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International
Criminal Tribunal
for the former
Yugoslavia

Tribunal Pénal
International pour
l'ex-Yougoslavie

STATEMENT

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PRESIDENT

The Hague, 18 October 2017

ADDRESS TO THE UNITED NATIONS GENERAL ASSEMBLY
JUDGE CARMEL AGIUS, PRESIDENT,
INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA
18 October 2017

Mr President, Excellencies, Ladies and Gentlemen,

It is my deep honour to address this Assembly for the second, and indeed last, time in my capacity as President of the International Criminal Tribunal for the former Yugoslavia (“ICTY” or “Tribunal”). At the outset, please allow me to congratulate His Excellency, Mr Miroslav Lajčák of Slovakia, for his election as President of this Honourable Assembly. It is with great pleasure that I wish your Excellency a successful tour of duty. I must note also that our meeting today takes place not long before UN Day on 24 October, which marks the anniversary of the Organisation and the entry into force of its founding document, the UN Charter. I am proud to represent an institution that has played an active role in furthering the principles and purposes of the Charter, and once again reaffirm our commitment to those ideals and to continuing the fight against impunity for genocide, war crimes, and crimes against humanity. Until the very moment that the Tribunal closes its doors, we will continue to reinforce our message to the international community that perpetrators of such crimes must be brought to justice.

Before you today is the twenty-fourth and final Annual Report of the ICTY. The report details the progress made in the last year towards the completion of the Tribunal’s mandate and the transition to the International Residual Mechanism for Criminal Tribunals (“Mechanism”). As you are aware, the Tribunal has now completed its work in all but two substantive cases. The Judges heard the final arguments in both cases within the past year, and have been fully engaged in intensive deliberations and judgement drafting since then. Our resolute determination to conclude all judicial work by the end of November 2017 will result in the delivery of judgements next month, on 22 November for the Mladić trial case, and on 29 November for the Prlić et al appeal case.

In relation to the contempt case against Petar Jojić and Vjerica Radeta, unfortunately, the news is not so happy. No progress has been made in this case since I stood here one year ago, and the accused are still at large in Serbia, due to Serbia’s continued lack of cooperation with the Tribunal. This is despite my subsequent reporting of the matter to the Security Council on numerous occasions. Now, given its imminent closure, there is no longer any possibility for the ICTY to try the case, but we will take whatever action is necessary to ensure that the accused will face justice - even if after the Tribunal closes down. The ICTY sincerely hopes that Serbia will take this final opportunity to comply with the Tribunal’s Statute and to demonstrate a genuine commitment to international criminal justice.

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Mr President,

Moving on to more heartening news, I can confirm to you and to all present that, in line with my solemn commitment to you, after 24 years the ICTY will formally close its doors on 31 December 2017. We will have completed our mandate. On behalf of the Tribunal and all three Principals, I would like to thank all Member States of the United Nations, and the international community as a whole, for their enduring support and assistance over the past quarter of a century. We congratulate you on your vision back in 1993 and your dedication throughout the Tribunal's life, and we encourage you to recognise the immensity of our joint achievements. In my view, the principal achievement of the Tribunal, and its most important legacy, is its groundbreaking role in the fight against impunity and the successful fulfilment of its mandate to prosecute those who bear the greatest responsibility for the horrific crimes committed in the former Yugoslavia during the conflicts of the 1990s.

As we reflect on the work that the ICTY has accomplished, I recall that the Tribunal blazed a trail of truly remarkable firsts: it was the first international criminal tribunal since the post-WWII Nuremberg and Tokyo tribunals; the first tribunal ever established under Chapter VII of the United Nations Charter; the first to indict a sitting Head of State; and the first to have all-female Principals. The ICTY has issued more indictments than any other international criminal court, and has successfully brought to justice 161 individuals in respect of serious violations of international humanitarian law. Also unlike other courts, the ICTY will close with no outstanding fugitives for core crimes. Numerous jurisprudential firsts have been equally remarkable; for instance, the Tribunal was the first to comprehensively address conflict-related sexual violence; the first to clarify the applicability of the laws and customs of war in non-international armed conflicts; and the first to affirm that the destruction of cultural heritage may amount to a crime against humanity. On front after front, the ICTY has developed not only jurisprudence but also tools, procedures, and programmes to address specialised areas of international criminal law and practice, such as witness protection, state cooperation, and judicial efficiency. While the ICTY has also faced numerous challenges throughout its operations, the record will show that it has responded positively - indeed risen to these challenges - in ways that will be relevant for other courts and tribunals.

The achievements of the ICTY do not begin and end in The Hague. Not only has our delivery of justice assisted in rebuilding the trust between the States of the former Yugoslavia and the United Nations, but our numerous outreach and capacity-building programmes have assisted those in the region in putting their countries back together. Today the former Yugoslav republics have adjudicated numerous cases through their own special war crimes courts, and their specialised war crimes prosecutors continue to investigate and bring charges against perpetrators numbering in their thousands. However there is room for improvement and a need for continued assistance to the relevant institutions and actors on the ground.

Mr President,

To ensure that the ICTY continues to contribute to the fight against impunity even after we close our doors, and to further cement its legacy, the ICTY developed a series of legacy and closing events entitled ICTY Legacy Dialogues. I am pleased to inform you that these have been met with very positive responses so far. As part of that series, the ICTY held a final Legacy Conference in June of this year in Sarajevo, Bosnia and Herzegovina, at which the myriad legacies of the Tribunal were discussed with all relevant stakeholders. As you know, the ICTY adopted a set of conclusions and recommendations at the end of the Conference, which are annexed to the Annual Report that you have before

you. We anticipate that these will be of use to other courts and tribunals in the future. The Tribunal has also continued to produce documentaries and short features, for dissemination online as well as in the former Yugoslavia, and has recently launched a lecture series to tell the stories and share the insights of ICTY staff and defence counsel over their years of service. To further commemorate our closure, the Tribunal will hold an event on 4 December here in New York, followed by final events in The Hague consisting of a Symposium and a Closing Ceremony on 18 and 21 December, respectively. It is my hope that many of the distinguished representatives from UN Member States will join us in The Hague as we celebrate the Tribunal's unwavering commitment and significant contributions to international criminal justice.

As we prepare for life after the ICTY, I would like to thank the Tribunal's Division of Administration which, amongst other sections, continues to play a vital role in ensuring a seamless transfer of responsibilities to the Mechanism, while at the same time taking pains to ensure that our efficient closure remains an example for other downsizing institutions to follow. By 1 January 2018, the Tribunal will essentially have been liquidated, with all but a few residual liquidation tasks remaining, including dealing with the separation of staff members whose contracts end in December, and closing the financial accounts. By then the Mechanism will have assumed full responsibility for all residual functions of the ICTY, as well as its extensive archives.

In relation to the archives, the ICTY has made substantial progress in the preparation and transfer of its paper, electronic, audio-visual, and other records for preservation and management by the Mechanism. This work was done in collaboration with the Mechanism, in order to ensure that the records will be easily manageable after their transfer and also accessible for posterity. As of 1 October 2017, the Mechanism has received approximately 86% of the ICTY's records, which will be housed in the Mechanism's archives, and the remaining records will be handed over to the Mechanism by 31 December this year.

In these and other respects, I wish to thank the President of the Mechanism, my esteemed colleague Judge Theodor Meron, for his continued cooperation and support as we transfer the remaining functions and records to the Mechanism, and navigate our way through these challenging final months.

Mr President, Distinguished Members of the General Assembly, Your Excellencies,

The achievements of the Tribunal are the product of the hard work and dedication of all of the Judges, Principals, and staff members of the Tribunal, who deserve to be commended once more. I can only reiterate that the significant progress we have made since the last report towards conclusion of our mandate would not have been possible without the perseverance, exceptional efforts, and excellent work of our Judges and staff, and I take this opportunity to thank them most sincerely. In particular, when we are only weeks away from delivering judgement in the final cases, I wish to pay particular tribute to the staff in Chambers who are working around the clock to ensure the cases are completed on time. I must tell you that the staff who remain at the ICTY are among the most dedicated, professional, and loyal individuals I have known. Indeed, many have sacrificed opportunities for more secure and lucrative employment prospects elsewhere, so that they may see their work with the ICTY through until the end. I sincerely hope that Member States will continue to encourage the Secretariat and other UN entities to strongly consider applications from qualified ICTY staff members, especially those who have chosen to remain with the Tribunal until the completion of their contracts.

I take this opportunity also to thank the Secretary-General for his unwavering support for the work of the ICTY since his appointment, and for wholeheartedly backing the efforts undertaken by the Tribunal to finalise its mandate. Similarly, I would like to recognise the Legal Counsel and his team for their ongoing valued assistance throughout our final year.

As I stand before you today, marking my final appearance before the General Assembly as President of the ICTY, I believe that we can all be extremely proud of what the Tribunal has accomplished since 1993. I, personally, could not be prouder of our many contributions: to the fields of international criminal law and international humanitarian law; to the region of the former Yugoslavia; to other courts and tribunals; and to international justice more broadly. The Member States of the United Nations can - and should - share in this sense of pride because, without you, the ICTY would never have been created or given the means and resources with which to succeed. I therefore conclude by expressing once more my gratitude to all Member States and by wishing you success, courage, and determination as you carry forward the ideals and dedication to justice for which the ICTY has stood, and which the ICTY has shown can be achieved.

Thank you for your attention.
