

**Security Council**

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**Letter dated 19 November 2014 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 the Prosecutor (see annex II) of the International Tribunal for the Former Yugoslavia, pursuant to paragraph 6 of Security Council resolution 1534 (2004).

I would be grateful if you would transmit this assessment to the members of the Security Council.

*(Signed)* Theodor **Merón**  
President



## Annex I

[Original: English and French]

**Assessment and report of Judge Theodor Meron, President of the International Tribunal for the Former Yugoslavia, provided to the Security Council pursuant to paragraph 6 of Security Council resolution 1534 (2004) and covering the period from 17 May to 15 November 2014**

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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 of the resolution, 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 have been taken to implement the completion strategy.<sup>1</sup>

2. This report also includes a summary of the measures that the Tribunal is undertaking to ensure a smooth transition to the International Residual Mechanism for Criminal Tribunals.

## I. Introduction

3. The International Tribunal for the Former Yugoslavia continued to make steady progress in completing its work. At the close of the reporting period, four trials, involving four individuals, and five appeals, involving 16 individuals, were ongoing. In addition, the judges of the Appeals Chamber delivered four appeal judgements arising from trials conducted by the International Criminal Tribunal for Rwanda.

4. Following the arrests of Ratko Mladić and Goran Hadžić in 2011, there are no outstanding fugitives from the International Tribunal for the Former Yugoslavia. To date, the Tribunal has concluded proceedings against 141 of the 161 individuals it indicted.

5. The Tribunal continues to make every effort to meet the targets of its completion strategy, and the forecast judgement delivery dates are unchanged for the majority of cases. As reported previously, various factors, including late arrests of certain individuals and issues particular to specific cases, mean that some trials and appeals will not be completed by 31 December 2014, the target date requested by the Security Council in its resolution 1966 (2010). However, the Tribunal's judges and staff members will continue to focus on completing the remaining judicial proceedings as expeditiously as possible, while observing all appropriate procedural safeguards.

6. During the reporting period, the Tribunal undertook a variety of initiatives to provide assistance and support to victims and pursued a number of legacy and capacity-building projects. The outreach programme continued its efforts to bring the work of the Tribunal closer to communities in the former Yugoslavia. The Tribunal also worked diligently to ensure a smooth transition to the Mechanism in compliance with Security Council resolution 1966 (2010).

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<sup>1</sup> The present report should be read in conjunction with the previous 21 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; and [S/2014/351](#) of 16 May 2014. Except where otherwise noted, this report contains information accurate as of 15 November 2014.

## II. Implementation of the completion strategy

7. The Tribunal remains committed to completing its work expeditiously, while ensuring that its trials and appeals are conducted in a manner consistent with the fundamental principles of due process and fairness. The Tribunal continues to implement measures that have expedited its work. These measures include planning additional training programmes for legal drafters in the Tribunal's Chambers; assigning staff members to multiple cases; actively managing the translation process for judgements and assigning additional resources to translations that may have an impact on the progress of judicial proceedings; and maintaining rosters of qualified applicants to ensure that departing staff can be replaced promptly. In addition, the working group of the Tribunal on trial and appeals schedule, under the chairmanship of the Tribunal's Vice-President, closely monitors the progress of trials and appeals, identifying obstacles that could delay judicial proceedings and measures to alleviate possible delays.

8. To provide a more comprehensive overview of the Tribunal's progress in completing its work, summaries of cases currently before the Tribunal are below.<sup>2</sup>

### A. Trial proceedings

9. In the case of *Prosecutor v. Goran Hadžić*, the accused is charged with 14 counts of crimes against humanity and violations of the laws or customs of war. The last prosecution witness was heard on 9 April 2014 and the defence case commenced on 3 July 2014. On 20 October 2014, however, the trial was adjourned until further notice due to Mr. Hadžić's health condition. The trial judgement is expected in December 2015, as previously forecast, but it is currently not possible to assess the impact of a prolonged adjournment due to Mr. Hadžić's health problems.

10. In the case of *Prosecutor v. Radovan Karadžić*, the accused is charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war. Closing arguments were heard from 29 September to 7 October 2014, after which the Trial Chamber declared the hearings closed. The trial judgement is expected in October 2015, as previously forecast.

11. In the case of *Prosecutor v. Ratko Mladić*, the accused is charged with 11 counts of genocide, crimes against humanity and violations of the laws or customs of war. The prosecution case closed in February 2014 and the defence case commenced in May 2014. Based on the time granted to the defence to present its case and the progress made with regard to the first defence witnesses, and following the Trial Chamber's decision to amend the weekly sitting schedule from five to four days on medical advice for reasons related to Mr. Mladić's health, the Chamber estimated that the trial judgement would be delivered in March 2017. However, on 23 October 2014, the Chamber granted the request by the prosecution to reopen its case in order to present previously unavailable evidence.<sup>3</sup> This decision will cause the forecast date for the delivery of the trial judgement to be further delayed, although it is currently not clear for how long because there is still ongoing

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<sup>2</sup> As there were no developments in cases referred to national jurisdictions during the reporting period, no updates on such cases are provided in the present report.

<sup>3</sup> The evidence relates to a mass grave recently discovered in the village of Tomašica, in the Prijedor municipality of Bosnia and Herzegovina.

litigation concerning the number of additional witnesses to be heard and the parties have not yet submitted requests as to when they will be ready for the presentation of this new evidence before the Chamber or as to the amount of time they will need for the presentation.

12. In the case of *Prosecutor v. Vojislav Šešelj*, the accused is charged with nine counts of crimes against humanity and violations of the laws or customs of war. Following the disqualification of Judge Frederik Harhoff in October 2013, while the case was in its deliberation phase, the Trial Chamber is now composed of Judge Jean-Claude Antonetti (presiding), Judge Mandiaye Niang and Judge Flavia Lattanzi. The Trial Chamber's decision that the trial could continue despite Judge Harhoff's replacement by Judge Niang was upheld by the Appeals Chamber on 6 June 2014. Judge Niang must now certify that he has familiarized himself with the record of proceedings prior to their recommencement. Judge Niang has advised that he will require at least until the end of June 2015 to familiarize himself with the proceedings. Presiding Judge Antonetti has indicated that he will do his best to shorten the period required to render the judgement once Judge Niang's review has been completed. On 6 November 2014, the Chamber, by majority, ordered the provisional release of Mr. Šešelj in Serbia for an indefinite period of time on humanitarian grounds.

13. As indicated in the summary of ongoing trials set out above, the Tribunal will not be able to complete the trial proceedings involving Mr. Hadžić, Mr. Karadžić, Mr. Mladić and Mr. Šešelj by 31 December 2014, the target date for completion requested by the Security Council in its resolution 1966 (2010).

## **B. Appeal proceedings**

14. In the case of *Prosecutor v. Vujadin Popović et al.*, the projected time frame for delivery of the appeal judgement has been revised and, according to a scheduling order issued on 17 November 2014, the appeal judgement is now expected on 30 January 2015, three months later than previously forecast.

15. This delay in the delivery of the appeal judgement has been caused by unforeseen complexities in the case, including the unusually high number of motions filed before the Appeals Chamber. For example, 14 motions have been filed by the parties for admission into evidence of additional and often voluminous materials. Further challenges include the judges' busy schedules, resulting from their being assigned to multiple cases, as well as the departure of several members of the legal support team for reasons linked to the Tribunal's downsizing.

16. The judges and the legal support team are taking a variety of measures to expedite the finalization of the appeal judgement. Those measures include prioritizing work to minimize the risk of further delays and identifying potential overlaps between grounds of appeal so as to streamline the deliberative process. To further reduce the possibility of additional delays, the legal support team is coordinating closely with the francophone judges on the bench and the translation department in order to expedite translations into French, where necessary. The team has also shown a remarkable willingness to work very long hours so as to meet the target date for the delivery of the appeal judgement.

17. In the case of *Prosecutor v. Jadranko Prlić et al.*, two of the six convicted individuals and the prosecution filed their notices of appeal in June and August of 2013, respectively. Notices of appeal by the other four convicted individuals, who were granted extensions of the relevant deadlines, were filed in early August 2014. The English translation of the 2,500-page trial judgement, which was originally drafted in French, was filed on 6 June 2014 and the translation in the Bosnian/Croatian/Serbian language was filed on 3 October 2014. The appeal briefs of all the convicted individuals and the prosecution are due on 12 January 2015 and the full briefing of the case is expected to be completed on 29 May 2015. The appeal judgement is still expected to be delivered in June 2017. This forecast is based on an initial analysis of the trial judgement and the filed notices of appeal.

18. In the case of *Prosecutor v. Jovica Stanišić and Franko Simatović*, the projected time frame for delivery of the appeal judgement has been revised and the appeal judgement is now expected in June 2015, six months later than previously anticipated. The reasons for this delay are: (a) the revision of the assessment of the complexity of the case compared with other cases; and (b) problems with the composition of the legal support team (including the departure of the team leader due to his appointment as acting Head of Chambers) that were identified in June 2014 and addressed by the appointment of a new team leader. The coordination of the drafting process has since improved and the team has been working considerably long hours to prevent further delays in this case.

19. In the case of *Prosecutor v. Mićo Stanišić and Stojan Župljanin*, the appeal judgement is expected in November 2015, as previously forecast. The case was fully briefed on 29 July 2014 and is being prepared for a hearing. The case faced challenges as a result of staffing-related matters, including the departure of an experienced member of the legal support team who was not replaced until several months later as the replacing staff member was on maternity leave. Despite these challenges, as well as numerous applications filed by the parties and national judiciaries, which the Chamber continues to deal with and on which the Chamber has issued several orders and decisions, the projected time frame for delivery of the appeal judgement remains unchanged.

20. In the case of *Prosecutor v. Zdravko Tolimir*, the projected time frame for delivery of the appeal judgement is unchanged and the appeal judgement is expected in March 2015. This is despite the departure of the leader of the legal support team shortly before the appeal hearing. The hearing took place on 12 November 2014.

21. During the reporting period, the Appeals Chamber of the International Criminal Tribunal for Rwanda delivered four judgements, in the cases of *Augustin Bizimungu v. The Prosecutor*; *Édouard Karemera and Matthieu Ndirumpatse v. The Prosecutor*; *Callixte Nzabonimana v. The Prosecutor*; and *Ildéphonse Nizeyimana v. The Prosecutor*.

22. Despite its continuing efforts, it is currently anticipated that the Tribunal will not complete the appeals in the case of *Prlić et al.*, the *Stanišić and Simatović* case, the *Stanišić and Župljanin* case and the *Tolimir* case by 31 December 2014, the target date requested by the Security Council in its resolution 1966 (2010). Appeals in the *Tolimir* case, the *Stanišić and Simatović* case and the *Stanišić and Župljanin* case are expected to be completed by March, June and November 2015, respectively. In the case of *Prlić et al.*, two notices of appeal were filed before 1 July 2013. Accordingly, pursuant to Security Council resolution 1966 (2010),

jurisdiction over this appeal remained with the Tribunal and the appeal judgement is expected in June 2017. Thus, the Appeals Chamber of the Tribunal will inevitably continue to function concurrently with the Appeals Chamber of the Mechanism after 31 December 2014. Appeals in the *Hadžić*, *Karadžić*, *Mladić* and *Šešelj* cases, if any, will be filed after 1 July 2013 and will therefore fall within the jurisdiction of the Mechanism pursuant to Security Council resolution 1966 (2010).

### **C. Staff retention and recruitment issues**

23. As the Tribunal approaches the completion of its mandate, it is finding it more difficult to retain its highly experienced staff, a factor that has had a negative impact on the Tribunal's completion strategy. While the Tribunal is being downsized, experienced staff working on trials and appeals that are scheduled to conclude are actively looking for positions elsewhere. Senior members of teams working on pending cases, often the leaders of the teams, are departing at such advanced stages of their cases that finding appropriate replacements is challenging and time-consuming. The replacement of departing staff is becoming increasingly more problematic. In many cases, internal candidates cannot be taken into consideration to replace departing staff as they are committed to other ongoing cases. Attracting qualified candidates through external recruitment is hindered by the fact that, in many cases, hiring regulations allow only temporary contracts of less than one year to be offered. The loss of experienced staff and difficulties in recruiting have a direct impact on the progress of pending cases and complicate the Tribunal's efforts to meet its target dates for the completion of trials and appeals. To address these issues, the Tribunal has identified a range of measures that may improve staff retention and reduce barriers to recruitment or promotion during the downsizing process. The new Assistant Secretary-General for Human Resources Management, Ms. Carole Wamuyu Wainaina, has already responded positively to some of these proposals. The Tribunal would also like to express its gratitude to the outgoing Assistant Secretary-General for Human Resources Management, Ms. Catherine Pollard, for the valuable support she provided to the Tribunal. The Tribunal is confident that it will have a fruitful working relationship with the new Assistant Secretary-General.

### **D. Access decisions**

24. With the establishment of the Mechanism and the start of operations of its branch in The Hague, the specially appointed chamber, constituted to decide requests for variation of protective measures and access to confidential information for use in national proceedings under rules 75 (G), 75 (H) and 75 bis of the Rules of Procedure and Evidence, has ceased to exist. All requests that would have previously been assigned to the specially appointed chamber are now submitted to the Mechanism and assessed by a single judge of the Mechanism.

## **III. Communications and outreach**

25. The Registry's Communication Section continued to reach out to a variety of target groups, using a plethora of tools and approaches. The Tribunal's Media Office

ensured that journalists had access to accurate, up-to-date information on judicial activities, as well as audiovisual material for use in their reports; the Office also made it possible for interviews with the President, the Prosecutor and the Registrar of the Tribunal to appear in leading regional and international media. The Tribunal's outreach programme maintained its focus on projects in the former Yugoslavia, with a view to delivering factual information about the Tribunal's work, stimulating debate about wider issues of transitional justice and post-conflict recovery.

26. The outreach programme continued to produce documentaries highlighting key achievements of the Tribunal and some of its major trials. In October 2014, a fourth feature-length documentary, entitled *Crimes before the ICTY: Central Bosnia*, was finalized. Screenings of the documentary will soon take place in the region of the former Yugoslavia.

27. In the reporting period, the outreach programme continued with the implementation of the third cycle of its youth outreach project by delivering lectures on topics related to the Tribunal's work in high schools and universities in countries of the former Yugoslavia, reaching a total of 1,370 young people. The project is generously supported by the Government of Finland. Further, more than 3,000 people, predominantly students, visited the Tribunal and received presentations about its work and achievements. The Tribunal's field offices in Belgrade and Sarajevo continued liaison and outreach activities throughout the reporting period. Those offices organized a large number of outreach events, reaching approximately 1,000 individuals.

28. The Tribunal's presence on its social media platforms continued to expand during the reporting period. On average, roughly 30 per cent of visits to the Tribunal's sites emanate from the former Yugoslavia. The user base of these platforms continues to grow steadily, with Twitter and Facebook platforms both gaining an average of 100 new followers every month and with YouTube videos being viewed 30,000-40,000 times per month.

29. The Tribunal's website continued its mission of serving judicial transparency through the provision of public legal and information documents, multilingual audio-video broadcasts of all trials and various other features. During the reporting period, more than 1.1 million website pages were accessed from all over the world, with 20 per cent of views originating in the former Yugoslavia. Work is ongoing through the legacy websites project to secure the long-term future of the website, so that the website will be part of the legacy of the Tribunal.

30. The outreach programme continues to face funding challenges. The programme has secured from the European Union sufficient funding to guarantee its full continuation until mid-2015. The European Union will not provide funds to the programme after that date, so the programme will close then unless additional funds are found. Efforts to raise funds for this important programme will continue, pursuant to General Assembly resolution 65/253, in which the Assembly encouraged the Secretary-General to continue to explore measures to raise voluntary resources to fund the outreach programme. States and other donors are called upon to offer their support.



## **IV. Victims and witnesses**

31. During the reporting period, the defence phase of the *Mladić* and *Hadžić* trials began, resulting in a high number of witnesses being called. The Victims and Witnesses Section of the Tribunal Registry provided assistance and support to approximately 112 witnesses and support persons appearing before the Tribunal, including logistical and psychosocial support prior to, during and after testimony in The Hague and other locations, while addressing diverse needs related to age, medical condition, psychosocial well-being and physical security.

32. The Victims and Witnesses Section dealt with a number of orders related to requests for the rescission, variation or augmentation of witness protective measures. Locating and verifying the identity of some witnesses were challenging tasks. Many of the witnesses testified over a decade ago and had not been in contact with the Tribunal since then.

33. The Mechanism's victims and witnesses protection staff continued to provide the necessary protection services to witnesses in ongoing trials before the Tribunal, in addition to witnesses from completed Tribunal cases.

## **V. Cooperation of States**

34. There are no outstanding fugitives. This milestone is the result of successful efforts by States and the Prosecutor to locate fugitives and transfer them to the jurisdiction of the Tribunal.

35. During the reporting period, the Tribunal sought the assistance of Croatia and Bosnia and Herzegovina to recover legal aid funds paid to Mr. Slobodan Praljak, following the Tribunal's finding that he possessed the means to pay for his own defence.

## **VI. Judicial support and administration activities**

### **A. Support for core judicial activities**

36. A key priority of the Registry during the reporting period was providing full support to the Tribunal's ongoing judicial activities, thereby assisting the Tribunal in achieving its completion strategy targets. During the reporting period, the Registry processed and disseminated over 1,600 internal and external filings, translated over 21,000 pages and provided over 800 conference interpreter-days.

### **B. Downsizing**

37. The Tribunal continues to implement its planned downsizing process. During the biennium 2014-2015, the Tribunal expects to downsize 361 posts, in line with the trial and appeal schedule. Using the comparative review process, staff members are placed against specific posts selected for downsizing, and staff members' contract validity dates are synchronized with the dates set for the abolishment of their posts. The comparative review process for post reductions in the current biennium was completed in 2013. The Office of Internal Oversight Services stated

that it considered the Tribunal's downsizing process to be best practice in the leadership of a change process.

## **VII. Support for the International Residual Mechanism for Criminal Tribunals**

### **A. Overview of Mechanism-related activities**

38. During the reporting period, all sections of the Tribunal Registry supported the Mechanism, as needed, with a variety of processes, including recruitment, communications, information technology (IT) support and Registry management. The Tribunal Registry has also provided the branch of the Mechanism in The Hague with judicial support services, which included assistance with judicial records, language services, detention services and witness support services.

### **B. Regulatory framework of the Mechanism**

39. The International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda continued to assist the Mechanism in drafting its regulatory framework for the provision of judicial services. The extensive involvement of the International Tribunal for the Former Yugoslavia in the drafting process has ensured that lessons learned and best practices from its 21 years of operation, along with those of the International Criminal Tribunal for Rwanda, are captured in relevant Mechanism documents.

### **C. Premises and host State agreement**

40. The Statute of the Mechanism, contained in annex I to Security Council resolution 1966 (2010), identifies the seats of the branches of the Mechanism as The Hague and Arusha. In order to realize cost savings and maximize efficiency, the branches of the Mechanism are co-located with the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, respectively. On 26 November 2013, the United Nations and the Government of the United Republic of Tanzania signed an agreement concerning the headquarters of the Mechanism in Arusha. It entered into force on 1 April 2014 and also applies to the International Criminal Tribunal for Rwanda. The agreement between the Netherlands and the United Nations concerning the headquarters of the Mechanism in The Hague will soon be concluded. Upon entry into force, it will apply *mutatis mutandis* to the Tribunal. Until such a headquarters agreement is concluded, the Tribunal's host State agreement provisionally applies to the branch of the Mechanism in The Hague.

### **D. Information security and access regime for Tribunal and Mechanism records**

41. The Registry is leading the development and implementation of record-keeping policies for the Tribunal. Since the issuance of the Secretary-General's

bulletin entitled “International Criminal Tribunals: information sensitivity, classification, handling and access” (ST/SGB/2012/3), the Mechanism Archives and Records Section and the Tribunal’s Office of the Registrar have provided training for designated Tribunal staff. The aim is to ensure efficient and effective implementation of the policy set out in the bulletin. To that end, the Section is also leading the process of determining appropriate classifications for the Tribunal records and is guiding the revision and updating of the Tribunal’s existing retention schedules for administrative records.

42. The Mechanism Archives and Records Section is collaborating with the Tribunal’s Information Technology Services Section and other Tribunal offices to develop an IT backup policy and is leading the implementation of the Tribunal’s emergency response and disaster recovery plan for physical records. The Mechanism Archives and Records Section is also coordinating the procurement of specialist equipment and services to enable the Tribunal to respond to and recover from an emergency affecting physical records and archives.

#### **E. Preparation of records for migration to the Mechanism**

43. The Tribunal continues to prepare its digital and hard-copy records for transfer to the Mechanism. This includes actions to be taken by particular Tribunal offices prior to closure, as well as audits of key collections of digital and physical records to improve the quality of their indexes, thereby ensuring that they will be accessible and usable in the future.

#### **F. Administrative support provided to the Mechanism**

44. The budget of the Mechanism stipulates that administrative support services will be provided by the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, with the assistance of a limited number of administrative staff funded by the Mechanism. Accordingly, the International Tribunal for the Former Yugoslavia has been working in close cooperation with the International Criminal Tribunal for Rwanda to ensure that both branches of the Mechanism are provided with effective administrative services throughout the biennium 2014-2015.

45. The Human Resources Section of the International Tribunal for the Former Yugoslavia continues to administer all Inspira recruitments to fill Professional posts for the Mechanism. Furthermore, the IT services of the International Tribunal for the Former Yugoslavia have devoted significant time and effort to developing proposals for IT systems and infrastructure of the Mechanism. The recent installation of Vblock servers in both branches and a virtual private network between The Hague, Arusha and Kigali will allow full and equal access to databases, IT systems and applications in all three locations. This will facilitate the establishment of a common administration between the branches of the Mechanism in The Hague and Arusha. The finance sections of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda have worked to identify practices and methods for Mechanism accounting and finance arrangements. The general services sections of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda have identified appropriate office space

for Mechanism staff and are providing travel, visa, mailing and transportation services.

## **VIII. Legacy and capacity-building**

46. Pursuant to paragraph 15 of Security Council resolution 1966 (2010), the International Tribunal for the Former Yugoslavia and the Mechanism have sought the cooperation of the Governments of the States of the former Yugoslavia in establishing information and documentation centres to provide public access to copies of public records of the archives of the Tribunal. Good progress has been made in discussions with the Government of Bosnia and Herzegovina to establish an information centre in Sarajevo, and possibly in Srebrenica. Similar progress has not yet been made in discussions with the Governments of Croatia and Serbia on the establishment of information centres in Zagreb and Belgrade, although those efforts are continuing.

47. The Tribunal and the Mechanism continued their work on the legacy websites project, the goal of which is to serve the Mechanism's mandate to preserve and promote the legacy of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda beyond their closure. The project involves the creation of a flexible and cost-efficient content management framework, which will allow the Mechanism to maintain legacy websites for the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, along with its own website, in a cohesive manner. The Mechanism has already been integrated into the unified content management system, which will allow easy publication of case filings and judgements in the Kinyarwanda language and in the Bosnian/Croatian/Serbian language, as well as in English and French. The website of the International Tribunal for the Former Yugoslavia will join the sites of the Mechanism and the International Criminal Tribunal for Rwanda on the same platform in 2015.

## **IX. Conclusion**

48. The International Tribunal for the Former Yugoslavia has now completed almost all its cases; less than 10 trials and appeals remain, involving the last 20 defendants and appellants of the 161 indicted. The near-completion of the Tribunal's work and the full accounting of all individuals indicted are bright symbols of the international community's commitment to the rule of law and its determination to end impunity.

49. The Tribunal's achievements are largely attributable to the hard work of judges, staff members, prosecutors and defence lawyers. However, those achievements would not have been possible without the support of the United Nations and the broader international community. In particular, the Tribunal has benefited and continues to benefit from the assistance of the Security Council, the Office of Legal Affairs of the Secretariat and other United Nations organs, national Governments, non-governmental and transnational organizations and other supporters.

50. As the Tribunal completes its last judicial processes, challenges remain, most notably difficulties in retaining its highly qualified and experienced staff, which

affect the progress of pending cases. The Tribunal will continue to make every effort to complete its remaining work as expeditiously as possible. Though the Tribunal will not be able to complete all of its judicial work by the end of 2014, as requested by the Security Council in resolution 1966 (2010), that should not overshadow the success of the Tribunal and its contributions to the development of substantive and procedural international criminal law and the assistance provided to rule of law efforts in the former Yugoslavia.

**Enclosure I**

**A. Trial judgements, 16 May to 15 November 2014 (by individual)**

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<i>Name</i>	<i>Former title</i>	<i>Initial appearance</i>	<i>Trial judgement</i>
None			

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**B. Appeal judgements, 16 May to 15 November 2014 (by individual)**

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<i>Name</i>	<i>Former title</i>	<i>Initial appearance</i>	<i>Appeal judgement</i>
None			

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## Enclosure II

### A. Persons on trial as at 15 November 2014

<i>Name</i>	<i>Former title</i>	<i>Initial appearance</i>	<i>Start of trial</i>
Vojislav Šešelj	President, Serbian Radical Party	26 February 2003	Trial commenced on 7 November 2007
Radovan Karadžić	President, Republika Srpska	31 July 2008	Trial commenced on 26 October 2009
Ratko Mladić	Commander of the Main Staff of the Bosnian Serb Army	3 June 2011	Trial commenced on 16 May 2012
Goran Hadžić	President, Serbian Autonomous District Slavonia, Baranja and Western Srem	25 July 2011	Trial commenced on 16 October 2012

### B. Persons on appeal as at 15 November 2014

<i>Name</i>	<i>Former title</i>	<i>Date of trial judgement</i>
Vujadin Popović	Lieutenant Colonel and Chief of Security of the Drina Corps of the Bosnian Serb Army	10 June 2010
Ljubiša Beara	Colonel and Chief of Security of the Bosnian Serb Army Main Staff	10 June 2010
Drago Nikolić	Second Lieutenant who served as Chief of Security for the Zvornik Brigade of the Bosnian Serb Army	10 June 2010
Radivoje Miletić	Chief of Operations and Training Administration of the Bosnian Serb Army Main Staff	10 June 2010
Vinko Pandurević	Lieutenant Colonel and Commander of the Zvornik Brigade of the Drina Corps of the Bosnian Serb Army	10 June 2010
Miće Stanišić	Minister, Internal Affairs, Republika Srpska	27 March 2013
Stojan Župljanin	Head or Commander of the Serb Operated Regional Security Services Centre, Banja Luka	27 March 2013
Zdravko Tolimir	Assistant Commander for Intelligence and Security, Main Staff, Bosnian Serb Army	12 December 2012
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
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	Military Police Commanding Officer, Croatian Defence Council	29 May 2013

<i>Name</i>	<i>Former title</i>	<i>Date of trial judgement</i>
Slobodan Praljak	Assistant Minister of Defence, Croatian Republic of Herceg-Bosna	29 May 2013
Franko Simatović	Commander, Special Operations Unit, State Security Services, Republic of Serbia	30 May 2013 (Acquitted)
Jovica Stanišić	Head, State Security Services, Republic of Serbia	30 May 2013 (Acquitted)

**C. Trial judgements for contempt, 16 May to 15 November 2014  
(by individual)**

<i>Name</i>	<i>Former title</i>	<i>Date of (order in lieu of) indictment</i>	<i>Trial judgement</i>
None			

**D. Appeal judgements for contempt, 16 May to 15 November 2014  
(by individual)**

<i>Name</i>	<i>Former title</i>	<i>Date of trial contempt judgement</i>	<i>Appeal judgement</i>
None			



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**Enclosure III**

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**A. Trial judgements rendered in the period 16 May to 15 November 2014**

None

**B. Contempt judgements rendered in the period 16 May to 15 November 2014**

None

**C. Appeals from judgements rendered in the period 16 May to 15 November 2014**

None

**D. Appeals from contempt rendered in the period 16 May to 15 November 2014**

None

**E. Final interlocutory decisions rendered on appeal in the period 16 May to 15 November 2014**

1. Mladić IT-09-92-Ar73.4 (24 July 2014)
2. Karadžić IT-95-5/18-Ar73.13 (25 July 2014)
3. Šešelj IT-03-67-Ar15bis (6 June 2014)

**F. Review, referral and other appeal decisions rendered in the period 16 May to 15 November 2014**

1. None
  2. None
-

**Enclosure IV**

**Proceedings ongoing as at 15 November 2014**

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**A. Trial judgements pending as at 15 November 2014**

1. Šešelj IT-03-67-T
2. Karadžić IT-95-5/18-T
3. Mladić IT-09-92-T
4. Hadžić IT-04-75-T

**B. Contempt judgements pending as at 15 November 2014**

None

**C. Appeals from judgements pending as at 15 November 2014**

1. Popović et al. IT-05-88-A
2. Tolimir IT-05-88/2-A
3. Stanišić and Župljanin IT-08-91-A
4. Prlić et al. IT-04-74-A
5. Stanišić and Simatović IT-03-69-A

**D. Appeals from contempt pending as at 15 November 2014**

None

**E. Interlocutory decisions pending as at 15 November 2014**

None

**F. Review, referral and other appeal decisions pending as at 15 November 2014**

None

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**Enclosure V**

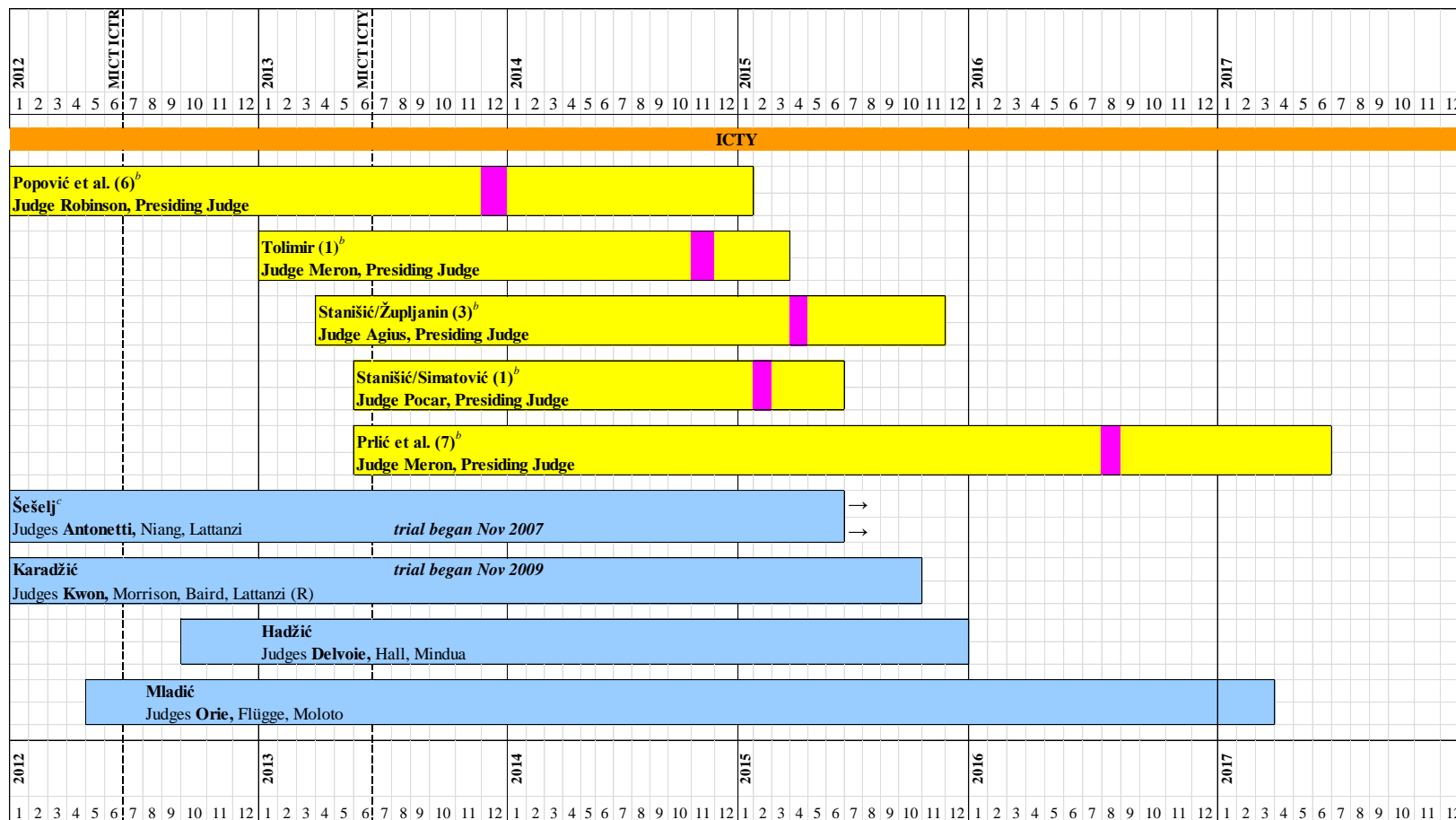
**Decisions and orders rendered during the period 16 May to  
15 November 2014**

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1. Total number of decisions and orders rendered before the Trial Chambers: 142
  2. Total number of decisions and orders rendered before the Appeal Chambers: 64
  3. Total number of decisions and orders rendered by the President of the  
Tribunal: 33
-

Enclosure VI

Trial and appeals schedule of the International Tribunal for the Former Yugoslavia as at 15 November 2014<sup>a</sup>



Abbreviations: MICT, International Residual Mechanism for Criminal Tribunals; ICTR, International Criminal Tribunal for Rwanda; ICTY, International Tribunal for the Former Yugoslavia.

<sup>a</sup> Contempt matters are not included.

<sup>b</sup> Number of accused/appellants, including the prosecution.

<sup>c</sup> Judge Niang, who has replaced Judge Harhoff in this case, has advised that he will require at least until the end of June 2015 to familiarize himself with the proceedings in this case. Presiding Judge Antonetti has indicated that he will do his best to shorten the period required to render the judgement once Judge Niang's review has been completed.



## 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)**

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## I. Overview

1. The Prosecutor submits this twenty-second completion strategy report pursuant to Security Council resolution 1534 (2004), covering developments between 16 May and 15 November 2014.

2. During the reporting period, the Office of the Prosecutor remained focused on ensuring that the remaining trials proceeded expeditiously and that the Appeals Division prepared effectively for the large volume of remaining appellate work. At the end of the reporting period, four cases remained in the trial phase (*Karadžić*, *Mladić*, *Hadžić* and *Šešelj*), while appeal proceedings were ongoing in five cases (*Tolimir*, *Stanišić and Simatović*, *Stanišić and Župljanin*, *Popović et al.* and *Prlić et al.*).

3. The most notable event for the Office of the Prosecutor during the reporting period was the submission of its final trial brief and the presentation of its closing arguments in *Karadžić*. The Trial Chamber is currently deliberating and the parties await its judgement, which is expected in October 2015. The close of this trial marks a significant step towards the completion of the mandate of the Office of the Prosecutor, leaving only two trials in which the presentation of evidence is still ongoing: *Mladić* and *Hadžić*. In both the *Mladić* and the *Hadžić* cases, the defence commenced presenting its evidence during the reporting period, and it is expected that the presentation of evidence will close in those cases by September 2015 and March 2015, respectively. In the *Šešelj* case, the parties continue to await judgement by the Trial Chamber. During the reporting period, no appeal judgements were issued, and the Office of the Prosecutor presented its oral appeal submissions in *Tolimir* on 12 November 2014.

4. The Office of the Prosecutor continued to be satisfied with the level of cooperation between the Office of the Prosecutor and the authorities in Bosnia and Herzegovina, Serbia and Croatia. Reiterating warnings expressed in its last four reports, the main concern of the Office of the Prosecutor continued to be the processing of war crimes cases by national institutions in the former Yugoslavia, particularly in Bosnia and Herzegovina.

5. Progress in war crimes prosecutions continued to be uneven and, in the light of the scale of the crimes that have yet to be prosecuted, insufficient. Having previously taken note of efforts to improve the level of cooperation between the countries of the former Yugoslavia and encouraged national authorities to translate this goodwill into more visible action, the Office of the Prosecutor considers that tangible results are now urgently needed.

6. With respect to Bosnia and Herzegovina, during the reporting period the Office of the Prosecutor conducted two rounds of in-depth consultations with the Prosecutor's Office of Bosnia and Herzegovina on the category II cases transferred by the Office of the Prosecutor to Bosnia and Herzegovina. This increased pace of consultations followed the Office's expression of serious concern over the absence of sufficient progress in those cases. Some progress was made during the reporting period. However, important issues remain unresolved. Prosecutorial decisions against a number of suspects still have not been made, and multi-suspect cases with a comprehensive and coherent prosecutorial theory continue to be broken up into individual indictments. More generally, the quality of war crimes indictments filed by the Prosecutor's Office of Bosnia and Herzegovina appears to be uneven, and the majority of the indictments filed are not indictments concerning the most complex

and highest-priority cases. At the entity level, progress has been made, and attention now needs to be given to the quality of the investigations and prosecutions being undertaken. It is clear that the authorities of Bosnia and Herzegovina will fall well short of the end-of-2015 deadline prescribed in the National War Crimes Strategy for completing the most complex cases.

7. Within its existing resources, the Office of the Prosecutor continued its efforts to transfer expertise and information to national authorities in order to build capacity in the justice sectors in the former Yugoslavia. In this reporting period and following discussions with stakeholders, the Office of the Prosecutor identified a need in Bosnia and Herzegovina for practical training on investigative and prosecutorial techniques in complex cases. The Office of the Prosecutor commenced discussions with its counterparts in Bosnia and Herzegovina, including the Organization for Security and Cooperation in Europe (OSCE), to determine whether and how the Office of the Prosecutor could be involved in such training.

8. During the reporting period, the Office of the Prosecutor experienced severe attrition among its most senior staff, including the departure of a senior trial attorney and a trial attorney from the *Mladić* trial team. Although those circumstances could have had a negative impact on the ability of the Office to manage its work, the situation was resolved by internal redeployment and by expanding the responsibilities of the remaining staff. Staff members in the Office continued to take on two or more roles to ensure that court-imposed deadlines were met and other essential work was completed in a timely manner.

9. The Office of the Prosecutor continued to assist officials and personnel of the International Residual Mechanism for Criminal Tribunals in transferring functions in accordance with the transitional arrangements prescribed by the Security Council.

## **II. Completion of trials and appeals**

### **A. Overview of the ongoing challenges**

10. Events during the reporting period demonstrated both the intense demands placed on staff members of the Office of the Prosecutor, due to continued staff attrition, and the tremendous efforts made by staff members to successfully achieve the Office's mandate in spite of those challenges.

11. As previously reported, the *Karadžić* trial team suffered serious attrition over the last year. Some of its most experienced staff members, including two of its most senior trial attorneys and two experienced legal officers, departed for more secure employment elsewhere. Nonetheless, the trial team successfully completed its final trial brief, totalling 1,100 pages, and prepared and presented its closing arguments. To achieve those results, the trial team members, reinforced where possible by others in the Office of the Prosecutor, worked exceptionally long hours. The Office of the Prosecutor appreciates the demonstrated commitment of its staff to successfully achieving its mandate and is grateful for their continued willingness to take on workloads far beyond what would normally be required. At the same time, there are limits to the ability of staff to perform two jobs while facing significant uncertainty regarding future employment. Solutions need to be found to acknowledge their contribution and to secure their continued loyalty to the Tribunal.



12. The Office of the Prosecutor appreciates that the Security Council's informal working group on international tribunals has recently taken up the matter of the Tribunal's staffing issues. In that context, the Tribunal's principals have contacted the Office of Human Resources Management of the Secretariat and the informal working group to consider potential measures to address the challenge of staff attrition. The Office of the Prosecutor looks forward to fruitful discussions with the informal working group, the Office of Human Resources Management and other Secretariat units to find solutions to assist the Tribunal in managing the challenges of the final stages of its downsizing. At the same time, the Office of the Prosecutor will continue to support its staff members facing career transition by identifying and facilitating training and networking opportunities, as well as other initiatives.

13. The Office of the Prosecutor continued to expend resources to ensure compliance with trial and appeal decisions granting accused persons access to confidential material in related cases. Ongoing access-related review work is required in relation to the *Karadžić*, *Mladić* and *Popović* cases and the case of *Stanišić and Simatović*, including review of confidential transcripts, filings and decisions in those cases, as well as the filing of periodic notices of compliance with access orders for the duration of the cases.

## **B. Update on the progress of trials**

### **1. Šešelj**

14. The projected delivery date for the Trial Judgement in the *Šešelj* case remains unknown. According to the most recently available information, deliberations will not begin until at least the end of June 2015. On 6 November 2014, the Trial Chamber *proprio motu* provisionally released Šešelj after reducing the number of conditions that, in its decision of 10 July 2014, it had required him to comply with.

15. The Office of the Prosecutor completed the presentation of its evidence in the *Šešelj* case on 13 January 2010. The defence did not present any evidence. Closing arguments were heard in March 2012. The delivery of the judgement in this case was originally scheduled for 30 October 2013 but was postponed following the disqualification of a judge of the Trial Chamber.

### **2. Karadžić**

16. The *Karadžić* case has been completed and the Trial Chamber is preparing its judgement, which is expected to be issued in October 2015. The Office of the Prosecutor submitted its final trial brief on 29 August 2014. Closing arguments were presented between 29 September and 7 October 2014.

17. This case is among the most significant and difficult trials the Office of the Prosecutor has prosecuted in its history. Karadžić is charged with individual criminal responsibility for crimes committed from March 1992 to November 1995 in 20 municipalities, in the city of Sarajevo and during the Srebrenica genocide, including 127 discrete criminal incidents, crimes committed in 51 detention facilities and taking hostage over 200 United Nations military observers and peacekeepers. In the course of 297 trial days, the Office of the Prosecutor questioned 195 witnesses in court, submitted the written statements of another

141 witnesses and tendered 6,646 exhibits totalling 87,800 pages. The Office of the Prosecutor also submitted over 1,800 written filings.

### 3. *Mladić*

18. Following the closure of the case-in-chief of the Office of the Prosecutor on 24 February 2014, the Trial Chamber issued on 15 April 2014 its decision rejecting the *Mladić* defence's motion on rule 98 bis of the Tribunal's Rules of Procedure and Evidence. On 24 July 2014, the Appeals Chamber dismissed the defence appeal against the Trial Chamber's decision on rule 98 bis.

19. The *Mladić* defence began the presentation of its evidence on 19 May 2014. The *Mladić* defence has been making extensive use of written evidence pursuant to rule 92 ter, according to which the defence relies upon the witness's written statement and the prosecution is provided an opportunity to cross-examine the witness. While this method of evidence presentation reduces the time taken for oral testimony overall, it means that the Office of the Prosecutor uses proportionally more court time than the defence because of the need to conduct live cross-examinations of the defence witnesses.

20. On 23 October 2014, the Trial Chamber granted the prosecution's motion to reopen its case-in-chief and present evidence on the Tomašica mass grave, which Bosnian authorities had discovered only in September 2013. A total of 401 human remains have been recovered from the mass grave. The Office of the Prosecutor estimates that the presentation of the relevant evidence will require nine hours, and the Trial Chamber agreed that that would not unduly prolong the trial.

21. In this reporting period, the *Mladić* trial team experienced severe attrition among its most senior staff, including the departure of a senior trial attorney and a trial attorney. The Office of the Prosecutor reallocated resources to address those developments, redeploying experienced senior staff from the *Karadžić* trial team to the *Mladić* trial team. The Office has also commenced a review of work product from the *Karadžić* trial that could be adapted for use in the *Mladić* case, as an efficiency measure to reduce the resources and time required for completing the remaining tasks in the *Mladić* case.

### 4. *Hadžić*

22. The Office of the Prosecutor closed its case in October 2013, having taken one year to present its evidence. The *Hadžić* defence case commenced on 3 July 2014, eight months after the close of the prosecution's case and following issuance of the Trial Chamber's decision on rule 98 bis. The first witness called by the defence was the accused, whose testimony ended two months later, on 3 September 2014. An additional 10 defence witnesses testified between 3 September and 16 October 2014.

23. The trial proceedings were further delayed in mid-October 2014 for reasons linked to the defendant's health, and the proceedings did not resume before the end of the reporting period. Based on available information, the *Hadžić* defence is approximately halfway through the presentation of its evidence, and it is expected to finish its case four or five months after the trial resumes, if there are no further delays.

### C. Update on the progress of appeals and the work of the Appeals Division

24. In this reporting period, the Appeals Chamber issued its decisions on the appeal briefing schedule in the multi-accused *Prlić et al.* case. Appeals briefings in this case are scheduled to be completed by May 2015.

25. The appeals proceeding in the case of *Prlić et al.* will be among the most intensive undertaken by the Appeals Division. This case is the last of the so-called “mega-trials”. It involves six accused individuals convicted at trial on up to 22 counts for crimes committed against thousands of victims in eight municipalities in Bosnia and Herzegovina over a period of approximately one and a half years. The six accused individuals were senior leaders in the political and military structures of Herceg-Bosna and were convicted at trial for their roles as participants in a joint criminal enterprise to commit the crimes. The Trial Chamber imposed sentences ranging from 10 to 25 years of imprisonment.

26. Reflecting the large number of crimes charged, the volume of evidence introduced and the complexity of the case, the trial judgement is the lengthiest in the Tribunal’s history, comprising approximately 2,700 pages over six volumes. As previously reported, the appeals process was suspended pending the translation into English of the French version of the trial judgement; the translation was completed at the beginning of the reporting period. However, due to challenges in the translation process, the English translation cites the French transcripts rather than the English transcripts. This means that, during the briefing process, repeated cross-referencing between the French and English versions of both the judgement and the trial transcripts will be required. These practical problems have further magnified the complexity of the appeal proceedings.

27. On appeal, the accused have submitted a total of 168 grounds of appeal, including challenges to the sentences imposed by the Trial Chamber. The Office of the Prosecutor has also submitted four grounds of appeal, contending that the Trial Chamber erred in failing to impose additional convictions and adequate sentences. The Office of the Prosecutor will be required to review, research and argue a combined total of 172 grounds of appeal, almost twice as many as in the pending *Popović et al.* appeal and three times as many as in the recently completed *Šainović et al.* appeal, two other comparable “mega-trials”.

28. In the light of the large number of issues, the complexity of the case and the difficulties presented by escalating staff attrition, both during the reporting period and in the foreseeable future, the work of the Appeals Division has been and will be primarily focused on the efficient and effective completion of the appeal proceedings in the case of *Prlić et al.* While work on this appeal had already commenced from the delivery of the trial judgement in June 2013, the Office of the Prosecutor received notice of all 168 defence grounds of appeal only in August 2014, following completion of the English translation of the trial judgement. The Office will continue to monitor its staffing situation in the coming months to ensure that the appeal briefings are completed on schedule.

29. The appeal hearing in the *Tolimir* case took place on 12 November 2014. The final judgement in this case is expected to be issued in March 2015. Currently, the appeal hearing in the case of *Stanišić and Simatović* is expected in February 2015 (although the Appeals Chamber has yet to issue a scheduling order) and in the case

of *Stanišić and Župljanin* in early 2015. The final judgement in the multi-accused *Popović et al.* case is now scheduled to be issued on 30 January 2015. The trial judgement in that case was rendered in June 2010, and the appeal hearing was held between 2 and 6 December 2013.

30. During the reporting period, the Appeals Division continued to assist trial teams with briefing major legal issues, drafting final trial briefs and preparing closing submissions, including the *Karadžić* final trial brief and closing arguments. The Appeals Division also continued to manage several essential functions of relevance to the Office of the Prosecutor, including digesting and communicating substantive and procedural decisions of interest to the trial teams and assisting with the management of the internship programme of the Office of the Prosecutor.

### **III. State cooperation with the Office of the Prosecutor**

31. 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.

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

32. During the reporting period, cooperation from Serbia, Croatia and Bosnia and Herzegovina remained satisfactory. The Prosecutor met with officials in Sarajevo from 1 to 2 September and from 12 to 14 November 2014 and is scheduled to meet with officials in Belgrade from 17 to 19 November 2014. In addition, throughout the reporting period, the Office of the Prosecutor maintained a direct dialogue with government and judicial authorities from Serbia, Croatia and Bosnia and Herzegovina. The field offices of the Office of the Prosecutor in Sarajevo and Belgrade continued to facilitate the work of the Office in Bosnia and Herzegovina and in Serbia, respectively.

33. In the period between 16 May and 15 November 2014, the Office of the Prosecutor sent 56 requests for assistance. The Office received responses to 54 of its requests for assistance. Given that the presentation of evidence by the defence is ongoing in the *Mladić* and the *Hadžić* cases, it is expected that the Office will continue to rely on cooperation from Serbia, Croatia and Bosnia and Herzegovina in the future.

##### **1. Cooperation between Serbia and the Office of the Prosecutor**

34. Serbia continues to play an important role in ensuring the successful completion of the last trials and appeals at the Tribunal. The access of the Office of the Prosecutor to documents and archives in Serbia remains important for ongoing trial and appeals proceedings at the Tribunal, and Serbia has shown continued diligence in processing the requests for assistance sent by the Office. In the reporting period, the Office sent 21 requests for assistance to Serbia, and 2 requests for assistance are presently outstanding.

## **2. Cooperation between Croatia and the Office of the Prosecutor**

35. The Office of the Prosecutor continues to rely on the cooperation of Croatia to efficiently complete trials and appeals. In the reporting period, the Office sent 26 requests for assistance to Croatia, and responses have been received with respect to all of them.

## **3. Cooperation between Bosnia and Herzegovina and the Office of the Prosecutor**

36. The Office of the Prosecutor continues to rely on the cooperation of Bosnia and Herzegovina to efficiently complete trials and appeals. In the reporting period, the Office sent seven requests for assistance to Bosnia and Herzegovina, and responses have been received for all of them. The authorities of Bosnia and Herzegovina, at both the State and entity levels, responded promptly and adequately to the Office's requests for documents and access to government archives. The authorities also provided valuable assistance with witness protection matters and facilitated the appearance of witnesses before the Tribunal.

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

37. Cooperation and support from States outside the former Yugoslavia, as well as from international organizations, remains integral to the successful completion of the Tribunal's cases. Assistance continues to be needed to gain access to documents, information and witnesses, as well as in matters related to witness protection, including witness relocation. Assistance is also increasingly needed to support the prosecution of war crimes cases in the former Yugoslavia. During the reporting period, the Office of the Prosecutor sent two requests for assistance to judicial authorities and law enforcement agencies in States outside the region of the former Yugoslavia and responses have been received for both.

38. The Office of the Prosecutor again acknowledges the support it received during the reporting period from States Members of the United Nations and international organizations, including the United Nations and its agencies, the European Union, the North Atlantic Treaty Organization, the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe.

39. 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 Tribunal conditionality, linking membership progress to full cooperation with the Tribunal, remains an effective tool for ensuring continued cooperation with the Tribunal and consolidating the rule of law in the former Yugoslavia.

## **IV. Transition from the Tribunal to national war crimes prosecutions**

40. As the Tribunal nears the completion of its mandate, the Office of the Prosecutor remains committed to promoting effective war crimes prosecutions in the former Yugoslavia through ongoing dialogue with its counterparts and efforts to build capacity in the national justice sectors. The effective prosecution of war

crimes committed during the conflicts in the former Yugoslavia is fundamental to building and sustaining the rule of law, as well as to truth-seeking and reconciliation. As the Tribunal's mandate is nearing completion, accountability for those crimes now depends on the national prosecutor's offices and judiciaries.

41. Progress in the prosecution of war crimes in the countries of the former Yugoslavia remains uneven and, in the light of the scale of the crimes that remain to be prosecuted, insufficient. Positive developments to support further prosecutions, such as the signing of cooperation agreements between prosecutorial authorities, have not yet yielded clear, tangible results. While new cases continue to be initiated against low-level direct perpetrators, more can be done on cases involving senior- and mid-level officials, as well as crimes of sexual violence. It is not clear whether the overall results that have been achieved to date are commensurate with the investments that have been made in building capacities. The Prosecutor strongly urges all prosecutorial authorities to increase the pace of investigating and prosecuting war crimes cases and to focus their activities on the most complex and highest-priority cases.

## **A. Challenges in establishing accountability for war crimes in Bosnia and Herzegovina**

42. The processing of war crimes cases in Bosnia and Herzegovina remains far behind the schedule adopted by prosecutorial and national authorities. Increased material support at the State and entity levels has not yet resulted in proportionate activity, although there have been areas of progress. Leadership and direction are needed to encourage increased efforts and ensure that activities are directed to achieve long-established priorities.

### **1. Investigation files transferred by the Office of the Prosecutor to Bosnia and Herzegovina**

43. There has been only limited progress with respect to the investigation and prosecution of the so-called category II cases (investigation files), the last of which the Office of the Prosecutor transferred to the authorities of Bosnia and Herzegovina in December 2009.

44. During his visits to Sarajevo in September and November 2014, the Prosecutor met with the Chief Prosecutor and representatives of the Prosecutor's Office of Bosnia and Herzegovina. Some progress was made on those cases in the reporting period, in particular by taking three prosecutorial decisions to close investigations and not issue indictments and by filing two new indictments. However, important issues remain unresolved, and previous undertakings still have not been implemented.

45. One matter of great concern is that in five cases prosecutorial decisions have not yet been taken for remaining suspects, five years after the last investigative material was transferred to the Prosecutor's Office of Bosnia and Herzegovina. This situation continues notwithstanding repeated commitments over the last year to take prosecutorial decisions in all remaining cases. In addition, multi-suspect cases with a comprehensive and coherent prosecutorial theory continue to be broken up into individual indictments, even after previous undertakings to review and correct that situation. This persistent practice sacrifices efficiency and effectiveness and seems

mainly driven by the objective of increasing the number of indictments. The absence of follow-up on prior discussions and agreements is also a matter of concern.

46. This is the fifth consecutive time that the Office of the Prosecutor has had to report unsatisfactory progress in moving the category II cases beyond the investigative stage. In the last three reporting periods, there have been many detailed discussions with the Prosecutor's Office of Bosnia and Herzegovina on each outstanding case. It is critical that resources and activities are properly directed to the strategic priorities of the Prosecutor's Office of Bosnia and Herzegovina and that appropriate supervision is provided to ensure that targets are met. The Prosecutor urges the Prosecutor's Office of Bosnia and Herzegovina to make significant improvements in the management and direction of its work and to finally resolve the pending category II cases.

## **2. Bosnia and Herzegovina National War Crimes Strategy**

47. During the reporting period, it was again clear that the implementation of the Bosnia and Herzegovina National War Crimes Strategy is facing considerable delays, and a large backlog of cases remains to be prosecuted. The Strategy, adopted in 2008, set firm deadlines: 7 years to process the most complex and highest-priority cases and 15 years for all other war crimes cases. The Prosecutor's Office of Bosnia and Herzegovina has indicated to the Steering Board that monitors the implementation of the Strategy that it will need a further three years, until the end of 2018, to complete the complex cases that it is working on. It reports a total of approximately 350 such cases.

48. The recent increase in the number of staff of the Prosecutor's Office of Bosnia and Herzegovina, including the near-doubling of the number of prosecutors in the war crimes department (from 19 to 37), has not demonstrably advanced the implementation of the Strategy in the reporting period. While the Prosecutor's Office of Bosnia and Herzegovina filed a number of war crimes indictments in 2014, the State Court of Bosnia and Herzegovina returned up to two thirds of those indictments to the Prosecutor's Office due to apparent defects, and some indictments were returned numerous times. The Office of the Prosecutor is concerned that the quality of the work is being sacrificed to increase the quantity of indictments that are filed, and it urges the Prosecutor's Office of Bosnia and Herzegovina to maintain strict quality control over its cases. In addition, while new indictments have been filed against direct perpetrators and lower-level suspects, there has been significantly less progress on the most complex and highest-priority cases. The Prosecutor's Office and the State Court of Bosnia and Herzegovina have acknowledged that only one third of the indictments filed in 2013 met the complexity and priority criteria of the Strategy, and an analysis of indictments filed in 2014 demonstrates that this trend is continuing. Finally, charges for crimes against humanity are not being filed in situations that the judgements of the Tribunal indicate would be appropriate for such charges. This is a problematic development that, if it continues, could represent a significant setback. The Prosecutor calls upon the Prosecutor's Office of Bosnia and Herzegovina to devote its activities to complex and high-priority cases, in accordance with the Strategy.

49. There has been quantitative progress in the processing of war crimes cases at the entity level, including in closing investigations and issuing new indictments. Continued attention needs to be given to the resources available for the investigation

and prosecution of cases at the entity level and the outputs generated from those resources. In addition, according to the Office of the Prosecutor there is currently a need for greater attention to be given to qualitative assessments of the processing of war crimes at the entity level.

## **B. Barriers to reconciliation**

50. Events in the reporting period and earlier have raised concern that barriers to the reconciliation process continue to be erected in the former Yugoslavia. Political and government officials have attended and participated in public events held to praise and glorify individuals convicted by the Tribunal of war crimes and crimes against humanity. Public officials continue to make statements questioning or rejecting final judgements entered by the Tribunal, as well as promoting an aggressive tone regarding inter-communal relations. The commemoration of victims has on occasion been misused to antagonize other communities, which is disrespectful to all victims. Finally, the Office of the Prosecutor remains concerned that the denial of the Srebrenica genocide continues today, despite its repeated confirmation by numerous independent and impartial tribunals. There can be no question that such actions inhibit the reconciliation process in the former Yugoslavia and reinforce communal tensions. They also cause immense suffering to the victims.

51. The Prosecutor encourages State authorities to take positive action to promote reconciliation and reject revisionism. Available laws should be appropriately utilized to stop infringements of the equality of all citizens and provocations involving hatred and discrimination. In addition, the status of victims of conflict should be fairly and equally regulated. Finally, the Office of the Prosecutor supports efforts to address the challenges posed by the denial of genocide, as well as the denial of war crimes and crimes against humanity. State authorities should send a clear message that revisionism and the denial of crimes will not be tolerated. Every victim, regardless of his or her religion, ethnicity, gender or age, deserves to be treated with basic human dignity and respect.

## **C. Investigating and identifying missing persons**

52. As underscored by the recently uncovered mass grave at Tomašica, the issue of missing persons remains a pressing challenge today, two decades later. In the Prosecutor's meetings with victims' associations, the lack of information concerning missing family members is constantly underscored as being the most important outstanding issue. As reported earlier, the search for and exhumation of mass graves and the subsequent identification of the remains need to be accelerated. It is fundamental to reconciliation in the former Yugoslavia. Victims from all sides of the conflict need to be identified and deserve a dignified burial.

53. In the reporting period, the Presidents of Bosnia and Herzegovina, Croatia, Montenegro and Serbia, as part of an initiative organized by the International Commission on Missing Persons, signed a declaration on the role of their States in the search for conflict-related missing persons. The Office of the Prosecutor welcomes those Governments' commitment to taking additional responsibility for efforts to investigate and identify those remaining missing persons, who number more than 10,000. The Office of the Prosecutor notes that in October 2014, Bosnia



and Herzegovina declared 2014 the “Year of Missing Persons”. The Office encourages the national authorities to ensure that that action will yield concrete results.

#### **D. Cooperation between States of the former Yugoslavia on war crimes investigations and prosecutions**

54. As previously reported, regional cooperation has included the adoption by prosecutor’s offices of protocols and agreements on the exchange of information and evidence in war crimes cases. Those positive developments were, in part, the result of significant efforts made by the Office of the Prosecutor and the international community to support regional cooperation. However, since those agreements were signed, no indictments have been issued based on investigative material transferred from Bosnia and Herzegovina to other States, nor have any indictments been transferred.

55. Tangible results are now urgently needed to demonstrate that cooperation efforts are having an impact. In particular, the problem of cross-border war crimes fugitives who cannot be extradited is a serious concern. Given that the Office of the Prosecutor successfully obtained the arrest and transfer of all its fugitives, it would be a severe setback if fugitives are now permitted to remain at large due to the failure of cross-border cooperation between prosecutor’s offices. The Office of the Prosecutor notes that indictments continue to be filed by the Prosecutor’s Office of Bosnia and Herzegovina against suspects known to be present in another State from which they cannot be extradited under current laws. The Prosecutor urges its counterparts in the region to take all necessary action to quickly transfer to the responsible authorities the investigative material in these and other cases and to expeditiously issue indictments based on the transferred material.

56. The *Djukić* situation that arose during the reporting period was a clear opportunity for authorities to demonstrate their willingness to cooperate and provide mutual legal assistance in a sensitive matter. Novak Djukić, formerly commander of the Ozren Tactical Group of the Army of the Republika Srpska, was convicted and sentenced by the State Court of Bosnia and Herzegovina to 20 years of imprisonment for the so-called “Tuzla Gate Massacre”, in which 71 civilians were murdered and 240 were wounded. Released pending resentencing following the *Maktouf* judgement, Djukić left Bosnia and Herzegovina for medical treatment in Serbia. After his resentencing in July, Djukić refused to return to Bosnia and Herzegovina when summoned to report to jail, and he is now a fugitive from justice. Because he holds Serbian citizenship, Serbia, under its current laws, cannot extradite Djukić to Bosnia and Herzegovina. However, Serbia can enforce Djukić’s sentence through the agreement between Serbia and Bosnia and Herzegovina on the mutual execution of court decisions in criminal matters. The Office of the Prosecutor will continue to closely follow developments in this and other similar matters, and in the next report it hopes to be able to provide details on the progress made in those areas.

## **E. Support of the Office of the Prosecutor for national war crimes prosecutions**

57. The Office of the Prosecutor continues to intensify its efforts to assist States in the former Yugoslavia in handling more successfully their remaining war crimes cases. The Immediate Office of the Prosecutor, under the Prosecutor's direction, is leading the work of the Office to facilitate domestic war crimes cases through transfers of information and expertise.

### **1. Access to information in databases of the Office of the Prosecutor and in case records of the Tribunal**

58. During the reporting period, the Office of the Prosecutor continued to provide information to assist national jurisdictions in prosecuting crimes arising out of the conflict in the former Yugoslavia.

59. As of 1 July 2013, the Hague branch of the Mechanism assumed responsibility for requests for assistance regarding completed Tribunal cases. The Office of the Prosecutor of the Tribunal, however, retained the responsibility in relation to requests for assistance regarding the ongoing cases. Tribunal personnel continued to provide assistance to the staff members of the Mechanism in dealing with the requests for assistance. During the reporting period, the Office of the Prosecutor of the Tribunal received seven requests for assistance regarding the ongoing cases, of which three came from the authorities of Bosnia and Herzegovina, one each came from the Prosecutor's Office of Croatia and the Prosecutor's Office of Serbia and two came from the authorities of another State. The Office of the Prosecutor of the Tribunal responded to all of those requests.

60. During the reporting period, the Office of the Prosecutor responded to four rule 75 (H) applications from judicial authorities in the region in relation to ongoing cases. The Mechanism has assumed responsibility for applications seeking variation of protective measures for completed cases pursuant to rule 86 (H) of the Rules of Procedure and Evidence of the Mechanism.

### **2. European Union/Tribunal training project**

61. The joint European Union/Tribunal training project for national prosecutors and young professionals from the former Yugoslavia continues to be 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 for war crimes cases. The liaison prosecutors' continuing presence facilitates contact between the Office's trial teams and the regional judicial authorities. This is of the utmost importance for the ongoing trial and appeals cases of the Tribunal, as well as for the cases that are prosecuted at the local level.

62. Another part of the project involves bringing young legal professionals from the former Yugoslavia with a commitment to war crimes cases to work as interns with the Office of the Prosecutor in The Hague. In July 2014, a new group of nine young legal professionals from Bosnia and Herzegovina, Croatia and Serbia commenced their five-month internship. By investing in the education and training of these young legal professionals, the Office is transferring expertise that can build capacity in domestic institutions to progress their war crimes cases.

63. The Office of the Prosecutor is grateful to the European Union for supporting this very important project, thereby recognizing the imperative of building capacity by investing in the education and training of young lawyers from the region. The European Union and the Office have agreed to continue using the project to provide training to young professionals until the end of 2015 and to liaison prosecutors until the end of 2016.

### **3. Legal paper on prosecuting sexual violence and other legacy projects**

64. The Office of the Prosecutor is in the process of finalizing a manuscript recording its best practices and lessons learned for the prosecution of sexual violence crimes, crafted with a capacity-building focus in mind. Other legacy-related papers are also in progress at this time, covering topics including: lessons learned by the Office of the Prosecutor in tracking fugitives; the use of intercepted conversations as evidence at the Tribunal; the development and progress of investigations in the Office, including through the use of multidisciplinary teams of experts; and a number of other topics relevant to investigating and prosecuting complex crimes. As these experiences are potentially relevant to other judicial accountability mechanisms confronting similar challenges, the Office hopes to publish a number of these legacy papers in the course of the biennium to the extent compatible with operational requirements for completion of the remaining trials and appeals.

### **4. Regional training**

65. As previously reported, the Office of the Prosecutor has long supported capacity-building efforts in the justice sector, using existing resources to provide training to its regional counterparts on a range of issues. To ensure that its training resources are used in an effective manner, the Office last year circulated its report assessing the training needs of personnel in Bosnia and Herzegovina working on war crimes cases.

66. In the reporting period, the Office of the Prosecutor conducted extensive discussions with stakeholders, including prosecutor's offices in the region, on identified needs for training. Those discussions confirmed the results and recommendations of the Office's expert report on training needs. Stakeholders consistently reported that, while training had been repeatedly provided (at times, duplicating prior training) on legal doctrine, insufficient attention had been given to essential investigative and prosecutorial techniques required for war crimes and other complex crimes. Practical, hands-on training in skills such as analysis-driven investigative methods, indictment drafting, the use of forensic evidence, examination and cross-examination of witnesses, motion practice and oral advocacy had not been consistently offered or integrated into regular training programmes. This is, to a degree, understandable, as such training can only be effectively provided by professionals with direct experience in the investigation and prosecution of war crimes. These skills are also beneficial to the investigation and prosecution of other transnational and complex crimes, including terrorism, organized crime and corruption.

67. The Office of the Prosecutor has commenced discussions with its counterparts in Bosnia and Herzegovina and other stakeholders in the region, including OSCE, to determine whether and how the Office can provide such training, within existing resources. The Office welcomes the efforts of the OSCE mission in Bosnia and

Herzegovina in setting up a coordinated training programme for judicial staff recruited with justice budgetary support funded by the European Union through the Instrument for Pre-accession Assistance, as well as the recent appointment of a coordinator for the programme. The Prosecutor encourages OSCE and other stakeholders to give serious consideration to the recommendations made in the training needs assessment report of the Office of the Prosecutor as reinforced by the Office's recent discussions. The Office of the Prosecutor hopes that the practical skills training that it has been requested to provide will be integrated into the coordinated training programme, as a first step towards ensuring that sufficient attention is given to improving those capacities.

## **5. Global training**

68. As previously reported, in addition to its work in the former Yugoslavia, the Office of the Prosecutor has increasingly been called upon to engage with national justice institutions around the world that are prosecuting war crimes or complex criminality in challenging environments or are developing their capacities to do so. The Office aims to ensure that the lessons learned from its work and the best practices that have been developed for international prosecutions are widely shared with national counterparts working across a range of criminal justice issues. The Office's varied experiences are also beneficial to the investigation and prosecution of other transnational and complex crimes, including terrorism, organized crime and corruption.

69. During the reporting period, the Office of the Prosecutor continued to discuss its best practices and lessons learned with national counterparts. In June, the International Nuremberg Principles Academy hosted a seminar for international and national war crimes prosecutors at which the Office of the Prosecutor was able to present and discuss the "Compendium of Lessons Learned and Suggested Practices", which as previously reported was prepared by the Office together with its counterparts at other international tribunals. National counterparts have also informed the Office of their training needs. Like prosecutors in the former Yugoslavia, national counterparts around the world have repeatedly identified investigative and prosecutorial skills and techniques in complex cases as crucial training requirements. Within the limits of its operational capacity, the Office of the Prosecutor will continue to engage with training providers and donors working in regions outside the former Yugoslavia to ensure that appropriate practical training in essential investigative and prosecutorial techniques required for war crimes and other complex crimes is made available, thereby utilizing the unique expertise developed within the Office over the past two decades.

## **6. Regional outreach**

70. The Office of the Prosecutor supports training programmes for local prosecutors in the former Yugoslavia and shares knowledge and expertise through its staff in various training capacities. In the reporting period, its representatives participated in lectures organized by the Youth Outreach Project, lecturing students on topics related to the work of the Tribunal, including the prosecution of sexual violence crimes, investigations and other issues.

## V. Downsizing

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

71. At the beginning of the biennium, the Office of the Prosecutor had a total of 170 staff members. As at 15 November 2014, 28 posts had been downsized. An additional 16 posts — 7 Professional and 9 General Service posts — will be downsized at the end of 2014, bringing the total number of staff to 126 as at 1 January 2015.

72. The Office of the Prosecutor continues to actively support measures to assist staff in making the transition from their work at the Tribunal to the next step in their careers. In the reporting period, the Office continued to support training to enable its staff members to become registered members of the Justice Rapid Response roster of personnel available for deployment for investigation commissions. The Office recognizes the value of assisting staff through careers counselling and assistance offered by the Career Transition Office, and it hopes that arrangements for again engaging the services of a career coach for the Tribunal will be finalized soon.

73. In this connection, the Office of the Prosecutor has developed a detailed strategy regarding training programmes and networking opportunities to assist its staff members with career transition when their work at the Tribunal ends. As part of this strategy, the Office is working on facilitating opportunities for its staff members to become qualified for various United Nations standby rosters and to work for short periods with other United Nations entities on issues regarding which they have valuable expertise to contribute. Given the difficulties of releasing staff members for lengthy periods, the Office is seeking to identify short-term opportunities (ideally just a few weeks) for staff members, taking into account its operational requirements.

### B. Supporting and sharing resources with the International Residual Mechanism for Criminal Tribunals (branch in The Hague)

74. In the reporting period, the Office of the Prosecutor of the Tribunal continued to provide support and share resources with the Office of the Prosecutor of the Mechanism. In particular, work proceeded on providing assistance to national authorities, including with respect to incoming requests for assistance unrelated to ongoing Tribunal trials, and the procedures regarding the variation of protective measures for witnesses pursuant to rules 75 (G) and (H).

## VI. Conclusion

75. The Office of the Prosecutor reached a significant point in the successful completion of its mandate with the presentation of closing arguments in the *Karadžić* trial. The Office remains firmly focused on expeditiously completing its remaining work in accordance with the highest standards of international justice.

76. To ensure that these goals are met, the Office of the Prosecutor will continue to take measures to reduce the time necessary to complete the remaining trials and

appeals, while continuing to allocate resources flexibly and to effectively manage staff attrition and downsizing.

77. Significant difficulties remain with respect to regional prosecutions of war crimes, particularly in Bosnia and Herzegovina. The Office of the Prosecutor will continue to engage with national counterparts and encourage dramatic improvement in the processing of national war crimes cases. The Office also hopes to continue to directly support national counterparts by participating in practical, hands-on skills training to address identified needs. The Office will continue to encourage improved regional cooperation on war crimes matters and will closely monitor developments.

78. In all of these endeavours, the Office of the Prosecutor relies upon, and hopes to retain, the continuing support of the international community and especially that of the Security Council.

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