



REPUBLIC OF SERBIA

STATEMENT

by

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York

at the Security Council debate on International Residual Mechanism for  
Criminal Tribunals

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Madame President,

At the outset I wish to thank the President and the Prosecutor of the International Residual Mechanism for Criminal Tribunals (Mechanism) for their comprehensive periodic reports and presentations given today. I also take the opportunity to congratulate Judge Graciela Gatti Santana on her appointment as President of the Mechanism.

We are pleased that the Mechanism is aware of the major issues of concern as set out in resolution 2637 (2022) and that it is investing efforts in implementing the recommendations of the Informal Working Group on International Tribunals, as well as those of the Office of Internal Oversight Services. We are particularly encouraged that, as stated in the report of the President, the leadership “has paid very close attention to the resolution’s particular focus on the future of the Mechanism, including with respect to providing clear and focused projections of completion timelines for all of the Mechanism’s activities, as well as options regarding the transfer of its remaining activities in due course” and that the new President has taken as one her core priorities to guide the Mechanism’s transition from an operational court to a residual institution. When these efforts come to fruition, the aims of resolution 1966 (2010) will have been achieved.

In that vein, I would like to point out several issues stemming from the very nature of the Mechanism and its residual functions that warrant our attention. From the standpoint of Serbia, these refer to the initiation of new cases before the Mechanism, supervision over the execution of sentences, provision of assistance to national jurisdictions and managing of the archives.

Madame President,

In relation to the first issue, I wish to point to the repeated assertions of alleged non-cooperation of the Republic of Serbia with the Mechanism regarding the case of *Jojić and Radeta*. Serbia's position in connection with this case remains consistent that its conduct does not represent a violation of its international obligations, but an effort to act in accordance with resolution 1966. We are convinced that, under current circumstances, conducting proceedings before national judicial authorities can promote justice and strengthen confidence in national judicial systems. We reiterate our readiness for the case of *Jojić and Radeta* to be taken over by the judiciary of the Republic of Serbia, and we are ready to provide assurances that the proceedings will be conducted in accordance with the requirements of proper administration of justice with full respect for both the Mechanism and the rights of witnesses and the accused.

Likewise, as regards the on-going investigations in another case of contempt of court, the *Šešelji* case, should the Prosecutor decide to bring

charges against certain individuals for contempt of court, we express our readiness for the trial to be conducted in the Republic of Serbia.

As regards the supervision over the execution of sentences, we would like to recall our readiness and repeat the request that the prison sentences handed by the ICTY and the Mechanism be served in the Republic of Serbia, under full authority and supervision of the Mechanism. We are firmly convinced that circumstances in the Region have changed significantly since the opinion given by the Secretary General pursuant to resolution 808 in 1993. As the prosecution of war crimes today is exclusively within the competence of national judiciaries, we do not see any justification for maintaining the current policy. We further believe that in this way, not only the costs would be reduced and the position of families of convicted persons would be eased, but the conditions would be created for proper rehabilitation, and the authority of the Mechanism would be strengthened.

At this point, we are compelled to appeal again to the Security Council and the Mechanism to prevent all attempts to harass convicted citizens of Serbia and request the President of the Mechanism to immediately notify the Republic of Serbia of all requests for extradition or providing of other types of legal assistance in criminal matters which concern its citizens who are serving sentences and enable it to participate in eventual proceedings. We firmly stand by the position that the country where the convicted person is serving prison sentence and

the Mechanism do not have jurisdiction to decide on the extradition of our citizens to a third country. Furthermore, it is the responsibility of the Mechanism to ensure that prison sentences are served in a country where conditions provide for adequate treatment of convicted persons.

Another issue that still remains pending is the return of the extensive archives provided by Serbia to the ICTY or the Mechanism. We do not see any reason for the massive volumes of documentation that are no longer needed or were never used to remain with the Mechanism and remain hopeful that the matter of the return of original documents will be dealt with without further delay.

Madame President,

Regarding the claims of "denial of crimes and glorification of war criminals", we must clearly state the position of the Republic of Serbia. With many proceedings that it has concluded and harsh sentences that it has passed, primarily to its citizens, for crimes committed in the territory of the former Yugoslavia, Serbia has proven its commitment to justice and accountability. On the other hand, a number of acquittals by the ICTY and a lack of cooperation by certain factors in the region, as well as an evident lack of readiness to investigate horrendous crimes against the Serbs and try perpetrators, particularly members of the so-called "Kosovo Liberation Army" in Serbia's province of Kosovo and Metohija, have cast a serious shadow on the legacy of the Tribunal and the Mechanism. We rightly have expectations of the Mechanism to act

in accordance with its mandate in fostering regional cooperation and provision of assistance to national jurisdictions. In that sense, we see merit in Prosecutor's assessments, particularly in regard to conduct of one particular neighboring country, the Republic of Croatia, and call upon its judicial authorities to cooperate. For its part, Serbia strongly believes that all crimes must be tried and adequately punished regardless of the nationality of the perpetrator. It remains fully committed to a policy of reconciliation in the region, without which there is no future, stability, economic development and normalization of relations.

I thank you.