their views with respect to specific victims and witnesses, while it is ultimately for the Judges to rule upon any protective measures and related issues. One specific challenge facing the Service is the length of time that has passed between many of the crimes alleged in cases before the Department and eventual courtroom proceedings – the Victims & Witnesses Personnel noted that many victims and witnesses are too old to meaningfully testify, or they are already deceased. Finally, and now that initial protocols have been complied with, the Victims & Witnesses Personnel advised me that I could contact them directly in the future, as may be needed.

17. On 10 December 2024, I met with a representative of the Prosecution. As separately communicated by the Prosecution Handover Notice, he advised me that the Prosecution had transferred all appropriate evidence and information relating to the referred case to the Prosecutor's Office of Serbia earlier that day. Further, I was informed that a potential meeting, between the Prosecution and the Prosecutor's Office of Serbia to discuss the information related to the domestic prosecution of the referred *Šešelj et al.* case, could not take place until after the Serbian holiday season concludes in mid-January 2025.²¹
18. On 17 December 2024, I wrote to the Acting Chief of the Prosecutor's Office of Serbia, to inquire whether he would be available for a meeting in early February 2025. In the alternative, I inquired whether someone from his Office would be in a position to discuss any updates in the referred case at that time. Finally, I asked him if he could clarify the intended procedure, with respect to the anticipated submission of an indictment in the *Šešelj et al.* case before the Higher Court in Belgrade.
19. While there has been some progress in recent weeks, the referred *Šešelj et al.* case is still in an early stage in Serbia. As stated above, I was able to clarify with the President of the

²¹ See also, Prosecution Handover Notice, para. 18, which states [REDACTED].

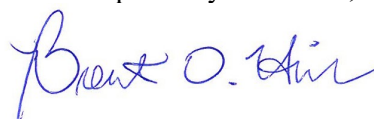
Department that a case will be activated before the Belgrade Higher Court upon the submission of an indictment in the referred *Šešelj et al.* case by the Prosecutor's Office of Serbia. However, and due to the inability to meet with the Acting Chief, [REDACTED], now that it has received all information relating to this case from the Prosecution. I aim to clarify this issue with the Prosecutor's Office of Serbia at the earliest opportunity.

20. I note that relevant interlocutors have indicated that they are unavailable in early January 2025, while I recall that Orthodox Christmas Day is on 7 January 2025 and the Orthodox New Year is on 14 January 2025. Accordingly, I am unlikely to undertake my next mission to Belgrade before February 2025. To the degree possible, I will obtain relevant information remotely prior to my next mission. Further, I will offer additional monthly reports in line with the applicable Terms of Reference.

IV. CONCLUSION

21. I remain available to provide any additional information at the President's direction.

Respectfully submitted,



Brent D. Hicks
Monitor

Done this 20th day of February 2025,
At The Hague,
The Netherlands.



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