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Tribunal Pénal
International pour
l'ex-Yougoslavie

STATEMENT

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PRESIDENT

The Hague, 5 June 2014

Address to the U.N. Security Council
Judge Theodor Meron
President, International Criminal Tribunal for the former Yugoslavia
President, Mechanism for International Criminal Tribunals
5 June 2014

Mr. President, Your Excellencies, Ladies and Gentlemen:

It is my privilege to appear before this Council once again in two capacities: as President of the International Criminal Tribunal for the former Yugoslavia and as President of the Mechanism for International Criminal Tribunals. During my remarks today, I shall endeavour not to repeat the content of the written reports for these two institutions but will instead highlight a few of the key issues contained therein.

Before doing so, however, I wish first to congratulate His Excellency Ambassador Vitaly Churkin of the Russian Federation for his country's assumption of the Presidency of the Security Council. The Russian Federation—as a Permanent Member of this Council—has a continuing and critical role to play in relation to matters of international criminal justice, and I wish to extend to the Russian Federation my best wishes for its Presidency.

I would also like to underscore my appreciation for the work and dedication of the members of the Security Council's informal working group on the ad hoc Tribunals, and warmly welcome Chile and His Excellency Ambassador Cristian Barros to their new leadership role in this working group. Finally, I wish to recognize the continuing support and assistance provided to the ICTY and the Mechanism by the Office of the Legal Counsel, and by the Legal Counsel himself, and to extend my deepest gratitude to all concerned.

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Mr. President, Excellencies, since its establishment by this Council, the ICTY has been the subject of diverse and ambitious expectations.

For some observers, the Tribunal is the means by which victims and witnesses of horrific crimes have had—and continue to have—an opportunity to be heard, and an opportunity to obtain a sense of justice. For others, the Tribunal's judgements, as well as the extraordinary quantum of evidence presented in its proceedings more generally, provide an avenue for understanding the tragic events that devastated families and communities across the region of the former Yugoslavia in the 1990s. Some observers and commentators also believe that bringing peace and reconciliation to the affected region is a core part of the Tribunal's mission.

I need not tell the distinguished members of this Council that these different hopes and ideals for international justice can often be in tension, if not outright conflict, with each other. Nor need I tell you how the varying visions that shape observers' perceptions

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of the roles of international criminal courts invariably impact the understanding of these courts' work—and of their achievements and failings.

Whatever different perceptions and expectations there may be about what it is that courts like the ICTY should achieve, however, I believe that all will agree that as a court, our mandate is to apply the law to the facts in a neutral manner, thereby ensuring the fair trials and appeals of those who have been accused of individual criminal responsibility for atrocities. And I believe that all may also agree that the establishment of the ICTY more than two decades ago demonstrated a profound commitment by this Council, acting on behalf of the international community, to ensuring accountability for widespread and flagrant violations of international humanitarian law through procedures and proceedings that reflect an abiding respect for fairness and due process of law—that reflect, in essence, a commitment to the rule of law.

The significance of this expression of commitment should not be underestimated. It is a devastating truth that the mere existence of the law cannot stop all conflict or all brutality. Murder and rape, theft and destruction: these acts have occurred since time immemorial and, tragically, they continue to this day. But it is through the law, I would suggest, and through our respect for the rule of law that our shared values are expressed and our moral imperatives articulated. It is through the law and respect for the rule of law that we affirm our own expectations about the kind of world in which we wish to live.

More than twenty years ago, this Council unanimously affirmed the importance of ensuring accountability and respect for the rule of law when it established the ICTY. In 2010, this Council renewed its commitment to these same principles by creating the Mechanism.

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In the six months since I last appeared before this Council, the principals and staff of the Mechanism have continued to carry out the mandate entrusted to it with both care and commitment. As described in greater detail in my written report, the Mechanism is providing vital services to vulnerable victims and witnesses, supervising the enforcement of sentences across two continents, and addressing a wide range of requests for assistance from national jurisdictions, among other tasks.

During the reporting period, the Mechanism has handled a significant amount and range of judicial work, involving everything from allegations of false testimony to requests for review and the variation of witness protection measures. The hearing in the Mechanism's first appeal from judgment will be conducted soon, and a judgment in the case is expected before the end of this year.

The Mechanism's archives section also continues to work closely with staff of the ICTR and the ICTY on the preparation and transfer of records to the custody of the Mechanism, and progress is being made in relation to the construction of the Mechanism's permanent premises in Arusha. My colleagues and I are most grateful to the Government of the United Republic of Tanzania for its ongoing excellent cooperation in relation to the preparations for these new premises.

The dedication and talents of the Mechanism's excellent staff, hailing from more than 45 different States, have played an invaluable role in making all of this possible. However, I would be remiss if I did not note with gratitude the tremendous support that the Mechanism receives from valued colleagues at the ICTR and the ICTY. As those two Tribunals complete their own work and downsize their operations, the Mechanism is relying less and less on their support. But even as this occurs, the principals and staff of

the Mechanism will continue to work closely with their counterparts at the ICTR and the ICTY to ensure a smooth transition of remaining functions and services to the Mechanism.

I would be likewise remiss if I did not stress how vital the continued support and cooperation of Member States are to the fulfilment of the Mechanism's mandate. The Mechanism relies on States to enforce sentences pronounced by the ICTR, the ICTY, and the Mechanism itself, and it is actively seeking to establish new enforcement agreements with States.

The cooperation of States is also particularly vital when it comes to the apprehension of the remaining fugitives. Mr. President, Excellencies, when this Council established the Mechanism in 2010, all States were urged to intensify cooperation and render all assistance necessary to achieve the arrest and surrender of all remaining fugitives. Just a few months ago, this Council renewed its entreaty in resolution 2150 (2014), calling upon all States to cooperate in the arrest and prosecution of the remaining nine fugitives indicted by the ICTR, three of whose cases remain with the Mechanism. Such cooperation is imperative if the international community's commitment to ensuring accountability is to have meaning.

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Mr. President, Excellencies, I would now like to turn to discuss the ICTY, the first ad hoc tribunal created by this Council, and a ground-breaking institution that is currently in the process of finishing its final few cases.

As regards the Tribunal's remaining trials, three of them—the trials of the late-arrested accused, Messrs. Hadžić, Karadžić, and Mladić—are continuing in line with past forecasts for judgment delivery, although all three trials are expected to continue past 31 December 2014, as I have previously informed this Council. The fourth and final case still at trial—that of Mr. Šešelj—presents a sui generis situation, as set forth in my written report.

Since my last appearance before this Council, judgments in two appeals have been issued, and two more appeal judgments are expected by the end of this year. As previously reported to the Council, despite the Tribunal's continuing efforts, it is currently anticipated that the Tribunal will have difficulty in completing the appeals in the remaining three appeal cases by 31 December 2014, and one of these appeal cases has experienced a setback in its projected timeline. Details concerning all of these matters and other updates regarding the Tribunal are contained in my written report.

Even as the Tribunal's judicial work advances, the ICTY continues to move toward closing its doors and is taking active steps in downsizing its operations. A variety of factors, many beyond the scope of the case management process, continue to pose challenges as we strive to maintain previously forecast judgement delivery dates. I can assure the Council, however, that the committed Judges and staff of the Tribunal are making every effort to ensure that the Tribunal's nine remaining cases are brought to an expeditious conclusion while still respecting all necessary procedural safeguards.

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Mr. President, Excellencies, international courts on their own cannot resolve long-running historical conflicts. Indeed, courts must be part of a panoply of transitional justice measures, including broader societal efforts, spearheaded by community leaders, focused on history, memory, responsibility, and respect for the rule of law. The need for such a broader approach should not, however, detract from our appreciation for the

groundbreaking role of the Tribunal and the valuable contributions made by international criminal justice more generally.

Ensuring accountability for the worst of crimes and respect for the rule of law sometimes is not easy, and it certainly is not cost-free. But it is essential. For the protection of men, women, and children, and for the preservation of our common values, the commitments made by this Council more than two decades ago, and renewed in 2010 and again this very year, cannot be forsaken. It is because these commitments cannot be forsaken that the Mechanism was created, that the ICTY is diligently and carefully completing its final few cases before it closes—and that the successful conclusion of the outstanding work entrusted to both institutions remains so tremendously important.

I am, as ever, deeply grateful to the members of this Council and to the international community for their continued support as my colleagues and the dedicated staff of both the ICTY and the Mechanism carry out the mandates with which you have entrusted us. Thank you very much.

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