



THE REPUBLIC OF SERBIA

SECURITY COUNCIL MEETING
AGENDA ITEM: ICTY/ICTR

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STATEMENT

by

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PERMANENT REPRESENTATIVE OF THE REPUBLIC OF SERBIA

New York, 10 December 2014

Mr. President,
Distinguished Members of the Security Council,

Let me begin by welcoming the Presidents and the Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), two of whom are also officials of the International Residual Mechanism for Criminal Tribunals (Mechanism), and by thanking them for the reports they have submitted.

At the outset, I would like to express our appreciation of the acknowledgement of the continued high level of cooperation of the Republic of Serbia with the ICTY that the President and the Prosecutor presented in their reports. As a consequence, there are no outstanding indictees at large and all of the 3,466 requests for assistance received from the Office of the Prosecutor (OTP) or defence counsels for access to documents, archives and witnesses have been complied, with only two of the most recent still pending. This has been brought about not only by the compliance of the Government of Serbia with its international obligations, but also by its firm commitment to the principles of international humanitarian law. Let me reiterate that the Government of Serbia is committed to continuing the cooperation, both with the Tribunal and the Residual Mechanism.

Serbia has followed, with particular attention, the ICTY activities to implement the completion strategy and smooth transition to the Mechanism. While the Tribunal, regrettably, is not to complete all of its judicial work by the end of this year, as set forth in the SC Resolution 1966 (2010), it is in the interest of my country to see the processes against its citizens completed and have their defences presented in a fair and expeditious procedure. We hope that the remaining proceedings will be completed as planned.

Mr. President,

Serbia welcomes the progress made in the establishment of operational capacities of the Hague Branch of the International Residual Mechanism over the last year, which is essential for the implementation of the ICTY mission in accordance with its mandate and, in particular, for enabling national judiciaries to continue to prosecute war crimes. In this context, I would, once again, like to mention with particular appreciation the visit to Belgrade of the Mechanism's Prosecutor Hassan Bubakar Jallow on 8 September, during which a Memorandum of Understanding was signed that would facilitate the continued cooperation in exchange of evidence to be used in cases tried by the national judiciary of Serbia.

With the ICTY completion strategy entering its final stages, the emphasis of war crimes prosecutions has been shifting to national judiciaries and will soon be in their full responsibility. Serbia, on its part, has systematically and persistently continued to prosecute war crimes committed in the territory of the former Yugoslavia in the firm belief that the quest and respect for justice and fairness are of vital importance. The number of cases tried in domestic courts has increased considerably in the last period. The facts speak for themselves – the Serbian judiciary has so far tried 435 persons for criminal offences committed against international humanitarian law, while 78 persons are currently under investigation.

To further this task, an Action Plan has been conceived in line with the European Union negotiating framework, under the chapter on Judiciary and Human Rights, and has been submitted

to the European Commission. The implementation of the Action Plan will further contribute to enhancing the capacity and strengthening the work of the Office of the War Crimes Prosecutor and other state bodies, in line with our obligations as a nation, society and an aspiring EU member state.

Much still remains to be done, though, and we are fully aware that the task will require diligence and persistence. The assistance provided to national judicial authorities by the OTP for the purpose of strengthening national capacities has been vital and will remain a high priority until the very closure of the Tribunal, as much in Serbia, as in the rest of the region.

Mr. President,

In order to make a successful contribution to regional peace and reconciliation, we consider that regional cooperation must continue to be a priority. Anything short of full cooperation by the countries on whose territories the crimes were committed, justice can hardly be served. Regional cooperation is and will be of key importance in the struggle against impunity for international criminal offences, all the more so in the time to come.

Such cooperation with the war crimes prosecutors of Croatia, Bosnia and Herzegovina, Montenegro and EULEX has been constantly intensifying, with the latest example demonstrated by the successful outcome of the joint Serbia-Bosnian investigation that led to the arrest on 5 December of five suspects in Serbia and ten in Bosnia and Herzegovina in the notorious case of the abduction and killing of twenty people from the train near the Bosnian village of Štrpci that took place in 1993. The 20 years long attempts to investigate this case and uncover the perpetrators of this heinous atrocity could not have succeeded without intensive cooperation between the judicial and police organs of the two countries, particularly in the last two years. Let me also point out that evidence has been exchanged in 252 cases, so far. Another recent positive element on this path is the Agreement on the exchange of liaison officers signed on 11 September between the War Crimes Prosecutors of Serbia and Bosnia and Herzegovina that will facilitate bilateral cooperation on access to evidence.

Given Serbia's earlier stated efforts, as well as the aforementioned positive trends, it is imperative to keep up the momentum. It is also our right to expect of all the countries from the region of the former Yugoslavia to do the same and investigate and try the cases of war crimes in which Serbs were victims. This is their duty not only towards the victims and their own people, but towards humanity as well.

Mr. President,

I have pointed at previous Security Council sessions on the ICTY, and most recently in the General Assembly plenary, to the need to see the processes before the Tribunal completed and have defences presented in a fair and expeditious procedure, arguing that protracted procedures that prolong detention, often indefinitely, are contrary to the recognized norms regulating the rights of the accused. In line with this, we took the case of Vojislav Šešelj as indicative, with the indictee having been held in detention without sentencing for almost 12 years following his voluntary surrender. I underscored that this case is less than conducive to the reputation of the ICTY and that concrete measures should be taken speedily in order to unlock the legal procedural deadlock

in which this case is locked. To that end, I wish to emphasize that Serbia has never made any request to the Tribunal but to complete the pending cases with full respect for the trial rights of the accused and the defence.

Since then, as stated in President Meron's report, on 6 November the Trial Chamber, with a decision by majority, ordered the provisional release of Vojislav Šešelj to Serbia for an indefinite period on humanitarian grounds.

Mr. President,

Committed to the policy of peace and stability, as well as to regional cooperation and dialogue, Serbia does not condone the war-mongering rhetoric no matter where it may come from. Likewise, my country cannot accept allegations of collective responsibility and guilt, either. Bearing in mind the path that our countries have traversed over the past two decades, from the ashes of war and devastation through the establishment of peace and the quest for reconciliation and coming to terms with the past, and particularly looking to the future and to the work that remains ahead of us, the importance of regional cooperation cannot be overstated. While much has been said about the successes achieved so far, as in any endeavour, to bear the full fruit of success one has to be forward looking, courageous and persistent. Abusing events and occurrences for one's political means is neither forward looking nor courageous and can only be said to be persistent in awakening the demons of the past.

The statements made by Vojislav Šešelj after his temporary release are not different from those made regularly in the ICTY courtroom. Besides, he had said on a number of occasions that he would not accept any restrictions on his public statements. Yet, he was released nonetheless. In deciding on the release, the Trial Chamber certainly knew quite well what kind of statements he was going to make. His statements against the Government of the Republic of Serbia and its policy cannot be attributed to the Republic of Serbia and there is no basis whatsoever to accuse my country and its Government of anything levelled against them in Mr. Šešelj's statements. Before or after his release. As to the impact of these statements and the political views that they advocate, the results of the past several elections offer sufficient testimony to their marginal scope.

Regional destabilization, Mr. President, is not in the interest of Serbia, just as it is not in the interest of the Balkan countries and of Europe. What we all aspire to is respect for civilizational and democratic achievements, rule of law and the economic progress and stability of the Region. It is difficult to build peace and stability in the Region, but it is very easy to raze it. Hate speech is, let me remind you, not exclusive to Serbia, but, sadly and regrettably, a region-wide phenomenon.

Mr. President,

As I stated in the previous Security Council debate six months ago, and bearing in mind that Serbia is firmly committed to cooperation with the ICTY and that twenty years have elapsed since its establishment, I would like to point out once again that my country attaches great importance to the initiative that those convicted in the Hague Tribunal be allowed to serve their sentences in the States that emerged in the territory of the former Yugoslavia. In this context, let me recall that, since 2009, Serbia has requested to sign such an Agreement with the ICTY and

sought very actively to promote the initiative all along. Its officials have written to the United Nations and the ICTY on a number of occasions, yet, regrettably, no progress has been made.

Without prejudging the outcome of this purely humanitarian request and bearing in mind that President Meron has on a number of occasions stated in his reports and in public statements that the International Residual Mechanism is actively working to secure additional agreements to increase its enforcement capacity and that he welcomes the cooperation of States in this regard, Serbia would appreciate an opportunity to sign such an agreement. The results of the years-long cooperation with the ICTY indicate that my country takes this question very seriously and that it is ready to accept international supervision of the enforcement of sentences and to provide all necessary guarantees.

Mr. President,

I would like to take this opportunity to reiterate the readiness of Serbia for, and its interest in, addressing the question of ICTY archives. We advised the Security Council of our official position on the matter in October 2008. My country is ready to participate actively in all future discussions and to continue to cooperate with the Informal Working Group of the Security Council on International Tribunals on this question. Also, as in the past, Serbia is ready to fulfil all obligations resulting from cooperation with the ICTY and the International Residual Mechanism.

Let me conclude by expressing once again the satisfaction of my country over the progress made in the establishment of operational capacities of the Hague Branch of the International Residual Mechanism. Its work is and will continue to be of key importance in facilitating the full establishment of justice, in particular in enabling the continued work of national judiciaries in prosecuting war crimes. The international judicial system has the key role to play in the process and it is obligated to make a contribution through full respect for international norms and human rights principles. Let me point out once again, Mr. President, that Serbia is committed to regional peace, stability and reconciliation.

Thank you, Mr. President.