

**MICT**

UNITED NATIONS

Mechanism for International Criminal Tribunals

The Mechanism for International Criminal Tribunals ("MICT" or "Mechanism") was established on 22 December 2010 by the United Nations Security Council to continue the jurisdiction, rights, obligations and essential functions of the International Criminal Tribunal for Rwanda ("ICTR") and the International Criminal Tribunal for the former Yugoslavia ("ICTY") after the completion of their respective mandates. The MICT has two branches, one in Arusha, Tanzania, and one in The Hague, Netherlands.

STATEMENT

PROSECUTOR

(Exclusively for the use of the media. Not an official document)

Arusha, The Hague, 6 December 2017

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

Mister President, Excellencies,

Thank you for this opportunity to again address you about ICTY and MICT activities in Arusha and The Hague. I would like to briefly report to you about Mechanism activities, and then turn to the final report of the ICTY Office of the Prosecutor.

But let me first take the opportunity to welcome Her Excellency, Madame Kolinda Grabar-Kitarović, President of the Republic of Croatia, as well as Her Excellency, Ms. Nela Kuburović, the Minister of Justice of the Republic of Serbia. We are honored that they have joined us today on the occasion of the ICTY's final briefing to this Council.

Mister President, Excellencies,

The Mechanism Office of the Prosecutor continues to focus on expeditiously completing the limited number of trials and appeals transferred from the ICTY.

During the reporting period, my Office commenced the presentation of its evidence in the Stanišić and Simatović case. In order to reduce the length of this trial, we filed last week a motion to increase the number of trial days and hours per week. My Office also continued its work on the two pending appeal cases. We will present our oral appeal arguments in the Šešelj case next week.

Locating and arresting the remaining eight fugitives indicted by the ICTR remains our second priority. During the reporting period, my Office continued its efforts to reform and strengthen our fugitive tracking activities. We completed the restructuring of our Fugitives and Investigations Unit, and a new tracking team leader has been appointed. Our activities at present are focused pursuing a number of new leads, while we are also reviewing and following-up leads that had been generated in the past but not processed.

Finally, we continue to provide assistance to national jurisdictions investigating and prosecuting war crimes, crimes against humanity and genocide committed in Rwanda and the former Yugoslavia. In relation to crimes committed in Rwanda, my Office is focused on improving access to our evidence collection. In addition to making more of our evidence available to national judiciaries, we are

working with our Rwandan partners to establish more direct lines of communications to expedite mutual legal assistance.

In relation to the former Yugoslavia, my Office focused its activities on ensuring continuity following the closure of the ICTY. During my missions to Belgrade and Sarajevo last month, national war crimes prosecutors expressed their commitment to continuing and strengthening cooperation with my Office in the future. They further requested that we provide greater support to their efforts to achieve their national war crimes strategies. My Office will also continue working with our national colleagues to improve regional judicial cooperation.

Mister President, Excellencies,

The ICTY will close its doors at the end of this month.

For twenty-four years, my Office has endeavored to fulfil the mandate this Council entrusted to us. To bring to justice those most responsible for horrific violations of international humanitarian law committed in the territory of the former Yugoslavia. We will leave a rich and complex legacy. Thanks to this Council, so many victims and survivors received some measure of justice for the immense wrongs they suffered.

My last report reviews the Office of the Prosecutor's work in implementing the Completion Strategy in more detail. We identify our successes, our lessons learned, and areas where results did not meet the victims' expectations. We believe our results are credible. And we hope that the Council will judge our efforts as important contributions to the maintenance of international peace and security.

I would like to highlight today three of those lessons.

My Office considers that the Completion Strategy represented a successful exercise of this Council's executive authority. By combining the policy direction to focus on those most responsible for the crimes with a deadline for the filing of new indictments, this Council promoted effective and expeditious activity by my Office. For example, the so-called Mega Trials my Office undertook in the implementation of the Completion Strategy clearly realized significant efficiency gains while also achieving meaningful justice. The Completion Strategy further ensured appropriate accountability, while safeguarding our prosecutorial independence in individual cases.

In turn, the Completion Strategy's legitimacy was further strengthened because it foresaw the transition of our responsibilities to national justice sectors. This Council decided that the Tribunal would close not because our work was done, but because it was convinced that further justice could be achieved by domestic judiciaries, in accordance with international obligations. This was critical because the investigations conducted by my Office identified hundreds of suspects, only a small number of whom we would prosecute as bearing the greatest responsibility. The presumption that national courts would continue the accountability process addressed concerns that the end of the Tribunal's work would lead to impunity.

While the ICTY initially followed the path of primacy, under the impetus of the Completion Strategy and as directed by this Council, my Office pursued the development of an effective system of complementarity and partnership with national judiciaries. The crucial lesson is that in the future, where possible there should be an integrated approach that embraces both international and national justice mechanisms.

Finally, in relation to cooperation, as my Office regularly reported to you the countries of the former Yugoslavia often failed to adhere to their international obligations, particularly in the arrest of fugitives. Yet, we succeeded in accounting for all fugitives, at a time when the non-arrest of fugitives is a major challenge for international justice. This was only possible because of the strong support from this Council, the United Nations and its Member States. While a number of factors played a role, ultimately one measure was of decisive impact: the conditionality policies applied by the European Union, United States and other UN Member States.

Our results show that if there is a clear political agenda in favor of accountability, and if the international community speaks with one voice, those most responsible for serious violations of international humanitarian law can be held accountable for their crimes.

Mister President, Excellencies,

It has been said that the Tribunal has not achieved reconciliation in the former Yugoslavia. It is hard to disagree. As we have seen over the last two weeks, the crimes have left wounds that still have not healed. Convicted war criminals continue to be seen by many as heroes, while victims and survivors are ignored and dismissed. Difficult facts continue to meet outright denial, or rebuttals pointing to the crimes of others.

So the question is why reconciliation remains a significant challenge today. The reality is that there is still no true will within the region to accept the immense wrongdoings of the past and move forward, sadly most of all among the political leadership.

Unfortunately, too many listen to war criminals who hide behind claims of collective responsibility. War criminals insist that they are not on trial, but their people. They insist that if they are judged to be guilty, then so is their entire community.

In contrast, we have always insisted on the principle of individual criminal responsibility. The fact is that the crimes were not committed by nations or peoples. But by individuals, and most of all by senior political and military leaders.

So let me be crystal clear on this point again: no community bears responsibility for what these men did. The guilt is theirs, and theirs alone.

Justice should relieve a society from the weight of collective responsibility, paving the way for acceptance and understanding. That is why although justice alone will not achieve reconciliation, it is an essential condition.

Mister President, Excellencies,

It is clear that much more remains to be done. Many more victims, from all communities, are still waiting for justice. The countries of the region need support as much as ever before. They won't be able to achieve justice and reconciliation alone.

Partners can help mediate so that progress can be achieved on a shared agreement on the recent past. For our national colleagues to succeed, they will need the same support that my Office always received from this Council, the United Nations and its Member States.

Mister President, Excellencies,

It has been a privilege to serve as Chief Prosecutor of the ICTY for these last ten years. I thank you for having provided the support needed to secure the arrests of all fugitives and bring the Tribunal's final cases to a successful conclusion.

As Chief Prosecutor of the Mechanism, I am committed to continuing the implementation of the Completion Strategy and assisting the countries of the former Yugoslavia to move forward. Our national counterparts now have primary responsibility to achieve greater justice, while our more limited role is in support of their efforts. By providing them with access to our evidence. By sharing our expertise and passing along lessons learned. And by promoting accountability and the search for missing persons.

We are grateful for the continued support of this Council.

Thank you for your attention.