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Letter dated 17 May 2017 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Tribunal for the Former Yugoslavia, pursuant to paragraph 6 of Security Council resolution 1534 (2004).

I should be grateful if you would transmit the present letter and its annexes to the members of the Security Council.

(*Signed*) Carmel **Agius**
President

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Annex I

[Original: English and French]

Assessment and report of Judge Carmel Agius, President of the International Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Security Council resolution 1534 (2004) (18 November 2016 to 17 May 2017)

Contents

1. The present report is submitted pursuant to Security Council resolution 1534 (2004), adopted on 26 March 2004, in which the Council, in paragraph 6, requested the International Tribunal for the Former Yugoslavia to provide to the Council, by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the completion strategy of the Tribunal, explaining what measures had been taken.[1]

2. The report also includes a summary of the measures that the Tribunal is taking to complete the smooth transition to the International Residual Mechanism for Criminal Tribunals and of the ongoing liquidation efforts of the Tribunal.

I. Introduction

3. During its final year of operations, the Tribunal is continuing to implement the completion strategy and to make every effort to ensure that the forecast dates for delivery of judgment in the final cases — and for the Tribunal's ultimate closure — are met. Downsizing continues in accordance with existing schedules, and at the same time staff attrition remains a serious challenge across all sections of the Tribunal.

4. The Tribunal has continued to make significant strides in completing its judicial work. At the close of the reporting period, one trial case, involving one individual, and one appeal case, involving six individuals, were ongoing. In the final trial case of *Prosecutor v. Ratko Mladić* ("*Mladić* case"), closing arguments were presented in December 2016 and the Trial Chamber is fully engaged in deliberations and drafting of the judgment. In the final appeal case of *Prosecutor v. Jadranko Prlić et al.* ("*Prlić et al.* case"), the appeal hearing was held in March 2017 and the Appeals Chamber is likewise fully focused on ongoing deliberations and judgment drafting. In both cases, the estimate for delivery of judgment remains November 2017, as previously forecast.

5. The Tribunal has, to date, concluded proceedings against 154 of the 161 individuals it has indicted, as well as contempt proceedings against 25 persons. While there are no outstanding fugitives of the Tribunal charged with serious violations of international humanitarian law, in the contempt case of *Prosecutor v. Petar Jojić et al.* ("*Jojić et al.* case"), three indictees are yet to be arrested and transferred to the Tribunal. The Tribunal reiterates its grave concerns regarding the continued failure of Serbia to cooperate in this case (see paras. 16-19).

6. In addition to its judicial caseload and related support activities, during the reporting period the Tribunal has continued to prioritize its liquidation activities, as well as efforts to complete the smooth transition of functions to the Mechanism in compliance with Security Council resolution 1966 (2010), including through the ongoing review and preparation of records for transfer to the Mechanism.

[1] The present report should be read in conjunction with the previous 26 reports submitted pursuant to Security Council resolution 1534 (2004): S/2004/420 of 24 May 2004; S/2004/897 of 23 November 2004; S/2005/343 of 25 May 2005; S/2005/781 of 14 December 2005; S/2006/353 of 31 May 2006; S/2006/898 of 16 November 2006; S/2007/283 of 16 May 2007; S/2007/663 of 12 November 2007; S/2008/326 of 14 May 2008; S/2008/729 of 24 November 2008; S/2009/252 of 18 May 2009; S/2009/589 of 13 November 2009; S/2010/270 of 1 June 2010; S/2010/588 of 19 November 2010; S/2011/316 of 18 May 2011; S/2011/716 of 16 November 2011; S/2012/354 of 23 May 2012; S/2012/847 of 19 November 2012; S/2013/308 of 23 May 2013; S/2013/678 of 18 November 2013; S/2014/351 of 16 May 2014; S/2014/827 of 19 November 2014; S/2015/342 of 15 May 2015; S/2015/874 of 16 November 2015; S/2016/454 of 17 May 2016; and S/2016/976 of 17 November 2016. Except where otherwise noted, the report contains data accurate as at 17 May 2017.

II. Implementation of the completion strategy

7. The Tribunal once more reaffirms its commitment to close its doors by the end of 2017. In particular, it remains committed to concluding the final cases on time and in an expeditious manner, bearing in mind that the principles of fairness and due process are paramount.

8. In addition to carrying out scheduled downsizing, during the reporting period, the Tribunal has continued to take measures to enhance efficiency. These include regular meetings of the Trial and Appeal Scheduling Working Group, chaired by the Vice-President of the Tribunal, which is tasked with monitoring and reporting on the progress of the final cases to ensure that they are kept on track and to identify and ameliorate any potential cause of delays. The Tribunal has also continued to take measures to ensure continuous capacity across the various sections, including: promoting eligible staff members as a means of boosting morale and discouraging attrition; reassigning staff and providing teams with additional staff resources, as needed, including through internal and external recruitment processes; maintaining rosters of qualified applicants to ensure that departing staff members are replaced as quickly as possible; and exploring flexibility of options with the Secretariat to address staff attrition.

9. While the Tribunal is taking all measures possible to ensure its efficient and orderly closure in December, it must again warn of the impact of continued staff attrition. Staff members have continued to leave during the reporting period for more secure, long-term employment elsewhere, leaving gaps in the relevant sections of the Tribunal that must be filled quickly. Maintaining adequate levels of staffing support thus continues to present enormous challenges. While the Tribunal has so far managed to cope, it is extremely concerned that the coming months will prove the most critical in terms of staffing.

10. It is anticipated that staff will leave in greater numbers as the closing date of the Tribunal approaches. While such departures are unfortunate, it is also understandable that staff members need to secure a livelihood beyond 31 December 2017 and that they will take up employment opportunities elsewhere in order to guarantee stability and a smooth career transition. For this reason, as previously reported, the Tribunal considers that being able to offer a financial incentive to staff members would be crucial for retaining full staff support until the Tribunal's closure.

11. In that connection, the Tribunal has asked for help in staffing matters from the General Assembly, the Security Council and the Department of Management of the Secretariat on numerous occasions. In particular, the Tribunal requested assistance in the form of retention incentives for staff members who remain at the Tribunal until the end of their respective contracts. A proposal for such incentives was submitted to the Department of Management in October 2016 and was discussed by the President of the Tribunal and the Under-Secretary-General for Management at a bilateral follow-up meeting, as well as at other high-level meetings during the missions of the President to New York in 2016. To date, the Tribunal is waiting for a response from the Department of Management and for the proposal to be submitted for the consideration of the General Assembly in a timely manner. The President of the Tribunal followed up in writing with the Under-Secretary-General for Management in April 2017 to enquire about the status of the proposal.

12. The Tribunal has done all it can on staffing and has exhausted all non-monetary and internal measures to encourage staff members to stay until the end of their contracts. It is now up to the United Nations and its Member States to

provide further assistance and thereby enable the Tribunal to complete its judicial work in a timely manner.

13. In the meantime, the Tribunal wishes to publicly acknowledge and thank all staff members for their outstanding efforts and dedication. During the reporting period, as in other reporting periods, staff members have been working exceptionally hard, including very long hours during the week and over the weekend, to ensure that judicial and other closure deadlines continue to be met. It is thanks to them, as well as the Tribunal's judges, that the Tribunal will be able to conclude its mandate. The Tribunal is most grateful for their service, as the United Nations should also be.

14. To provide a more thorough overview of the challenges faced by the Tribunal in individual cases and of the progress made towards completing its work, summaries of the remaining trial and appeal proceedings are provided below.

A. Trial proceedings

15. In the *Mladić* case, the accused, Ratko Mladić, is charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war, all in relation to acts allegedly committed in Bosnia and Herzegovina between 12 May 1992 and 30 November 1995. The Trial Chamber is composed of Judges Alphons Orie (presiding), Christoph Flügge and Bakone Justice Moloto. The trial commenced on 16 May 2012 and the evidentiary phase of the case was concluded in August 2016, with the parties subsequently presenting their closing arguments in December 2016. The total number of witnesses in the *Mladić* case is 591, with 377 having appeared before the Trial Chamber, and a total of 10,038 exhibits have been admitted into evidence. The Trial Chamber is fully engaged in deliberations and drafting of the judgment and the estimated delivery date for the judgment remains November 2017. As indicated in previous reports, the judges and legal support team have taken a variety of measures to minimize delays in the preparation of the trial judgment, including involving additional staff resources in the drafting process. Despite such measures, highly qualified staff members continue to leave the Tribunal for more secure employment elsewhere. It remains a challenge to maintain the continuity of core staff, which is of the utmost importance in such a large and complex case. Nevertheless, the Trial Chamber is committed to concluding the case by 30 November 2017.

16. In the *Jojić et al.* contempt case, the accused, Petar Jojić, Jovo Ostojić and Vjerica Radeta, are charged with four counts of contempt of court in relation to alleged witness intimidation in the former trial case of *Prosecutor v. Vojislav Šešelj*. The proceedings in the *Jojić et al.* case commenced on 30 October 2012 with the issuance of an order in lieu of indictment, but remained confidential until 1 December 2015. Arrest warrants have been pending execution in Serbia since 19 January 2015 and yet Serbia has taken no action. On 5 October 2016, international arrest warrants for the accused were issued confidentially by the Trial Chamber and were later released publicly or in public, redacted form on 29 November 2016. Subsequently, the International Criminal Police Organization (INTERPOL) issued Red Notices seeking the location and arrest of the accused, effective 16 March 2017.

17. In addition, on 1 March 2017 the President of the Tribunal wrote to the President of the Security Council to report the continued non-compliance of Serbia under article 29 of the statute of the Tribunal (S/2017/180). In that letter, the President called upon the Security Council to ensure accountability, to prevent impunity and to take the measures necessary to secure the compliance of Serbia

with all orders of the Tribunal, and appealed to Member States to execute the outstanding international arrest warrants and orders to surrender. The President further recalled the critical role that the Security Council had played in the past in supporting the Tribunal on cooperation matters, including in the successful arrest of fugitives. In view of the importance that the Security Council has previously attached to matters of cooperation, the Tribunal hopes that such support and resolve will continue until the end of its mandate.

18. In the meantime, the Tribunal once more expresses its serious concern in relation to the lack of cooperation of Serbia in the *Jojić et al. case*, in particular its failure to execute the arrest warrants issued more than two years ago. As stated by the President on numerous occasions before the United Nations, the failure of Serbia to arrest and transfer the accused and the decisions issued by the War Crimes Chamber of the High Court in Belgrade in May 2016 represent a disturbing step backwards from the status quo on cooperation with the Tribunal and contradict the legal position previously taken by Serbia, which has in the past transferred several persons accused of contempt to the Tribunal and recognized the Tribunal's authority to deal with such cases. The Tribunal reminds all Member States of the duty of Serbia to cooperate fully with the Tribunal, in accordance with Security Council resolutions and the statute of the Tribunal, which establishes primacy over Serbian domestic law.

19. The Tribunal therefore awaits a decisive and timely response from the Security Council to the President's letter of 1 March 2017 and stresses that ensuring the cooperation of Serbia is not only in the Tribunal's interests, but also in those of the Security Council and international justice more broadly. It further wishes to assure Member States that the Tribunal stands ready to dispose of the *Jojić et al.* case expeditiously and fairly, and reiterates its commitment to the Security Council that it is not attempting to use these proceedings to extend the mandate of the Tribunal beyond 2017. The Tribunal is simply seeking to ensure that the case is heard and completed before its doors are closed, and that the shared legacy of the Tribunal and the Security Council remains intact.

B. Appeals from judgment

20. In the *Prlić et al.* case, briefing was completed on 29 May 2015. The projected time frame for delivery of the appeal judgment remains November 2017. The Appeals Chamber is composed of Judges Carmel Agius (presiding), Liu Daqun, Fausto Pocar, Theodor Meron and Bakone Justice Moloto. As reported previously, this is the most voluminous appellate case in the history of the Tribunal, with seven appeals (one by each of the six defendants, as well as the Office of the Prosecutor), 172 grounds of appeal and 12,196 pages of appellate submissions dealing with a trial judgment of more than 2,000 pages. Although additional staff resources have been assigned in order to ensure that the deadline of November 2017 can be met, during the reporting period, highly qualified staff members have left the Tribunal to take up more secure or longer-term opportunities with other employers. As with the *Mladić* case, it will thus be difficult to maintain the continuity of core staff, which is crucial in proceedings of this nature. Nevertheless, the Appeals Chamber remains committed to completing the case by 30 November 2017.

21. As planned, the working document analysing the parties' appellate submissions was finalized in December 2016 and helped the judges to prepare for the appeal hearing and deliberations. The appeal hearing took place from 20 to 24 March and on 27 and 28 March 2017. Deliberations between the judges of the Appeals Chamber are ongoing and the legal support team is currently assisting the judges in producing a first draft of the judgment. Furthermore, the judges and legal

support team are continuing to take measures to avoid delays in the preparation of the appeal judgment, including the implementation of a detailed workplan designed to maximize staff resources, the provision of ad hoc assistance to the team by legal officers assigned to the judges on the bench and the temporary reassignment to the team of previous team members who were recruited by the Mechanism in late 2016. The Tribunal thanks the President of the Mechanism for his continued flexibility and support in that regard.

C. Interlocutory appeals

22. In addition to the *Prlić et al. case*, during the reporting period, the Appeals Chamber was seized of two interlocutory appeals filed by Ratko Mladić in the *Mladić* case. An Appeals Chamber bench composed of Judges Carmel Agius (presiding), Liu Daqun, Fausto Pocar, Theodor Meron and Burton Hall was assigned to the appeals and issued decisions thereon in December 2016 and February 2017, respectively. These matters created extra work for the judges and staff of the Appeals Chamber and required significant time and staffing resources.

23. The Tribunal notes that efficient and timely completion of the interlocutory appeals by the Appeals Chamber was possible in part thanks to the amendment of the statute of the Tribunal in September 2016, pursuant to Security Council resolution 2306 (2016), which allowed for the subsequent appointment of Judge Burton Hall as an ad hoc judge of the Tribunal. The Tribunal again thanks the Security Council for its cooperation and assistance in enabling an ad hoc judge to be appointed to the Appeals Chamber, thereby resolving the shortage of available judges caused by the early conclusion of another trial in 2016. It assures the Security Council that any further interlocutory appeals in the *Mladić* case will be dealt with in a speedy manner so as not to compromise the conclusion of that case, while ensuring full respect for fair trial rights and due process.

III. Revisions to practice directions

24. On 7 April 2017, in accordance with rule 19(B) of the Rules of Procedure and Evidence and following consultation with the Bureau, the Prosecutor and the Registrar, the President formally issued revisions to: (a) the practice direction on the procedure for the review of written submissions which contain obscene or otherwise offensive language (IT/240/Rev.1); and (b) the practice direction on the application of an electronic court management system (IT/239/Rev.2). These practice directions were updated so as to record the best practices of the Tribunal for posterity, while improving governance structure and streamlining filing processes.

IV. Evaluation by the Office of Internal Oversight Services

25. In S/2016/976, the Tribunal provided a comprehensive report on its implementation of the recommendations made by the Office of Internal Oversight Services (OIOS) following its evaluation of the methods and work of the Tribunal earlier in 2016. In resolution 2329 (2016) of 19 December 2016, the Security Council, inter alia, encouraged the Tribunal to continue reporting on its implementation of the Office's recommendations in its next report to the Council on progress towards implementation of the completion strategy, without prejudice to the primacy given to the completion of its work. In this context, the Council also welcomed the adoption by the Tribunal on 6 July 2016 of a code of professional

conduct for the judges of the Tribunal and emphasized the importance of developing a disciplinary mechanism for judges.

26. The Tribunal took very seriously the Security Council's encouragement regarding and emphasis on the OIOS recommendations. Indeed, the President drew the attention of the other judges of the Tribunal to the matter early in 2017, and it was subsequently discussed in detail at the plenary session of judges held on 1 February 2017. However, the judges decided unanimously that their focus must remain on the Tribunal's judicial work in order to ensure the timely delivery of judgments in both the *Mladić* case and the *Prlić et al*. case. For this reason, while they fully acknowledged the importance of a disciplinary mechanism for judges, they agreed that they would not be in a position to further consider the development of such a mechanism.

27. After careful examination, the judges decided to reaffirm the Tribunal's position on all of the OIOS recommendations, as set out in the report submitted by the President of the Tribunal in November 2016 (S/2016/976). They recalled that, as emphasized in that report, several of the OIOS recommendations were not appropriate, feasible or economically viable for the Tribunal — particularly at this very late stage in its work — and that the Tribunal did not have the resources (human or otherwise) necessary to implement them. After the plenary, the matter was followed up by the senior management of the Tribunal, which expressed full agreement with the judges' views.

28. The Tribunal thus relies on S/2016/976 of 17 November 2016, which sets out the Tribunal's position on the OIOS recommendations in full.

V. Judicial support and administrative activities

A. Support for core judicial activities

29. Under the leadership and direction of the Registrar, the key priority of the Registry during the reporting period continued to be providing full support to the Tribunal's remaining judicial activities, thereby assisting the Tribunal in achieving its completion strategy targets.

30. The reporting period saw the conclusion of the presentation of evidence in the last trial before the Tribunal, with the Registry successfully supporting the closing arguments in the *Mladić* case from 5 to 15 December 2016. Furthermore, the Registry successfully supported the appeal hearing in the *Prlić et al*. case, the final and largest appeal ever before the Tribunal, from 20 to 28 March 2017. The Registry facilitated and serviced a total of 16 court-days during the period in both trial and appeal proceedings. A total of 291 filings were processed and disseminated, amounting to 9,752 pages, and 54 legal submissions were made to the Registry.

31. The Victims and Witnesses Section complied with 13 judicial orders to consult protected witnesses in ongoing cases in connection with requests relating to their protective measures. The protection of witnesses in concluded cases was transferred to the Mechanism on 1 July 2013.

32. The Conference and Language Service Section provided 161 conference-interpreter-days and translated 4,750 pages.

33. The Office for Legal Aid and Defence Matters continued to administer the Tribunal's legal aid system for approximately 50 defence team members, safeguarding the defendants' rights to legal representation and adequate resources for their defence. The Office also administered the remuneration of amici curiae.

34. The Registry continued to operate the United Nations Detention Unit, a remand and detention centre located within a Dutch penitentiary in The Hague, the Netherlands. During the reporting period, the Detention Unit held a total of six detainees of the Tribunal (in addition to three detainees of the Mechanism). The Detention Unit runs a programme of detention and remand that meets or exceeds international humanitarian standards. It is visited and monitored by the International Committee of the Red Cross on a regular basis.

B. Administrative activities

35. The Division of Administration has continued to provide high-quality services in the areas of security, human resources, general services, procurement, finance, budget and information technology to the Tribunal as it reaches the challenging final phases of its work. The Division of Administration has also continued to take the lead in coordinating responses to, and compliance with, reports and recommendations of oversight bodies (the Board of Auditors and OIOS). During the reporting period, the Division of Administration coordinated responses to five OIOS audits and accommodated three visits from the Board of Auditors.

VI. Liquidation

36. Liquidation constitutes one of the most critical areas of the Tribunal's operations at this late stage in its work and remains a key priority for the President of the Tribunal. During the reporting period, the pace of liquidation activities increased significantly, under the supervision of the Registrar.

37. The Liquidation Task Force, which was established in 2014, continued to meet on a regular basis to guide the timely end of Tribunal operations and the appropriate handover of residual activities to the Mechanism. Even before the formal constitution of that body, however, the Tribunal had already engaged in a number of activities relating to liquidation, including downsizing and closing four field offices and two other facilities in The Hague and disposing of their assets.

38. The Tribunal can assure Member States that it has taken note of the lessons learned from the liquidation of the International Criminal Tribunal for Rwanda, and that it remains committed to an efficient and timely liquidation process.

A. Downsizing

39. The Tribunal remains on track to complete its remaining cases and meet the projected date for its closure in 2017. Under the leadership and direction of the Registrar, downsizing is continuing in parallel to the progress on the judicial activities of the Tribunal. On 1 January 2017, the Tribunal had 269 posts, including both regular posts and general temporary assistance positions. Those posts are being gradually phased out during 2017, as follows: 15 at the end of February; 50 at the end of April; 17 at the end of June; 21 at the end of October; and 55 at the end of November. All remaining positions will be abolished at the close of business on 31 December 2017.

40. The Learning and Career Management Office (formerly the Career Transition Office) is continuing to support staff in all aspects of their professional and personal development, career management and transition during the period of downsizing and closure by offering development programmes, language courses, vocational training courses, career consultation services and career-related workshops. The

Office also organized a number of outreach activities to highlight the Tribunal's talent pool with recruiters from international organizations and national public and private sectors.

B. Asset disposal and transfer of contracts

41. The Headquarters Property Survey Board approved the Tribunal's first asset disposal plan in 2010, which guided its asset disposal efforts between 2010 and 2016. In 2016, the Tribunal submitted a revised plan to the Board and received approval for it during the reporting period, in December 2016. The revised plan authorizes the transfer of assets to the Mechanism, and by May 2017 nearly 90 per cent of the Tribunal's assets had been approved for transfer to the Mechanism to support the work of the Mechanism's Hague Branch, with the remaining assets slated for donation or disposal.

42. In order to ensure the smooth handover of the Tribunal's contractual obligations to the Mechanism and that the Mechanism has contracts in place to support its activities after the closure of the Tribunal, the Procurement Section has been working during the last few years to transfer the responsibility for contracts to the Mechanism as those contracts expired with the Tribunal. The Procurement Section has assisted the Mechanism in establishing nearly 60 contracts for its branch in Arusha, United Republic of Tanzania, and its office in Kigali and approximately 100 contracts for its branch in The Hague. Only 34 contracts remain in the name of the Tribunal, and they will be either transferred to or established in the name of the Mechanism during the next reporting period.

C. Disposition of records of the Tribunal

43. The Records and Archives Working Group continued to coordinate and oversee the implementation of a plan for the disposition of Tribunal records (both physical and digital), including the transfer of relevant records to the Mechanism.

44. The offices of the Tribunal continue to appraise and dispose of their records, preparing appropriate records for transfer under the direction and with the support of the Mechanism Archives and Records Section, which provides training in accordance with the established standards on an ongoing basis.

45. The Tribunal has transferred all physical judicial records of its completed cases to the Mechanism. In the present reporting period, 2,295 linear metres of the Tribunal's physical records have been transferred to the Mechanism. Over 60 per cent of those records are Prosecutor's evidence. The overall total disposition of physical records is now more than 4,706 linear metres (61 per cent), with over 3,769 linear metres transferred to the Mechanism and 955 linear metres destroyed. That figure exceeds the target of achieving the complete transfer of earmarked records by the closure of the Tribunal.

46. Disposition plans for digital records have been finalized for all offices and 1.48 petabytes (87 per cent) of digital records have been transferred to the Mechanism Archives and Records Section to date. The transferred volume is composed largely of audiovisual recordings of courtroom proceedings.

VII. Support for the Mechanism

A. Support for the judicial activities of the Mechanism

47. During the reporting period, the Registry of the Tribunal continued to provide the Mechanism, in particular its branch in The Hague, with judicial support services, under the established "double-hatting" arrangements. The Registry supported the provision of legal aid at both branches, to a total of some 70 members of the defence team. The Registry also supported the trials and appeals proceedings of the Mechanism by providing language services, detention services and witness support services and maintaining judicial records. Furthermore, the Registry assisted the Mechanism in developing its regulatory framework to reflect lessons learned and best practices from both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia.

B. Administrative support provided to the Mechanism

48. The Division of Administration continues to ensure that both branches of the Mechanism are provided with effective administrative services as a transition measure prior to the Mechanism's assuming full administrative autonomy.

49. In addition to the support provided to the Mechanism in the areas of security, human resources, general services, procurement, finance, budget and information technology, the Tribunal made a significant contribution to the procurement of goods and services for the new facility of the Mechanism in Arusha, which opened in late 2016.

C. Premises

50. The Tribunal continues to occupy the same premises, which, in order to maximize cost savings and efficiency, will be shared with the branch of the Mechanism in The Hague until the Tribunal closes at the end of 2017.

VIII. Communications and outreach

51. Communications and outreach during the reporting period have focused on ensuring that the work of the Tribunal will continue to have maximum impact after it closes. Work has been done to hand over the Tribunal's legacy to regional stakeholders and to create a repository of materials that can be used by others in the future. The main donor of the Outreach Programme, the European Union, confirmed its pledge to continue providing financial support until the end of the Tribunal's mandate.

52. As part of its youth project, which is funded mainly by Finland, the Outreach Programme held essay-writing competitions for high school and university students across the former Yugoslavia, attracting entries from more than 100 schools and universities in the region. During the reporting period, nearly 3,000 students and professionals visited the Tribunal.

53. The Tribunal has continuously strengthened its presence on digital communications platforms, such as its website (700,000 page views); YouTube (videos of trial hearings were viewed more than 200,000 times); Facebook (more than 9,000 followers); and Twitter (more than 8,600 followers). Work has begun to transform the website into a permanent repository for the Tribunal's digital legacy.

IX. Legacy and capacity-building

54. While focusing primarily on the completion strategy and concluding its judicial caseload, in preparation for its closure at the end of 2017, the Tribunal has continued to hold "legacy dialogues". A committee including representatives of the Office of the President, the Office of the Prosecutor, the Registry and the Association of Defence Counsel continued to meet regularly to plan and organize this series of public events, which will be crucial in consolidating the legacy of the Tribunal. During the reporting period, the Tribunal held public screenings of its latest documentaries, "Dubrovnik and crimes against cultural heritage" and "Through their eyes: witnesses to justice", in Zagreb and Dubrovnik in Croatia and in Belgrade and The Hague. A two-day workshop was held with teachers from the former Yugoslavia on how to make use of the wealth of material contained in the archives of the Tribunal to teach the history of the conflicts of the 1990s.

55. The series of legacy and closing activities will continue throughout 2017, and the Tribunal will be counting on the support and cooperation of Member States. The Tribunal notes that those events are funded entirely by external donors and wishes to sincerely thank those who have pledged funding and support as at the date of the present report, namely the European Union, Austria, Finland, Germany, Italy, the Netherlands and Switzerland.

56. The Tribunal is continuing to pursue efforts to establish information centres in the countries of the former Yugoslavia with a view to providing local public access to the Tribunal's public judicial records in accordance with paragraph 15 of Security Council resolution 1966 (2010). This will supplement access through the Tribunal's website. During the reporting period, the Tribunal and the City of Sarajevo commenced work on the establishment of the first such information centre, which will be located in the Sarajevo City Hall, pursuant to a memorandum of understanding concluded in November 2016. Furthermore, the Tribunal is pleased that, following the mission of the President to Croatia in February 2017, discussions with the Government on establishing an information centre in Zagreb have resumed. The establishment of an information centre in the Srebrenica-Potočari Memorial Centre is pending the signature of the memorandum of understanding by the representatives of the Centre. The Tribunal is most grateful to the relevant authorities in both Bosnia and Herzegovina and Croatia for their support and commitment to this important aspect of the Tribunal's legacy, and expresses its sincere hope that Serbia will be receptive to establishing an information centre in Belgrade.

X. Conclusion

57. The Tribunal remains committed to closing in December 2017 and to concluding all judicial work on time. Its judges and staff are working around the clock to ensure that it does so, and the Tribunal once again expresses its heartfelt gratitude for their outstanding dedication, efforts and contribution. With just over seven months until the closure of the Tribunal, only one trial, one appeal and one contempt case remain outstanding. Despite the small number of cases, an enormous volume of work remains to be done and, as reported above, the Tribunal continues to face significant challenges due to staff attrition, as well as a lack of cooperation and political support in relation to the *Jojić et al.* case.

58. The Tribunal emphasizes that only with the continued support and assistance of the Security Council, the Informal Working Group on International Tribunals, the Office of Legal Affairs and the wider United Nations membership will it be able to

successfully conclude its mandate. It further emphasizes that the legacy left behind by the Tribunal will be shared with the United Nations, which created it, and in particular with the Security Council. The Tribunal looks forward to working with Member States in these crucial final months to ensure that this shared legacy is a successful and enduring one, reflecting the genuine will and commitment of the international community to ensure justice and to stand against impunity. It sincerely thanks all those who continue to support the Tribunal during its final year.

Annex II

[Original: English and French]

Report of Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia, provided to the Security Council under paragraph 6 of Security Council resolution 1534 (2004)

Contents

I. Overview

1. The Prosecutor hereby submits the twenty-seventh completion strategy report pursuant to Security Council resolution 1534 (2004), covering developments between 16 November 2016 and 15 May 2017.

2. In the reporting period, trial proceedings in the *Mladić* case were completed with the submission of final oral arguments by the parties. It is anticipated that the Trial Chamber will deliver its judgment in November 2017. In the *Prlić et al*. case, the parties made their oral appeal arguments from 20 to 28 March 2017. It is expected that the appeal judgment in this case will be issued in November.

3. Regarding cooperation, Serbia continues to be in violation of its legal obligation to cooperate with the International Tribunal for the Former Yugoslavia. Serbia has failed repeatedly to arrest three indictees and transfer them into the custody of the Tribunal to face contempt proceedings, and has also failed repeatedly to adhere to judicial orders to provide biweekly reports on its efforts to execute the arrest warrants. The Office of the Prosecutor deplores the fact that Serbia has returned to a practice of non-cooperation with the Tribunal, which unfortunately casts further doubt on Serbia's commitment to justice for war crimes committed in the former Yugoslavia and the rule of law.

4. The Office of the Prosecutor of the Tribunal, in conjunction with the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals, continued to implement the "one office" policy to further streamline operations and reduce costs by effectively integrating staff and resources across the offices. Since 1 March 2016, staff and resources have been deployed flexibly across the two institutions, under "double-hatting" arrangements, as needed, on the basis of operational requirements, in accordance with Security Council resolution 1966 (2010). The Office of the Prosecutor of the Tribunal continued to downsize in line with the completion of trials and appeals as foreseen in its approved budget. Lastly, consistent with Security Council resolution 1966 (2010) and article 6 of the transitional arrangements, during the reporting period the Office of the Prosecutor of the Tribunal continued the coordinated transition of "other functions" to the Office of the Prosecutor of the Mechanism.

II. Completion of trials and appeals

A. Update on the progress of trials

5. In the *Mladić* case, the parties presented their oral closing arguments between 5 and 15 December 2016. The Trial Chamber has now commenced its deliberations, and the trial judgment is expected to be issued in November 2017.

6. In addition to making its final oral submissions, during the reporting period, the Office of the Prosecutor was required to respond to a large number of motions filed by the defence. The Office is further finalizing the case file for transfer to the Mechanism, which will be competent to hear the appeals, if any, in this case. The Office will continue to undertake all efforts to support the expeditious completion of this case and ensure that it is properly handed over to the Mechanism.

B. Update on the progress of appeals

7. In the *Prlić et al*. case, the parties presented their oral appeal arguments from 20 to 28 March 2017. The Appeals Chamber has now commenced its deliberations, and the appeal judgment is expected to be issued in November 2017.

8. During the reporting period the Appeals Division, along with other staff members, supported the Office of the Prosecutor of the Mechanism in preparing for appeals proceedings in the *Karadžić* and *Šešelj* cases, consistent with the "one office" approach and to ensure that the Office of the Prosecutor of the Mechanism benefited from the case-specific knowledge and expertise of the Appeals Division.

III. State cooperation with the Office of the Prosecutor

9. The Office of the Prosecutor continues to rely on the full cooperation of States to successfully complete its mandate, as set out in article 29 of the statute of the Tribunal. The Prosecutor met with officials in Zagreb on 13 and 14 March 2017, and in Sarajevo on 15 and 16 May 2017. Throughout the reporting period, the Office maintained a direct dialogue with governmental and judicial authorities from Bosnia and Herzegovina, Croatia and Serbia. The field offices in Sarajevo and Belgrade, whose administration was transferred to the Mechanism as from 1 January 2017, continued to facilitate the Office's work in Bosnia and Herzegovina and Serbia, respectively.

A. Cooperation between the States of the former Yugoslavia and the Office of the Prosecutor

10. The Office of the Prosecutor continued to have appropriate access to documents, archives and witnesses in Bosnia and Herzegovina, Croatia and Serbia during the reporting period.

11. The Office deplores the fact that Serbia has returned to a practice of non-cooperation with the Tribunal in relation to the arrest and transfer of indictees. Serbia's failure over the past 18 months to execute the Tribunal's arrest warrants for three Serbian indictees is in violation of its international legal obligations and its own repeated commitments to cooperate fully with the Tribunal. That Serbia may have cooperated in the past, or may be cooperating in other areas today, serves only to underscore that it can cooperate when it has the will to do so. The absence of political will to cooperate with the Tribunal further calls into question the commitment of Serbia to justice for war crimes and its adherence to the rule of law. When previously faced with the long-standing failure of Serbia to arrest and transfer indictees to the Tribunal, the policy of conditionality proved to be the most effective tool. It will also be crucial that Member States maintain the principled position of insisting on Serbia's full cooperation with the Tribunal in their bilateral dealings.

B. Cooperation between other States and organizations and the Office of the Prosecutor

12. Cooperation and support from States outside the former Yugoslavia, as well as from international organizations, remain integral to the successful completion of Tribunal cases. Assistance remains necessary to access documents, information and witnesses, as well as in matters relating to witness protection, including witness relocation. The Office of the Prosecutor again acknowledges the support it received

during the reporting period from Member States and international organizations, including the United Nations and the specialized agencies, the European Union, the North Atlantic Treaty Organization, the Organization for Security and Cooperation in Europe and the Council of Europe.

13. The international community continues to play an important role in providing incentives for States in the former Yugoslavia to cooperate with the Tribunal. The European Union's policy of conditionality, linking membership progress to full cooperation with the Tribunal and the Mechanism, remains a key tool for ensuring continued cooperation and consolidating the rule of law in the former Yugoslavia.

IV. Transition from the Tribunal to national war crimes prosecutions

14. Consistent with Security Council resolution 1966 (2010) and article 6 of the transitional arrangements, during the reporting period, the Office of the Prosecutor of the Tribunal continued the transition to the Office of the Prosecutor of the Mechanism of responsibilities and activities relating to assisting national jurisdictions in prosecuting war crimes. Accordingly, information on those activities is presented in the report of the Office of the Prosecutor of the Mechanism.

15. For the past eight years, the joint European Union and Tribunal Training Project for National Prosecutors and Young Professionals from the Former Yugoslavia has been a central component of the strategy of the Office of the Prosecutor to strengthen the capacity of national criminal justice systems in the former Yugoslavia to handle war crimes cases. The young professionals component of the project concluded at the end of 2015, while the visiting professionals component concluded at the end of 2016.

16. The Office of the Prosecutor is pleased to report that, following a unanimous request from national prosecution services in the region, the European Union has agreed to extend both components of the project for a further two-year period. The project will move to the Mechanism when the Tribunal closes. The Office of the Prosecutor is grateful to the European Union for its consistent support for this important project and for recognizing the ongoing need to build the capacity of the national justice sector by educating and training young lawyers from the region in its offices.

V. Downsizing

A. Downsizing and career transition support for staff of the Office of the Prosecutor

17. At the end of 2016, the Office of the Prosecutor had a total of 78 staff members, following the abolition of 23 Professional and 12 General Service posts in 2016. During the reporting period, upon completion of the major activities in the *Mladić* and *Prlić et al*. cases, the Office abolished 13 Professional and 3 General Service posts on 28 February 2017, and 15 Professional and 2 General Service posts on 30 April 2017. In accordance with the approved budget, the Office will abolish a further 3 General Service posts on 30 June 2017, for a total of 28 Professional and 8 General Service posts abolished in the first half of 2017.

18. The Office is actively supporting measures to assist staff in making the transition from their work at the Tribunal to the next step in their careers. The Office continues to initiate and support training for its staff members, including

support staff, in accessing the services offered by the Learning and Career Management Office (formerly the Career Transition Office). In that connection, the Office is facilitating networking and other opportunities to assist its staff members, including opportunities for them to qualify for United Nations professional rosters.

B. Supporting and sharing resources with the Mechanism

19. During the reporting period, the Office of the Prosecutor of the Tribunal continued to share resources with its Mechanism counterpart under the "one office" approach to integrate the staff and resources of the two Offices. All Prosecution staff are available on a flexible basis under "double-hatting" arrangements and may be assigned to work for either the Tribunal or the Mechanism depending on operational requirements and their case-related knowledge. The resources of the two Offices are being deployed flexibly where needed. During the reporting period, staff from the Tribunal Office assisted the Mechanism Office in relation to the *Karadžić* and *Šešelj* appeals and the *Stanišić and Simatović* trial, while staff from the Mechanism Office assisted the Tribunal Office to meet its obligations in the *Mladić* and *Prlić et al.* cases.

20. For the Office of the Prosecutor of the Tribunal, which is continuing its downsizing programme, the primary advantage of the "one office" approach is having access to Mechanism staff and resources at no additional cost to address unforeseen developments in Tribunal cases and to ameliorate some of the pressing problems caused by staff attrition in the Tribunal's final phase. These are important measures to help ensure the successful implementation of the completion strategy.

VI. Conclusion

21. During the reporting period, significant progress was made towards the completion of the work of the Office of the Prosecutor of the Tribunal with the conclusion of trial proceedings in the *Mladić* case and oral appeal arguments in the *Prlić et al*. case. The Office of the Prosecutor remains firmly focused on expeditiously completing the final work in connection with these last two cases, while simultaneously reducing its resources and downsizing. The Office will continue to allocate resources flexibly and to effectively manage staff attrition and downsizing.

22. It is deeply regrettable that at this final stage in the Tribunal's mandate, Serbia has returned to a practice of non-cooperation with the Tribunal. Serbia has had 18 months to remedy the situation after it was first found to be non-compliant, but has failed to take the steps to do so. The Office of the Prosecutor urges Serbia to promptly rectify the situation, and calls upon all Member States to uphold the principled position of full cooperation with the Tribunal.

23. In all its endeavours, the Office of the Prosecutor relies upon and gratefully acknowledges the support of the international community and especially of the Security Council.

Enclosure I

Trial and appeal judgments, 18 November 2016 to 17 May 2017

A. Trial judgments (by individual)

Name	*Former title*	*Initial appearance*	*Trial judgment*
None			

B. Appeal judgments (by individual)

Name	*Former title*	*Appeal judgment*
None		

Enclosure II

Persons on trial and on appeal and judgments for contempt

A. Persons on trial as at 17 May 2017 (by individual)

Name	*Former title*	*Initial appearance*	*Start of trial*
Ratko Mladić	Commander of the Bosnian Serb Army Main Staff	3 June 2011	Trial commenced on 16 May 2012

B. Persons on appeal as at 17 May 2017 (by individual)

Name	*Former title*	*Date of trial judgment*
Jadranko Prlić	President, Croatian Republic of Herceg-Bosna	29 May 2013
Bruno Stojić	Head of Department of Defence, Croatian Republic of Herceg-Bosna	29 May 2013
Slobodan Praljak	Assistant Minister of Defence of Croatia and Commander of the Croatian Defence Council Main Staff	29 May 2013
Milivoj Petković	Deputy Overall Commander, Croatian Defence Council	29 May 2013
Valentin Ćorić	Chief of Military Police Administration, Croatian Defence Council	29 May 2013
Berislav Pušić	Control Officer, Department of Criminal Investigations, Military Police Administration, Croatian Defence Council	29 May 2013

C. Trial judgments for contempt, 18 November 2016 to 17 May 2017 (by individual)

Name	*Former title*	*Date of (order in lieu of) indictment*	*Trial judgment*
None			

D. Appeal judgments for contempt, 18 November 2016 to 17 May 2017 (by individual)

Name	*Former title*	*Date of trial contempt judgment*	*Appeal judgment*
None			

Enclosure III

Proceedings completed between 18 November 2016 and 17 May 2017

A. Trial judgments rendered

None

B. Contempt judgments rendered

None

C. Appeals from judgments rendered

None

D. Appeals from contempt rendered

None

E. Final interlocutory decisions rendered on appeal

2

F. Review, referral and other appeal decisions rendered

None

Enclosure IV

Proceedings ongoing as at 17 May 2017

A. Trial judgments pending

Mladić IT-09-92-T

B. Contempt judgments pending

1. *Jojić et al.* IT-03-67-R77.5

C. Appeals from judgments pending

Prlić et al. IT-04-74-A

D. Appeals from contempt pending

None

E. Interlocutory decisions pending

None

F. Review, referral and other appeal decisions pending

None

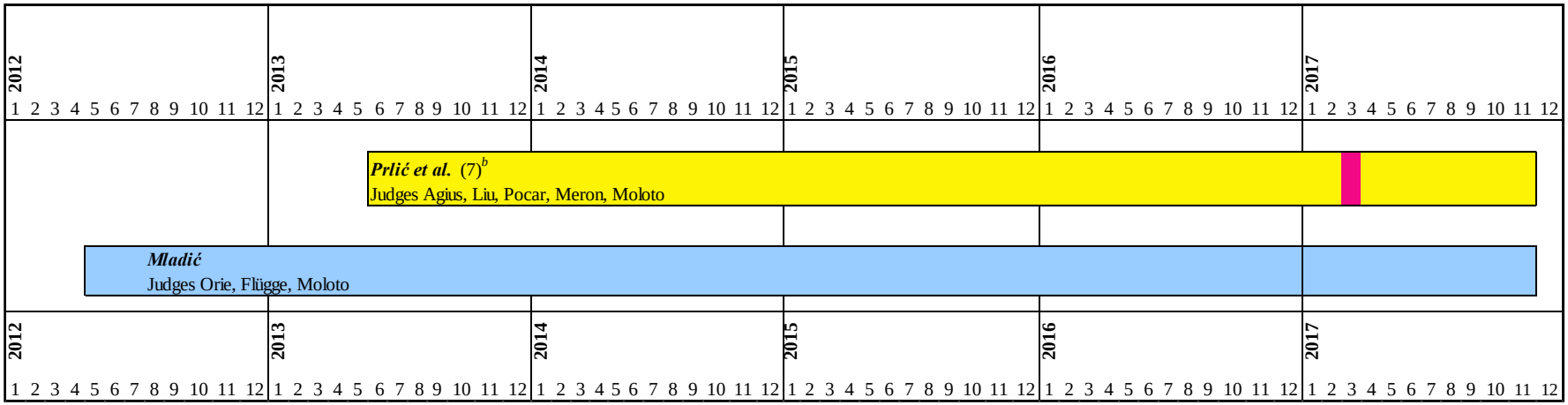
Enclosure V

Decisions and orders rendered between 18 November 2016 and 17 May 2017

1. Total number of decisions and orders rendered by the Trial Chambers: 42
2. Total number of decisions and orders rendered by the Appeals Chamber: 14
3. Total number of decisions and orders rendered by the President of the Tribunal: 10

Enclosure VI

Status of the trial and appeal schedule of the Tribunal on 17 May 2017[a]



[a] Contempt matters are not included.

[b] Number of accused/appellants, including the prosecution.

Appeal proceedings
Trial proceedings
Appeal hearing