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Criminal Tribunal
for the former
Yugoslavia

Tribunal Pénal
International pour
l'ex-Yougoslavie

STATEMENT

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PRESIDENT

The Hague, 9 December 2015

Address to the U.N. Security Council

Judge Carmel Agius

President, International Criminal Tribunal for the former Yugoslavia

9 December 2015

Mr. President, Excellencies, Ladies and Gentlemen:

I am deeply honoured to have been elected as President of the International Criminal Tribunal for the former Yugoslavia at a crucial time in its history, with the ultimate responsibility to guide its closure in 2017. In many ways, this task will be extremely challenging. But it is a challenge that I willingly accepted, having served as Vice-President for the past four years and as a Judge of the Tribunal since 2001. It is also a responsibility that has been entrusted to me by my colleagues, and I intend to accomplish it with determination and to the very best of my abilities. In this regard, I am looking forward to working closely with my esteemed colleague from China, Judge Liu Daqun, in his capacity as the Vice-President of the Tribunal.

Mr. President:

Please allow me to first pay tribute to my predecessor, President Theodor Meron, for the outstanding work carried out by him during the past four years. His endeavours have been vital in preparing the Tribunal for its last biennium. In this regard, I wish to point out that the written report being presented today reflects the work of the Tribunal over the last reporting period, under President Meron's guidance. I also would like to underscore that cooperation between the Tribunal and the Mechanism for International Criminal Tribunals is ongoing and will continue, in order to ensure a smooth transition of remaining functions and services to the Mechanism, in compliance with Security Council Resolution 1966.

Before turning to my report on the work of the Tribunal, I wish to congratulate the United States on assuming the Presidency of the Security Council. I would also like to express my gratitude to the Security Council's Informal Working Group on International Tribunals. In particular, I would like to recognize the exceptional leadership of Chile over the last two years. Further, I wish to recognize the invaluable support and assistance provided to the ICTY by the Office of Legal Affairs and the Legal Counsel. Finally, I wish to pay tribute to my colleague, President Vagn Joensen and to recognize the immeasurable contribution he has made to international criminal justice as President of the ICTR, an institution that will close its doors at the end of this year.

Mr. President:

I am pleased to report that the Tribunal has continued to make progress in completing its work. During the reporting period, four trials, involving four individuals,

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and three appeals, involving ten individuals, were ongoing. One of the appeals, in the Stanišić & Simatović case, is scheduled to be finally disposed of on 15 December 2015. In addition, on 14 December 2015, the Appeals Chamber will deliver its judgement in one of the largest appeal cases ever, the Butare case, which is an appeal from an ICTR judgement and will signal the end of the ICTR's judicial work. That will leave four trials and two appeals pending before the ICTY.

While the Tribunal continues to make every effort to meet the targets of its completion strategy and the forecast judgement delivery dates, it has faced a number of challenges, which to my great regret have caused delays in some cases. The specific lengths and causes of these delays are outlined in the written report that has been submitted to you under document S/2015/874.

In the trial of Mr. Goran Hadžić, on 26 October 2015, the Bench rendered a decision in which it stayed the proceedings, considering by majority that while the accused is still fit to stand trial, his health condition precludes his detention at the United Nations Detention Unit in The Hague. The decision to stay has been taken for an initial, renewable period of three months. An appeal from this decision has been lodged by the Prosecution. I am sure you will agree with me that challenges such as the health of the accused are beyond our control and require ongoing assessment on a case-by-case basis. The health situation of Mr. Hadžić is being closely monitored.

The Tribunal continues to make significant progress notwithstanding the ongoing challenges it is facing. However, this progress has unfortunately suffered some setback in that both the Karadžić and the Šešelj trials will not be decided by the end of 2015 as had been forecast. Having said that, the drafting of the judgement in the extremely complicated Karadžić trial is at a very advanced stage, and the Presiding Judge has assured me that proceedings will definitely come to an end before the end of March 2016. I am also hopeful that the Šešelj trial will be concluded by the same date. I have the commitment of the Presiding Judge and his two colleagues that every effort will be made to observe that deadline. In particular, the Presiding Judge, on behalf of the bench, has now advised that a written judgement is planned to be delivered during the first quarter of 2016.

Further, I am pleased to report that the Mladić trial, and the appeals in Stanišić & Župljanin and Prlić et al., remain on target. Regarding the Prlić et al. appeal, I wish to highlight that this case is the most voluminous appeal case in the history of the Tribunal and will require not only time, but adequate uninterrupted resources. While it will certainly be a challenge to meet the projected time frame, the Appeals Chamber remains committed to complete this case by November 2017. I will make sure that, with your help, all measures are taken in order to ensure an efficient and timely completion of the case and prevent any slippage.

It should be noted that the responsibility for meeting a projected time line is that of the Presiding Judge of a case. Nevertheless, as President I remain in constant dialogue with the various Presiding Judges to seek to identify potential delay factors and to work towards early solutions, as far as possible. I can assure you that all possible measures are being implemented to prevent and address causes of potential delay that are within the control of the Tribunal. Judges and staff are working diligently to complete judicial work as rapidly as possible, while maintaining our commitment to guarantee procedurally just trials and appeals.

It is therefore expected that the Tribunal's judicial work will be completed on time. However, while the Tribunal is currently on track, there are challenges which must be managed if the Tribunal is to meet its ultimate goal of closure in 2017. These

challenges are not new and have been brought to the attention of the Security Council by my successive predecessors.

Most critically, there is the perennial and endemic problem of staff attrition. The increasingly alarming drain of experienced staff constitutes a serious threat to our efforts to complete the mandate within the projected timeline. This issue has been, and continues to be, addressed in the proceedings of Prlić et al., Mladić and Šešelj by increasing the number of staff on the teams and allowing for the possibility of promotion as a staff retention measure. The Šešelj case, in particular, suffered continuous departures of members of the Chambers support team during the last reporting period. The team has subsequently been reinforced.

The other challenge facing the Tribunal remains that of staff morale. To ensure that staff morale is maintained as much as possible, the Registrar has developed a fair and transparent downsizing process in consultation with the Staff Union, and dialogue between staff and management is ongoing. In addition, the Registrar has implemented other measures, including the services of a career transition advisor to assist staff in transitioning to other areas of employment. Of course, it is clear that the Tribunal must continue its efforts to adopt strategies that reduce any delays in ongoing cases to a minimum - this obligation impacts both the fundamental rights of the defendants and the resources of the international community.

Mr. President:

I wish to recall that this year was marked by the 20th anniversary of Srebrenica, the 20th anniversary of the Dayton Peace Accords, as well as the 70th anniversary of the United Nations. I note also that today is the International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and the Prevention of this Crime. Anniversaries provide us with an opportunity to reflect on what has been achieved and to take stock of what remains to be done. Further, remembering the events of the past and paying tribute to those who suffered should strengthen our resolve to prevent such events from ever happening again. While the Tribunal is doing everything in its power to address challenges to the timely completion of its work, the obstacles it continues to face should not overshadow its enormous achievements.

The Tribunal has been at the forefront in the fight against impunity for international crimes and it continues to serve as a symbol of the international community's commitment to ensuring accountability for grave crimes - such as those committed in the former Yugoslavia - and to the laudable aim of preventing such crimes from being committed again in the future. It is also important not to forget the pivotal role that the Tribunal has played, and continues to play, both in setting global standards for international criminal law and justice and in helping strengthen the rule of law at the local level. In this respect, critical to the broader success of the Tribunal is an understanding of its work by the broader international community and in particular by the countries of the former Yugoslavia.

I wish to thank the European Union for its generous funding in support of outreach projects in the region, which are a vital tool to ensuring that the legacy of the Tribunal remains a priority. We indeed have a responsibility towards the legacy that we will leave behind. We also have a responsibility towards victims and their families.

Mr. President:

Despite the serious challenges that the Tribunal is facing, we stand committed with the Security Council to ensure the efficient and orderly closure of this institution by the end of 2017. We are now at a crucial moment in the Tribunal's history. I believe that the Security Council and the Tribunal share the same goals and aspirations, namely to bring to a successful conclusion the first big experiment in international criminal justice after World War II. With the support and encouragement of the Member States of the United Nations, the ICTY, under my leadership, will strive to make all the progress required in order to fulfill its mandate and will continue to serve as the concrete manifestation of a commitment to ending impunity.

Thank you