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Tribunal Pénal
International pour
l'ex-Yougoslavie

STATEMENT

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PRESIDENT

The Hague, 7 June 2012

Remarks to the U.N. Security Council
President Theodor Meron
International Criminal Tribunal for the former Yugoslavia
7 June 2012

Mr. President, Your Excellencies, Ladies and Gentlemen:

It is an honour to appear before you today to address the Tribunal's progress in completing its mandate, as set forth in the written report recently submitted to the Council.

I am pleased to report that the Tribunal has made great strides in the implementation of its Completion Strategy and in facilitating a smooth transition to the International Residual Mechanism for Criminal Tribunals. Reforms have been implemented in a number of areas and have already positively impacted the pace of our work, without sacrificing due process.

At the same time, the Tribunal still faces difficult challenges, particularly with regard to staff attrition: valuable and long-serving employees continue to depart for more secure employment opportunities. In addition, our preparations for the transition to the Residual Mechanism have called for resolution of a multitude of novel practical and legal questions.

As explained in my report submitted on 23 May, most of the Tribunal's ongoing trials are forecast to end soon. Of the eight trials currently in progress, five are expected to be completed by December 2012. However, other trials, including those which involve the lately arrested accused—namely, Karadžić, Mladić, and Hadžić—will take longer to complete and it is anticipated that the trials of Mladić and Hadžić may continue past the indicated completion date of December 2014. You may rest assured that the benches hearing those cases continue to focus on innovative ways to minimise potential delays while fully protecting the rights of the accused.

In this respect, I note that due to efficiency measures adopted in pre-trial proceedings, the Mladić case commenced on 16 May 2012, which is six months before the anticipated start date forecast in last November's report to the Council. While there has been a short adjournment due to disclosure failures, that delay is not likely to significantly impede the progress of the case. The Hadžić case is due to commence in October 2012, which is three months ahead of the anticipated start date previously reported. During my last presentation to the Council, I advocated reassignment of contempt cases to ad litem Judges. This reform aimed at relieving the burden falling on our permanent trial Judges, some of whom were forced to balance up to eight contempt cases alongside two substantive cases. I would like to express my great appreciation to the Council for supporting this reform, and I am pleased to report that the reassignment of contempt

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cases has been one of the factors that have allowed cases, such as Hadžić, to be trial-ready earlier than previously anticipated.

The Tribunal's Appeals Chamber is also making great progress towards the completion of the cases on its docket. For example, due to the adoption of innovative measures, the hearing in the Gotovina and Markač appeal was held more than nine months earlier than previously forecast. Likewise, preparations in the Perišić appeal are advancing very rapidly. While great strides have been made in these cases, the complexity of issues involved in one multi-accused case, coupled with translation and staffing issues, has caused that case to suffer substantial delays. The bench in that case is taking all possible measures to minimise delays.

With respect to future potential appeals, it is anticipated that any appeals in the cases of the late-arrested accused—Karadžić, Mladić, and Hadžić— will come under the competence of the Residual Mechanism.

I would like to draw the particular attention of the Security Council to the cases of Tolimir and Prlić et al., in which trial judgements are expected by the end of this year, and to the case of Šešelj, in which a trial judgement is now expected by March 2013. As you may recall, during my last presentation to the Security Council, I reported on measures I had adopted to reduce the translation times in these cases by 50%. These measures are still in place, but unforeseen delays in the trials themselves have delayed the relevant trial judgements. As a result—depending on when the trial judgements are delivered and the procedural postures adopted by different parties—it is possible that any appeals in some or all of these three cases will fall within the jurisdiction of the Residual Mechanism, even though relevant translation times have been reduced dramatically. If, however, appeals in these cases are filed before the ICTY Appeals Chamber, this would result in the ICTY Appeals Chamber and the Appeals Chamber of the Residual Mechanism operating in tandem until 2016, based on current forecasts.

While the factors leading to these delays are often beyond my control, I can assure Council members that I am taking all possible measures consistent with principles of due process and judicial independence to ensure the completion of these cases—including the necessary translations—as soon as possible.

Another reform that has benefited the Tribunal during the reporting period is the waiver obtained from the Office of Human Resource Management of the United Nations on the prohibition on the direct hire of interns. The lifting of this prohibition has already allowed the Tribunal to take steps that mitigate the effects of staff departures in particular cases. While the Tribunal is extremely grateful for the support expressed for this reform during my previous visit to the Council, I must emphasize that this measure is not a panacea. Highly experienced and valued staff continue to leave the Tribunal in increasing numbers, and the Tribunal has made little progress in securing support for the different staff retention measures that it has presented to the United Nations over more than half a decade. As set forth in my report, delays in several ongoing cases can be directly attributed to staff attrition.

Given this unfortunate reality, the Tribunal can only strive to ensure that staff departures do not unduly impact the Tribunal's Completion Strategy and do not place too onerous a burden on the remaining staff, whose extraordinary commitment, diligence, and talents are fundamental to the Tribunal's continuing success.

I will now turn to the Tribunal's progress in preparing for the transition to the Residual Mechanism.

I am very pleased to report to the Council that the transition is proceeding smoothly, thanks in great part to the Registrar of the Residual Mechanism and ICTY and the Registrar of the ICTR.

In accordance with Security Council Resolution 1966 (2010), the Residual Mechanism will commence operations on 1 July 2012 with the opening of the Arusha branch of the Mechanism. In anticipation of this milestone, we have taken a number of important steps, including swearing in all Judges. We have also circulated the draft Rules of Procedure and Evidence to the Judges for their consideration, and I have every expectation that the Rules will be adopted without delay. Thus, thanks to the constructive cooperation of my Colleagues, we have been able to complete the swearing in of Judges and hopefully adopt the Rules expeditiously. I note that by deploying innovative processes to complete these tasks, we have conserved United Nations resources to the maximum extent possible. We have also been advertising vacancies in order to recruit necessary staff, and I wish to express my appreciation to the Office of Human Resource Management for authorising the Registrar to transfer a number of staff from the Tribunal and from the ICTR to the Mechanism using a transparent recruitment process—thus avoiding the delays sometimes associated with the United Nations' Inspira recruitment system.

In early May, the first Coordination Council meeting of the principals of the Residual Mechanism was convened in Arusha, followed by a joint- Coordination Council meeting between the principals of the Mechanism and the principals of the ICTR. These meetings enabled us to reach a number of vital decisions related to the orderly transfer of ICTR functions to the Mechanism, such as the monitoring of cases referred to national jurisdictions.

Thanks to these preparations, on 1 July 2012, the Residual Mechanism will be ready to assume competence over all judicial and prosecutorial functions identified in Security Council Resolution 1966 in relation to the ICTR, including the protection of victims and witnesses, the tracking of fugitives, the enforcement of sentences, contempt proceedings, and the monitoring of Rule 11bis referrals.

In addition, as Council members are aware, the Residual Mechanism may soon be called upon to exercise jurisdiction over the appeals, if any, in up to three ICTR cases in which trial proceedings were recently delayed. Appeals in these cases, originally budgeted for by the ICTR, will require the assignment of an Appeals bench of Residual Mechanism Judges and the support of legal and administrative staff. They will thus have financial consequences for the Residual Mechanism not previously foreseen. It is now understood that certain other activities provided for in the budget of the Residual Mechanism will not occur and the funds budgeted for these activities can therefore be applied to support the appeals, if any, in these three ICTR cases. Nevertheless, the overall cost to the United Nations will be greater than formerly envisaged.

Finally, in accordance with Security Council Resolution 1966, the Tribunal continues to work with the countries of the former Yugoslavia to facilitate the establishment of information centres in the region. During the reporting period, Croatia advised the Tribunal of its commitment to the establishment of such a centre and its identification of a building for that purpose. The Bosniak and Croat Members of the Presidency of Bosnia and Herzegovina have also recently indicated their support for the establishment of information centres in Sarajevo. The Tribunal is currently collaborating with partner organisations, including UNDP, UNICRI, and the Government of Switzerland, in moving the project to the next stage. The Tribunal is still awaiting advice from the Government of Serbia as to whether it wishes to proceed with the establishment of information centres on its territory.

This reporting period has been one of great productivity on the part of the Tribunal, leading to substantial progress toward the completion of its mandate. This positive development is largely thanks to the exceptional efforts of the Tribunal's Judges and staff and to the implementation of management reforms. I would emphasize once more the great challenges related to the Residual Mechanism, and the stellar work of all those involved in facilitating a seamless transition to and smooth commencement of the Mechanism. They should be congratulated for their dedication.

By establishing the Residual Mechanism, the Council has helped to guarantee that the closure of the two pioneering ad hoc tribunals does not open the way for impunity to reign once more, whether for those whose trials or appeals before the Tribunal and the ICTR will not have been completed or for those remaining fugitives indicted by the ICTR who must still be brought to justice. With the Residual Mechanism, the Council has also helped to ensure that the rights of victims, witnesses, persons whose cases have been referred to national jurisdictions, and persons tried or convicted by the Tribunal and the ICTR will remain both respected and protected—even after the two original ad hoc tribunals cease to function.

And, in creating the Residual Mechanism, the Council has devised a means to protect and, wherever possible, share the unprecedented body of jurisprudence, evidence, and other historic records of the Tribunal and the ICTR for generations to come.

In short, the success of the Residual Mechanism is not simply important for the sake of that institution—the Residual Mechanism's effectiveness is also crucial to safeguarding the Tribunal's own invaluable legacy.

On behalf of the Tribunal, I thank the Council for its continuing support and for its commitment to making sure that the very best traditions of international criminal justice—which the Tribunal has helped to define for nearly two decades—live on.
