



Judge Carmel Agius, President

Keynote Speech

**Fourth International Conference: Stop Genocide and Holocaust Denial
Sarajevo, 20 June 2019**

Your Excellencies, Ladies and Gentlemen, Dear Colleagues and Friends,

Good morning.

I start by thanking the organisers of this conference, the Association of Victims and Witnesses of Genocide, together with the Mothers Action of the Srebrenica and Žepa Enclaves, not only for inviting me to attend but also for asking me to give this keynote speech. I accepted the invitation without hesitation because what we will be discussing during these two days is of vital importance for justice, history, reconciliation, peace and security in Bosnia and Herzegovina and beyond. It is also of heightened relevance if this country aspires to one day join the community of Member States of the European Union.

The theme of this Conference is "Stop Genocide and Holocaust Denial". While this is a most laudable aim, unfortunately history shows that no one has yet managed to eradicate such denial. Every genocide in human history has been further exacerbated by denial on the part of the perpetrators, by those who support them, and by their successors. I am afraid I do not think this will change because dishonesty and cruelty, like any other aspects of human nature, positive or negative, are forever present. However, even if it is not possible to prevent denial, we must do our best to contain the spread of this poison. Our immediate response must always be to strongly condemn the deniers, without reservation.

With this in mind, let me state unequivocally that I join the European Union, the Peace Implementation Council and other members of the international community in condemning the recent acts of Republika Srpska in seeking to annul the 2004 report on the Srebrenica genocide and in setting up two new commissions, with the aim of rewriting the history of those tragic events back in 1995. I have a message for the leaders in Republika Srpska who have been actively attempting to distort the truth of the genocide for two and a half decades: You have not succeeded, otherwise you would not be intensifying your efforts now. And you will continue to fail. Not only because the judgements of the International Criminal Tribunal for the former Yugoslavia (ICTY), the Mechanism and the highest court in the world, the International Court of Justice (ICJ), have established time and again that what happened in Srebrenica amounted to genocide, but also because the facts will continue to speak for themselves. The story told by the evidence will outlive any political discourse of the moment. The international community has seen the truth, and it will not be forgotten. I hope that the people in Republika Srpska realise that the actions of their politicians will result in isolation. Further, they will hamper the chances of Bosnia and Herzegovina joining the European Union, and deprive future generations of the opportunity and prosperity this



would provide. I have a second message for these politicians: If for a moment you thought that the closure of the ICTY would give new impetus to your campaign of denial, you have badly miscalculated. As President, I can promise you that the Mechanism will continue to deliver justice, protect victims, and condemn those who would suppress the truth.

The genocide in Srebrenica in July 1995 was the embodiment of the ultimate evil. It was the worst atrocity to occur on European soil since World War II. Judge Fouad Riad, who served at the ICTY between 1995 and 2001 and sat on the *Krstić* trial, described the events as "truly scenes from hell written on the darkest pages of human history." Those events also constituted the crime of genocide; a crime that carries the heaviest weight of shame. Yet shame is not a word that the perpetrators of the genocide, and those who see them as heroes, want to hear. This is because to acknowledge shame would require admitting the truth and, moreover, admitting their own guilt. It would mean confronting their cruelty towards other human beings and the evil of their actions. For those who lack the moral fibre to face such a mirror, it is much easier to perpetuate a lie.

As a Judge of the ICTY I presided over the *Popović et al.* trial, which dealt with those terrible days in July of 1995 in Srebrenica and its surrounds. The evidence received during that trial was grisly, detailed, and upsetting beyond words. I remember vividly the testimony of members of the Bosnian Serb forces, who recounted how they participated in the execution of thousands of Muslim civilians, including young boys and elderly men, and how the bodies of the victims were hurriedly and secretly buried – sometimes in already-prepared mass graves. I remember others testifying about the exhumation of bodies from mass graves that followed soon after, and how the bodies were reburied in secondary and tertiary graves. This was done with the intention of making any future identification of the victims a very laborious and difficult task; a task which is still ongoing today. According to certain genocide studies, actions such as these – digging up mass graves, burning bodies, covering up the evidence – are ways in which the perpetrators deny the genocide. And further, this denial actually comprises the final stage of genocide. Seen from this perspective, we begin to realise how fundamental and deep-rooted the denial is.

During the almost 25 years since Srebrenica, there has been a persistent culture of genocide denial in ex-Yugoslavia, which has taken many forms. It is present in particular in political discussion, the media, and the educational system. We have all seen how the denial campaign has continuously shifted, from challenging the judicial findings of genocide, to blocking political initiatives condemning the genocide, to outright denials of any massacre ever having taken place. The findings of the ICTY, Mechanism and ICJ have been disputed on evidential and theoretical grounds. In particular, the number of victims and nature of the killings continue to be challenged, in spite of overwhelming scientific and other evidence that exists, including DNA analysis. Then there is the argument that the survival of women and children refutes a finding of genocide, which is not only offensive but based on complete ignorance of the law on genocide. Yet over the years the deniers of the Srebrenica genocide have continued to find support in certain historians, scholars, politicians, the media and others. So, what can we do to ensure that the voices speaking the truth about the genocide overcome those who continue to deny its existence? In my view, there are four ways in which denial and revisionism should be tackled.

The first is to bring perpetrators of the genocide to justice through international and domestic courts. This of course is where the ICTY, Mechanism, ICJ and domestic judicial systems have come into play. Through the judicial process, the criminal responsibility of the perpetrators and the facts of the genocide are established. Following the closure of the ICTY, and since the Mechanism is not mandated to issue indictments in relation to these crimes, the burden now falls largely on domestic judicial systems. Several trials against perpetrators here in Bosnia and



Herzegovina have ended with a conviction for genocide. Let me mention the case of Milorad Trbić, who was initially indicted by the ICTY but later referred to Bosnia and Herzegovina for trial. His conviction, and that of others sentenced by local courts, constitutes a further judicial affirmation that what happened in Srebrenica in July 1995 was indeed genocide. This truth is of course uncomfortable to the deniers and constitutes a threat to their targeted campaign of genocide denial. For this reason it is crucial that local judges, prosecutors and defence lawyers persist in upholding the law and delivering justice in an independent and impartial manner. My exhortation therefore is that there should be no respite in the search for and prosecution of those suspected of having participated in the commission of the Srebrenica genocide. Judicial cooperation between the countries in this region is key in this respect, as is continued support from the international community and from the Mechanism itself.

The second is the role of political and other leaders, as well as civil society, in combating denial. And this is where gatherings like today's conference and opportunities for discussion take on such importance. In times like these, politicians, academics, journalists, NGOs, and other actors such as religious authorities, both here in the Balkans and abroad, must actively champion the truth. They must build a strong platform that will ultimately overshadow the lies and misinformation being spread by the deniers and revisionists. I know that such efforts have been ongoing for as long as the crimes have been denied, but presently a new momentum is necessary to further expose those who perpetuate hatred and division. The media, for example, has a valuable role to play in scrupulously reporting the truth and countering false versions of events. Politicians, in particular, need to realise the seriousness of this threat to reconciliation and be more vigilant and proactive in countering it. However, I want to emphasise today that you will not have to face this challenge alone. Both the European Union and the United Nations stand by your side, as their statements in response to the developments in Republika Srpska show. Last, but certainly not least, I mention the role of the victims, their families and associations. In all these years you have been courageous, well organised, vocal, and very active. You have done great honour to your loved ones who lost their lives during July of 1995, and I trust you will continue to do so and not falter in your mission.

The third is reform to the education system. Serious efforts need to be undertaken in this regard. Immense damage has already been done, and a new generation is growing up convinced that those of Serbian ethnicity have been demonised and that the Srebrenica genocide is an invention of the enemies of the Serbian people. We all know that nothing could be further from the truth. But this is the reality that Bosnia and Herzegovina is facing today. It is a disgrace that, in this country, history books dealing with the conflicts of the 1990s give three completely different versions of events, depending on the ethnicity of the children using them. There have even been bans on teaching about the Srebrenica genocide as well as the siege of Sarajevo in certain places. Faced with such blatant efforts to suppress the truth, remaining passive is not a viable option. In this modern age of information, it is in your – indeed everyone's – interests to combat misinformation. Teachers, parents, officials in charge of educational programmes, historians, and students should come together to demand an end to these lies. In the meantime, when school manuals provide distorted versions of the truth, it is your responsibility to speak up and tell the children what really happened.

The fourth and last element, in my view, involves a more specific suggestion; namely that countries should take steps to criminalise the denial of genocide. A recent development in this area is the enactment by the Belgian Parliament of legislation which broadens the existing law punishing denial of the Holocaust, to include the 1994 genocide against the Tutsis in Rwanda and the 1995 Srebrenica genocide; a measure that has been acclaimed worldwide. Belgium is not the only country to do so, and this example should inspire others to follow suit. Arguably, such actions against genocide denial constitute concrete steps by States towards fulfilling their duty to prevent



genocide. I am fully aware that past attempts to reach agreement on similar legislation in Serbia and in Bosnia and Herzegovina were not conclusive, but in my view such enactments would be an important turning point for this region. In this context I welcome the recent resolution of the Federation of Bosnia and Herzegovina House of Representatives, which calls upon the Parliamentary Assembly to adopt legislation criminalising genocide denial. Further, the resolution stresses the vital role of the ICTY and the Mechanism and calls upon state authorities to recognise the verdicts of these institutions, stand in solidarity with the genocide victims and reject genocide denial. If adopted, such legislation could have a decisive impact on the political climate and future direction of this country.

Before concluding, I leave you with the following thoughts. Just as the Srebrenica genocide was characterised by extreme brutality and cruelty, those who seek to deny it will be equally aggressive in their desire to bury the truth. And they will be persistent, because they are unwilling, even unable, to acknowledge their own wrongdoing. Their recent efforts in this regard are nothing but a further attempt to distort history where they have failed in the past. They failed because you, the victims, and those of goodwill in your country and the international community, resisted those vile attacks against the truth, and because the ICTY, the Mechanism, the ICJ and the domestic courts of Bosnia and Herzegovina continued to do their duty. Now that we are faced with new threats, it is time for all stakeholders to launch a massive counter-attack. We must unite in denouncing and exposing the deniers. Local courts, judges, prosecutors and lawyers must also be free to carry out their work. This is the only way forward.

Excellencies, Ladies and Gentlemen,

We must leave no stone unturned in our efforts to isolate the deniers. They will continue to lie, but in time, through our efforts, they will be diminished. History is on the side of justice, and we will prevail.

I thank you very much.