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Tribunal Pénal
International pour
l'ex-Yougoslavie

STATEMENT

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PROSECUTOR

New York, 8 December 2016

**Address of Mr. Serge Brammertz, Prosecutor
International Criminal Tribunal for the Former Yugoslavia and
Mechanism for International Criminal Tribunals
to the United Nations Security Council**

Mister President, Excellencies,

In accordance with my double-hatting role, I will report today about both ICTY and MICT activities in Arusha and The Hague. Thank you for this opportunity to address you.

My Offices are firmly focused on three priorities: first, expeditiously completing trials and appeals; second, locating and arresting the remaining eight fugitives indicted by the ICTR; and third, providing assistance to national jurisdictions prosecuting war crimes, crimes against humanity and genocide.

Turning first to trials and appeals.

In The Hague, the ICTY is in the final phase of its mandate. Only two cases remain, and it continues to be expected that the Tribunal will complete its work before the end of next year.

This week, my Office is making its closing arguments in the trial of Ratko Mladić, one of the most complex and important cases in the Tribunal's history. Mladić was one of the Tribunal's last fugitives, and his arrest in 2011 was a significant moment for the victims and international criminal justice.

Over the course of his trial my Office submitted evidence from more than 150 witnesses and more than 7,800 exhibits to prove Mladić's guilt on all eleven charges in the indictment, including genocide in Srebrenica and in the municipalities of Bosnia and Herzegovina. The delivery of the judgment in the Mladić case is expected in November 2017.

In relation to ICTY appeals, the judgment in Stanišić and Župljanin was issued on 30 June 2016, confirming the sentences of 22 years of imprisonment imposed by the ICTY Trial Chamber.

In the Prlić case, my Office is continuing preparations for the appeal hearing, which is expected to take place in Spring 2017.

During the reporting period, the case against Goran Hadžić was terminated following his death in Serbia. My Office deeply regrets that this case was not brought to an end with a verdict on the charges. We share the dismay and disappointment of the victims. It would be beneficial to identify and reflect on lessons learned from this case.

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With respect to MICT trials and appeals in The Hague, pre-trial proceedings remain underway in the Stanišić and Simatović case, with this re-trial expected to commence sometime in the first quarter of 2017. This proceeding is a crucial opportunity for the Mechanism to demonstrate that it has adhered to the Council's instructions and taken steps to meaningfully improve the efficiency and effectiveness of its work.

In the Šešelj and Karadžić appeals, we filed our appeal briefs on 18 July and 5 December 2016 respectively. We are now intensively working on our response to the fifty grounds of appeal raised by the Karadžić defence team.

Regarding the Arusha branch, no trials and appeals are currently ongoing. However, during the reporting period my Office conducted two investigations, one in relation to a contempt case, and the second in relation to a completed case. We also continued to handle a higher than expected volume of litigation in relation to completed cases.

Furthermore, my Office is monitoring five ICTR cases that have been referred for trial to the national courts of Rwanda and France.

With regard to the two cases referred to France, we continue to liaise with French authorities, and encourage them to expeditiously complete this work.

With respect to the three cases referred to Rwanda, trial and appeal proceedings are ongoing. In a notable development during the reporting period, the MICT Appeals Chamber issued its decision in the Uwinkindi case, rejecting the accused's application to revoke the referral of his case to Rwanda and reaffirming that conditions exist for fair trial in Rwanda. My Office hopes this positive development will support continued cooperation by third-party States with Rwanda in extradition and related proceedings.

Mister President, Excellencies

Cooperation by the countries of the former Yugoslavia with the ICTY and MICT Offices of the Prosecutor remains critical to the completion of our mandate, including in particular our trials and appeals.

My Office echoes President Agius' grave concern that Serbia continues to ignore and breach its legal obligations to cooperate with the ICTY. We join the President in again urging Serbia to return to the path of full cooperation.

Mister President, Excellencies,

Our second priority is locating and arresting the remaining eight ICTR fugitives.

All victims share the same hope: to see those responsible for the crimes against them brought to justice. And so it remains of critical importance that these eight fugitives are arrested and stand trial.

During the reporting period, we completed our overall review of tracking efforts to-date and major steps are now being undertaken to resolve the challenges identified. We have developed strategies for each of the fugitives. Intensive communication and outreach efforts are underway, particularly with Interpol and national authorities. My Office hopes to be able to report positive results in the future from our renewed efforts.

Mister President, Excellencies,

Our final priority is assisting national judiciaries prosecuting war crimes committed in the former Yugoslavia and Rwanda.

In relation to Rwanda, my Office continued its close cooperation with the National Public Prosecution Authority and the Prosecutor-General. This cooperation remains smooth and effective, and there are no issues to report.

My Office underscores, in that regard, that the search for fugitives is not limited to the eight remaining ICTR indictees. Rwandan authorities have identified more than 500 suspects who are present in other countries. These case files must be processed, and prosecutions must be brought where there is sufficient evidence of guilt. My Office encourages third-party States to work with Rwandan authorities and ensure these cases are completed.

In relation to the former Yugoslavia, the situation is unfortunately more mixed. While judicial accountability for war crimes continues, political trends are moving in a negative direction.

My Office recognizes that results are being achieved in national prosecutions of war crimes. As one notable example, the Prosecutor's Office of Bosnia and Herzegovina has been building on past results in the Category II cases by continuing to file significant indictments against senior- and mid-level suspects, as well as for historically under-addressed crimes like conflict-related sexual violence.

However, during the reporting period regional judicial cooperation experienced a significant setback with the failure by Serbian authorities, for more than a year, to enforce the war crimes conviction in the Djukić case. This episode raises significant concerns regarding Serbia's commitment to regional judicial cooperation.

We will continue working with our national colleagues to help them address the large backlog of remaining cases and move forward independent and impartial accountability for international crimes in national courts.

Yet just as national judiciaries have their responsibilities, so too do governments. My Office must note our concern that political authorities in the region are not living up to their commitments to support national war crimes justice.

Serbia adopted its National Strategy for the Prosecution of War Crimes and Chapter 23 Action Plan, which my Office has welcomed. Yet so far, there is little evidence that these commitments are being implemented. The Serbian government has failed for almost a year to appoint a new Chief War Crimes Prosecutor. The promised and much-needed additional staff and resources for the War Crimes Prosecutor's Office have not yet been provided. Activities to strengthen the Special Investigative Service for War Crimes within the police remain pending.

During my last visit to Belgrade, I underscored that progress on war crimes justice will not be achieved if Serbia does not put into practice the steps it identified in the Strategy and Action Plan. Serbian authorities gave me assurances that immediate action would be taken. Unfortunately, none of those commitments have been honored.

With respect to Croatia there continues to be a disconnect between the official commitment to support war crimes justice and what is happening in practice. As previously reported, Croatian government policy is obstructing judicial cooperation in certain war crimes cases, including Category II cases prepared by my Office. We have listened to Croatia's concerns. But it must be emphasized that, whatever the intention,

current policy represents political interference with the justice process. My Office again urges Croatia to bring its policies in line with its commitments.

These and similar political issues are negatively impacting national war crimes prosecutions, as my Office warned six months ago. Concrete cases are not moving forward, and regional judicial cooperation is under significant stress.

Mister President, Excellencies,

My Office is further concerned that politicians and government officials from the region are undermining trust in judicial accountability for war crimes, and calling into question the independence and impartiality of the judiciary. This poses a real risk to the rule of law throughout the region. Reactions to the recent arrests of ten suspects in Orašje, Bosnia and Herzegovina starkly illustrated this worrying trend.

The glorification of war criminals also continues throughout the region, as demonstrated by the Republika Srpska National Assembly's decision to officially decorate convicted war criminals.

As long as the political environment and mindset do not support war crimes justice, it will be extremely difficult to meet the public's legitimate expectations for meaningful accountability.

Mister President, Excellencies,

Let me be clear that it is possible to reverse these negative political trends.

My Office calls upon officials in the region to act responsibly and refrain from politicizing ongoing investigations and prosecutions.

My Office also urges Bosnia and Herzegovina, Croatia and Serbia to return to constructive regional cooperation and swiftly undertake steps to rebuild trust in judicial accountability for war crimes.

The international community can help by providing positive incentives and utilizing conditionality policies.

As always, my Office stands ready to work with the countries of the former Yugoslavia and support initiatives to improve mutual trust and move the accountability process forward.

Mister President, Excellencies,

On a more positive note, the MICT OTP continues to receive numerous requests from colleagues and governments around the world to assist in strengthening domestic accountability for war crimes. At a time when international justice is the topic of much discussion, there should be agreement that one step forward is to ensure national judiciaries are able to prosecute international crimes.

We feel privileged that colleagues and partners throughout Africa fully support the MICT OTP's work, and are eager to work with my Office to develop national judicial capacities. As just one example of what can be done, my Office, with generous financial support from partners, was recently able to train 30 prosecutors and professionals from Kenya, Rwanda, South Sudan, Tanzania and Uganda on the prosecution of conflict-related sexual violence. The opening of the new MICT facility in Arusha is an important

opportunity to support the principle of complementarity and national ownership of post-conflict accountability throughout Africa.

Similarly, during my missions to the former Yugoslavia, victims associations and prosecutors expressed their appreciation for my Office's support and engagement in strengthening national capacities. Reflecting this commitment, our publication on lessons learned in the prosecution of conflict-related sexual violence will now be translated for national prosecutors in the region.

Consistent with the Completion Strategies, continued accountability for war crimes committed in Rwandan and the former Yugoslavia now depends on national justice mechanisms. The support of the Security Council, the United Nations and the international community will be critical to their success.

Mister President, Excellencies,

With the presentation of final arguments in the Mladić case, the ICTY moved another significant step closer to completing its mandate. My Office is continuing its downsizing accordingly.

At the same time, the transition of responsibilities from the ICTY to the MICT continues as foreseen in Security Council resolutions. The MICT OTP is now prosecuting one trial and two appeals, and will undertake all efforts to complete this work as expeditiously as possible.

I would like to close by expressing my Offices' gratitude to Secretary-General Ban Ki Moon. From his first visit to the ICTY in early 2007 until today, the Secretary-General provided steadfast support for my Office's work and the fight against impunity. On behalf of the Offices of the Prosecutor of the ICTR, ICTY and MICT, I thank the Secretary-General for standing behind us and giving us his full support, and I look forward to our continued cooperation with Secretary-General designate Antonio Guterres.

Thank you for your attention.

