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Tribunal Pénal
International pour
l'ex-Yougoslavie

STATEMENT

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PRESIDENT

The Hague, 12 June 2013

Remarks to the U.N. Security Council
Judge Theodor Meron
President, International Criminal Tribunal for the former Yugoslavia
President, Mechanism for International Criminal Tribunals
12 June 2013

Mr. President, Your Excellencies, Ladies and Gentlemen:

It is an honour for me to appear before you again as President of the International Criminal Tribunal for the former Yugoslavia and as President of the Mechanism for International Criminal Tribunals. I congratulate His Excellency Ambassador Sir Mark Lyall Grant of the United Kingdom for his country's assumption of the Presidency of the Security Council. The United Kingdom has long been a strong advocate for international justice and I wish it every success in its Presidency.

As was the case last December, I appear before you today in two capacities and I will accordingly give two reports: one on the ICTY's progress in relation to its Completion Strategy and another on the ongoing work of the Mechanism and preparations for the launch of the Hague branch of the Mechanism in a few short weeks. Written reports concerning both institutions were presented to the Council last month. In addition, the Council will recall that a confidential report in relation to the ICTY was submitted in April in accordance with Security Council Resolution 2081 (2012). In my remarks today, I wish to provide an overview of a few key issues contained in those written reports and will not repeat the contents of the reports in detail.

Before doing so, however, I would like to take this opportunity to express my gratitude to the Security Council informal working group on the *ad hoc* Tribunals—operating under the excellent leadership of Guatemala—for the working group's sustained support for the work of the Tribunal. I would also like to recognize the invaluable assistance provided to the ICTY and the Mechanism by the Office of the Legal Counsel.

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Mr. President, Excellencies, please allow me to first update you on the progress being made by the ICTY towards the completion of its mandate and its closure.

The Tribunal has achieved much since I submitted a written report to the Council last fall. The Tribunal has completed the trials in three cases: those of *Haradinaj et al.*, *Tolimir*, and *Stanišić and Župljanin*. And since my written report was submitted in May, two more trials have been completed, with the issuance of trial judgements in the cases of *Prlić et al.* and *Stanišić and Simatović* at the end of May.

As detailed in my May report to the Council, the Tribunal has also completed the appeal proceedings in two cases: *Lukić and Lukić* and *Perišić*. Other cases on appeal are

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moving ahead, with appeal hearings held in the complex, multi-appellant case of *Šainović et al.*, as well as in the *Đorđević* case and in the Rule 98 *bis* appeal in the *Karadžić* case.

Only four trials concerning the core statutory crimes now remain to be completed. Three of those trials involve the late-arrested accused, Messrs. Karadžić, Hadžić, and Mladić. The *Hadžić* case remains on track and is expected to be completed by the end of 2015. The *Mladić* trial is likewise proceeding apace and is expected to conclude by mid-2016, as previously forecast.

The *Karadžić* case, originally anticipated to be completed by the end of December 2014, is now anticipated to be completed by July 2015. As detailed in my written report submitted in May, there are numerous factors leading to this re-calculation, including the greater-than-expected time that has been spent on administrative and non-testimony-related matters.

The only other remaining case at trial is the *Šešelj* case. The Trial Chamber has now scheduled delivery of the judgement in this case for 30 October 2013, three months later than forecast in my written report last November. The reasons for this delay include the departure of senior staff members as well as the simultaneous involvement of all Judges on the bench in other, on-going cases.

Turning to the Tribunal's appellate cases, I wish to first pause and express my gratitude to Security Council members for their recognition of the need to restore the ICTY to the full complement of permanent Judges and the work they have done in relation to this matter.

A judgement in the Rule 98 *bis* appeal in the *Karadžić* case is anticipated by July 2013. It is also expected that the multi-appellant case of *Šainović et al.* will be completed by December 2013, as previously projected.

The appeal judgement in the *Đorđević* case is now expected by December 2013, two months later than the previous forecast. This postponement is attributable to the need to replace a Judge on the bench due to her resignation from the Tribunal, the heavy workload of the other Judges on the bench, and other factors, as set forth in my May report.

There has also been a small delay in the projected completion of the appeal judgement in the multi-appellant case of *Popović et al.*, which is now anticipated to be completed in October 2014. As explained more fully in my written report submitted in May, this change was occasioned by complexities in the case which have required additional preparations in advance of the appeal hearing.

For those cases that have experienced changes in projected end dates, a number of different measures have been adopted to minimize delays, including the reassignment of additional legal staff members to assist in judgement drafting.

As previously reported to the Council, it is currently anticipated that appeals in three cases are expected to go beyond 31 December 2014. In two of those cases, *Tolimir* and *Stanišić and Župljanin*, the forecasted completion dates for the appeals are just a few months past this target date. We continue to look for ways to bring the projected completion dates for these cases—and, indeed, all of our cases—forward. However, any appeals in the third case, that of *Prlić et al.*, are only expected to be completed in mid-2017.

With respect to the *Prlić et al.* case, I note that there is still a possibility that any appeals filed in that case may go to the Mechanism, rather than the Tribunal. We will

have to see what will happen. Similarly, it is not yet clear whether any appeals in the *Stanišić and Simatović* case will go to the Mechanism or to the ICTY.

In sum, while the Tribunal has made tremendous progress in many respects, there have been some delays in certain proceedings, as fully explained in my report to the Council.

I deeply regret these delays. But I hasten to remind the Council that many of the factors leading to these delays are not uncommon to judicial and criminal proceedings the world over.

More importantly, while unexpected developments may give rise to delays in any criminal case, the impact of these developments on the efficient completion of proceedings is magnified by the unique situation and mandate of the Tribunal. Thus, for example, the typical difficulties and unpredictability involved in identifying, preparing, and presenting evidence are multiplied many times over in a Tribunal situated far from the site of the alleged crimes, when most witnesses must be brought from thousands of kilometres away to appear in court, and when the official languages of the Tribunal differ from those of the accused and most witnesses, necessitating constant translations of witness testimony and extraordinary amounts of documentary evidence. The breadth and complexity of the crimes and modes of individual criminal responsibility alleged in the Tribunal's cases only compound these challenges further.

As I have previously explained to the Council, the pending closure of the Tribunal also produces its own challenges, primarily that of retaining the highly qualified and experienced staff members so necessary for the Tribunal's expeditious and orderly closure.

Mr. President, Excellencies, I wish to underscore that all efforts are being made on the part of the Tribunal to complete its pending judicial work as quickly as possible while fully respecting the fundamental rights of its accused and appellants to due process in accordance with international standards. As set forth in the 15 April written report to the Council, the Tribunal has also developed a consolidated, comprehensive plan that sets forth the processes and procedures for the Tribunal's eventual closure. In the meantime, my colleagues and I at the Tribunal remain grateful to the Council for its continued support, just as I remain grateful to the Judges and all of the staff of the Tribunal for their deep commitment to our work.

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I would now like to turn to the work of the Mechanism for International Criminal Tribunals.

At the outset, I am very pleased to advise that all arrangements are in place to ensure a seamless transfer of functions from the ICTY to the Hague branch of the Mechanism on 1 July 2013, in full compliance with the requirements of Security Council Resolution 1966 (2010). I have every expectation that as the Mechanism officially becomes a trans-continental institution, it will continue to operate as smoothly as it has done since the opening of the Arusha branch last July. In this respect, I wish to express my gratitude to the Mechanism's Registrar and Prosecutor for helping to make this possible.

Upon the opening of the Hague branch in July, and in accordance with its mandate, the Mechanism will assume responsibility for a variety of functions inherited from the ICTY, including the enforcement of sentences, the provision of assistance to national jurisdictions, and the protection of victims and witnesses in completed trials of the ICTY. The Mechanism will also assume authority to hear appeals against judgements or

sentences handed down by the ICTY where the notice of appeal is filed after 1 July 2013 (as already mentioned), authority to conduct reviews of judgements handed down by the ICTY and to try contempt cases, and authority to decide on requests for pardon or commutation of sentences. The Mechanism has already taken on responsibility for managing the archives of both the ICTY and ICTR, although the latter retain responsibility for the preparation of their records for transfer to the Mechanism.

From an administrative standpoint, all is going well. The Mechanism has issued a number of practice directions and promulgated other policies, further developing its legal and regulatory framework. Work on the Mechanism's permanent premises in Arusha is on track and funding is in place. The Mechanism is grateful for the support and cooperation of the Government of the United Republic of Tanzania in relation to this project.

Turning to the Mechanism's judicial work, I note that there have been a number of rulings, as set forth in more detail in my written report. Since my previous report to the Council, the Mechanism has received its first appeal from judgement, in the *Ngirabatware* case. As I mentioned earlier, additional appeals from ICTY trial judgements are expected in the future, including any appeals in the cases of *Šešelj*, *Karadžić*, *Hadžić*, and *Mladić*.

The Mechanism has also been seised of a number of motions and requests in relation to certain contempt allegations. This litigation is an example of the sort of unanticipated *ad hoc* judicial activity that may arise before the Mechanism.

Finally, in my role as President, I have issued decisions in relation to the enforcement of sentences and concerning a request for review of an administrative decision. Meanwhile, ICTR President Vagn Joensen, who has been serving as the Mechanism's Duty Judge in Arusha, has likewise ruled on a variety of matters. I am very grateful to President Joensen for his work on behalf of the Mechanism, and for being such a collegial and effective partner of the Mechanism in his capacity as President of the ICTR.

In addition to its responsibility for its own cases, the Mechanism is also responsible, with the assistance of international and regional organizations and bodies, for monitoring cases referred by the ICTR to national courts for trial.

As explained in my written report, two cases were referred by the ICTR to France for trial there. Pending finalization of arrangements with an international organization to assist with the monitoring of these two cases, the Mechanism has made interim monitoring arrangements. I am most grateful to the French authorities for their cooperation in relation to this matter.

The ICTR has also referred a number of cases for trial in Rwanda. Although some of these cases involve individuals who are still fugitives, in the case of *Uwinkindi* a trial is expected to commence later this year. Pending the finalization of monitoring arrangements, ICTR staff have been conducting interim monitoring of the on-going pre-trial proceedings.

I wish to thank the Rwandan authorities for their cooperation in facilitating this monitoring, which is an important aspect of the Mechanism's mandate—and more, generally, for the warm welcome I received upon my first official visit to Kigali last December. I am most grateful for the open and frank discussions I had whilst there, and for Rwanda's on-going cooperation with the Mechanism. Following the opening of the Hague branch, I look forward to building on existing relations with States in the former Yugoslavia to develop similarly productive and cooperative partnerships with States there.

Turning to the issue of the enforcement of sentences, I would like to express my concern regarding the situation in Mali, where 17 persons convicted by the ICTR are serving their sentences. These 17 individuals are now the responsibility of the Mechanism, and the Mechanism's Registrar is monitoring the security situation closely. The Mechanism is also taking steps to implement recommendations made by an independent penitentiary expert whom the Registrar hired to review enforcement practices in the two countries currently enforcing ICTR sentences: Mali and Benin.

At the same time, the Mechanism is looking to increase its capacity to enforce sentences in Africa and is actively taking steps to enter into enforcement of sentences agreements with new States. The cooperation and leadership of the Council and its members in this regard would be much appreciated.

Since the opening of its Arusha branch, the Mechanism has received and addressed a number of requests from national authorities for assistance in relation to national investigations, prosecutions, and trials of individuals charged in relation to the genocide in Rwanda. The Mechanism will assume similar responsibility in relation to requests related to events in the former Yugoslavia on 1 July.

Finally, I would remind the Council that the Mechanism is responsible for the trial of three individuals who were indicted by the ICTR. The arrest and transfer of these three fugitives to the Mechanism's custody remains a top priority, and Prosecutor Jallow has primary responsibility in this regard. But as we have learned from experience at the ICTY—where the last two fugitives were finally arrested in 2011, thanks to the work of Serbian authorities and ICTY Prosecutor Serge Brammertz—Member States play an invaluable role in ensuring that fugitives are apprehended.

The United States recently reaffirmed its commitment to offering financial rewards to individuals who provide information leading to the arrest or transfer of certain fugitives—including all nine ICTR-indicted fugitives—through its War Crimes Rewards Program. We are very grateful to the United States for its initiative in this regard, and I call upon other Member States to take steps to ensure that all of the remaining ICTR-indicted fugitives—whether they will be tried by the Mechanism or by Rwanda—are arrested and brought to trial. Thanks to the dedication and cooperation of Member States, the ICTY has been able to account for all 161 of those individuals whom it indicted. It is vital for the ICTR's legacy, and indeed for the cause of international justice which we all hold so dear, that we ensure a similar result in relation to those indicted by the ICTR.

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Before closing, I must acknowledge an important milestone: 25 May 2013 marked 20 years since the Tribunal's establishment by this Council in Security Council Resolution 827 (1993). The Tribunal's principals, Judges, and staff—together with dignitaries representing a number of Member States and a host of others—commemorated this occasion in the presence of His Majesty the King of the Netherlands and Under-Secretary-General for Legal Affairs and UN Legal Counsel Patricia O'Brien.

I am most grateful to the Council for its statement recognizing this important milestone and the Tribunal's contributions over the past twenty years. And I am equally grateful to the Council for recognizing that the Mechanism plays an essential role in ensuring that the impending closure of the ICTY and ICTR will not leave the door open to impunity. As Under-Secretary-General O'Brien remarked upon the occasion of the ICTY's 20th anniversary, a new "age of accountability is becoming a reality", and this is in good measure due to the work of the ICTY over the last two decades. With the sustained support of the international community and of this Council in particular, the Mechanism will carry this strong legacy forward in the years ahead.

Thank you very much.

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