



STATEMENT

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PRESIDENT

The Hague, Arusha, 10 December 2014

**Address of Judge Theodor Meron
President of the International Criminal Tribunal for the former
Yugoslavia
And
President of the International Residual Mechanism for Criminal
Tribunals
to the United Nations Security Council
10 December 2014**

Mr. President, Excellencies, Ladies and Gentlemen:

It is an honour to once again appear before this Council in two capacities: as President of the International Criminal Tribunal for the former Yugoslavia and as President of the Mechanism for International Criminal Tribunals. I hope that my remarks today will serve to elucidate certain key points set forth in the recent reports submitted on behalf of these two institutions.

However, before I turn to these points, I would like to congratulate His Excellency Ambassador Zene of Chad on his country's assumption of the Presidency of the Security Council. I also wish to express again my appreciation for the efforts of the Security Council's informal working group on international tribunals, and, particularly, Chile for its leadership of that group. And I continue to be extremely grateful for the extensive support that the Office of Legal Affairs and the Legal Counsel provide to the ICTY and the Mechanism.

I will first turn to the ICTY. I am pleased to report that the Tribunal continues to make progress in completing its last trials and appeals. Indeed, we have already delivered two appeal judgements in 2014, and expect to deliver another one—in the large, multi-accused *Popović* case—by the end of January 2015. Accordingly, we enter 2015 with only four trials and five appeal cases remaining. By the end of next year judgements in only two cases—specifically, one trial and one appeal—should remain outstanding.

As our November report makes plain, and as Council members have been aware for several years, despite the significant progress we have made in finishing cases, the Tribunal will not be able to complete all of its judicial work by the end of this month. Numerous unforeseen and sometimes challenging circumstances, including the late arrests of the last ICTY indictees, the disqualification of a Judge, the health conditions of a number of our accused, and the size and complexity of certain multi-accused cases, have prevented us from meeting the Security Council's target date for completion of our judicial work by the end of 2014.

Although the majority of our remaining cases are progressing in line with previous forecasts, our November report also explains that certain trial and appeal judgements will be later than forecast by the Tribunal in May. The fact that such delays occur is disappointing to me and to my fellow Judges. Importantly, however, these recent changes to our judgement schedule are not expected to impact the anticipated date of the Tribunal's closure, in 2017.

I would further note, as I have before, that the judicial process is inherently dynamic and mutable; it is a process that takes place against a background of great legal and logistical complexity, and may be affected by any matter of unforeseen developments, such as the discovery of mass graves with possible forensic significance. In this context, forecasts for the completion of the Tribunal's judicial work are inevitably subject to revision. I can assure the Council that the Judges and staff of the Tribunal nevertheless remain focused on doing all that they can to avoid or reduce delays. The Tribunal also remains fully committed to transparency: when we know about changes to forecasts for a case schedule, we always communicate that information in our reports.

There are two specific issues to which I wish to draw the attention of the Council.

The first involves the health condition of several of our detainees, which has impacted two of our trials and which is a matter of great concern to the Tribunal and to me personally. As detailed in the November report, the trial of Mr. Goran Hadžić has been temporarily adjourned since 20 October 2014 for reasons relating to Mr. Hadžić's health. In addition, the trial of Mr. Ratko Mladić has been reduced to four sitting-days per week, following medical advice. At this time, the *Hadžić* Chamber does not believe the adjournment will impact on the scheduled judgement delivery date. By contrast, the changes in the sitting schedule of the *Mladić* Chamber, along with the recent decision to re-open the Prosecution case, mean that the judgement in that trial is delayed until March 2017 or later. Finally, Mr. Vojislav Šešelj—whose trial was delayed by the disqualification of a Judge in 2013—has been granted provisional release by the Trial Chamber considering his case, a course of action the Chamber deemed appropriate in light of developments concerning Mr. Šešelj's health.

Due to the age of our detainees, health-related issues are an unavoidable concern and raise humanitarian questions. Although the Tribunal makes every effort to ensure appropriate medical care, developments related to the health of detainees can sometimes fall outside our control and, as I am sure the Council understands, can cause delays to the Tribunal's work.

The second matter I would like to address is staff recruitment and retention. This issue, which is discussed in my November report, also has the potential to adversely affect our judgement delivery schedule. As the members of this Council are aware, the Tribunal is significantly reducing in size over this budget biennium and by the end of next year is expected to have drastically cut its staffing levels. This downsizing is inevitable—but also gives rise to challenges when it comes to maintaining appropriate staffing levels. Despite staff members' dedication to their cases and duties, many of them are searching for other employment—and where offers cannot be deferred, they are leaving the Tribunal, depriving us of valuable institutional and case-specific knowledge.

Unable to deploy the most effective staff retention strategies, such as the incentive bonuses unfortunately rejected by the General Assembly, the Tribunal is attempting to retain and, where necessary, replace staff members in the most efficient manner possible. The three Principals of the Tribunal are most grateful to the Office of Human Resources Management for measures taken to support the Tribunal in this respect.

By design, my reports to you on the Tribunal focus almost exclusively on procedural issues and requests for assistance in completing our work. I very much hope, however, that the nature of these briefings will not lead any of us to forget the bigger picture and the tremendously significant role that the ICTY has played, and continues to play, both in setting global standards for international criminal law and justice and in helping to strengthen the rule of law at the local level. Indeed, just last month I travelled for several days in Bosnia and Herzegovina, meeting with representatives of diverse communities there and paying my respects at sites where terrible crimes have been found to have taken place. Our discussions underscored that the ICTY has made, and continues to make, an invaluable contribution to the restoration of the rule of law in the former Yugoslavia.

Given the importance of the Tribunal's work, I would urge the Council to approve the full extensions of Judges' terms requested in my letters of 1 October and 25 November. The precedents set by the Tribunal and by its accounting for all of the 161 individuals it has indicted have been instrumental in inaugurating a new era of accountability. It is essential that the international community continue to support us in this endeavour and one of the best ways to do this is by granting the extensions needed to complete our few remaining cases.

I will now turn to the Mechanism. In creating the Mechanism, the Security Council not only tasked the new institution with responsibility for certain essential functions of the ICTR and the ICTY. This Council also, in essence, challenged the Mechanism to serve as an example of best practices and to learn from the experience of other international tribunals in order to operate in the most lean and efficient manner possible, while respecting relevant procedural safeguards. I am pleased to confirm that by almost any measure, the Mechanism is meeting all of these important aims.

The Mechanism continues to make steady progress in carrying out its judicial work and later this month, in line with previous forecasts, I will be travelling to Arusha to deliver the Mechanism's very first appeal judgement. Mechanism Judges in Arusha and The Hague have also been busy deciding a wide variety of motions, involving issues such as variations to confidentiality protections and cooperation with national jurisdictions.

The Mechanism stands ready to adjudicate any appeals from the four trials ongoing at the ICTY. At the same time, different sections of the Mechanism are preparing rosters to allow rapid staff recruitment and are undertaking other measures to ensure readiness in case any of the three remaining ICTR fugitive indictees whose cases have not been referred to Rwanda are arrested.

As set forth in my written report, responsibility for a wide variety of functions—including witness protection, enforcement of sentences, monitoring of referred cases, and preservation of archives—has been transferred or is being transferred to the Mechanism. Concurrently, the Mechanism is increasingly assuming direct responsibility for administrative functions like Human Resources.

The Mechanism continues to engage with Rwanda and the States of the former Yugoslavia as well as with our host states, Tanzania and The Netherlands. A host state agreement has already been signed with Tanzania, while a text with The Netherlands has been initialled. In Arusha, we are moving towards commencing construction of the new premises authorized by the General Assembly, and we are continuing discussions with The Netherlands concerning the future facility of the Mechanism. Relying on outside funding, we are also launching limited programs aimed at knowledge sharing with Tanzanian law schools and members of the judiciary.

Two key challenges continue to face the Mechanism. The first is the outstanding arrest warrants for the remaining ICTR indictees who have yet to be apprehended, including three who are expected to be tried by the Mechanism. It is imperative that these fugitives be apprehended; just as the accounting for all ICTY indictees struck an important blow against impunity, so too a full accounting of ICTR indictees will provide confirmation

of the international community's commitment to justice and accountability. Accordingly, I urge this Council to renew its call to all Member States to cooperate with efforts to arrest the remaining fugitives indicted by the ICTR.

A second challenge facing the Mechanism is posed by the persons acquitted by the ICTR and the release of individuals who have completed sentences imposed by the ICTR. The Mechanism will assume responsibility for all such individuals released in Tanzania on 1 January 2015, having already assumed other relocation-related functions. I consider the question of resettlement to be a crucial matter of humanitarian concern for the international community. These individuals, having been exonerated or served the sentences imposed by the ICTR, deserve the opportunity to be resettled and to rebuild their lives. The total number of these acquitted and released individuals is very small and just a few States stepping forward to give them shelter could address the problem.

These challenges to the Mechanism are real. They should not, however, obscure the real progress achieved in launching both branches of the Mechanism and smoothly transitioning responsibilities according to the timelines mandated by the Security Council. The Principals and staff of the Mechanism, and of the ICTR and the ICTY, should be applauded for their efforts in making all of this possible.

Mr. President, Excellencies, despite the challenges that both the ICTY and the Mechanism face and that I have highlighted in my briefing today, the world is unquestionably a better place because of them. This is not simply because of their adjudication of specific cases but also because of the long shadow international courts cast, promoting more lawful behaviour by States and individuals. With the support and encouragement of the Member States of the United Nations, the ICTY, the Mechanism, and other international tribunals have served and continue to serve as the concrete manifestation of a commitment to ending impunity and a testament to the international community's dedication to creating a world where the rule of law is supreme.

Thank you.