

Dear Mr. Chairman, ladies and gentlemen, members of the delegations

I would point to a few ongoing issues in my speech that refer to the competences of the Mechanism, namely, the possibility of serving the sentences passed by the ICTY and Mechanism in the Republic of Serbia, with the current practice of disabling early release of the sentenced persons as well as obligation of the Mechanism regarding protection of sentenced persons.

The second part of the speech will be dedicated to issues that are opened by the six –month Report on the work of the Mechanism by Mechanism President Mr. Agius and Report by the Chief Prosecutor Mr. Serge Brammertz, especially regarding current cooperation of the Republic of Serbia and the Mechanism.

The third part of my speech, and I noticed that in many of your statements even today, is going to be the view of Serbia on everything that took place in The Hague Tribunal and what the Tribunal verdicts brought to people in the region of former Yugoslavia.

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The Republic of Serbia has initiated before the Security Council, on several occasions, **the issue of possibility of serving sentences passed by the ICTY and Mechanism in the Republic of Serbia**. Beside the efforts to move this issue from “square one”, not a single response was obtained from the Security Council. The majority of persons that are serving their prison sentences are citizens of the Republic of Serbia, and it comes naturally that the Republic of Serbia is interested in enabling them to serve their prison sentences in the Republic of Serbia.

ICTY and the Mechanism are making references to the Security Council as an institution in charge of dealing with this issue.

I am ready to reiterate here the readiness of the Republic of Serbia to take over obligations and liability for executing prison sentences that the Tribunal or Mechanism passed on the citizens of the Republic of Serbia, under the monitoring of the Mechanism and full respect for the authority of the Mechanism regarding early release.

Mr. Chairman,

A particular problem that we are facing with is disturbance by the judicial institutions established in the territory of Kosovo and Metohija, which is within Serbia and which is under Interim Administration of the UN. We are witnesses of attempts of retrial for two citizens that are serving their prison sentences for which they had already been trialed before the ICTY. More concretely, in previous period there was an attempt for hearing of Nebojša Pavković and for obtaining extradition of Vlastimir Đorđević.

I urge on the Mechanism and Security Council to prevent attempts of violation of the principle *ne bis in idem*, a civilization principle that was confirmed in Article 7 (1) of the Statute of the Mechanism and to disable retrials for persons already convicted by the ICTY, particularly to make sure that it is not done in the territory which is under interim UN administration.

Mr. Chairman,

President of the Mechanism (Mr. Carmel Agius), apart from the regular Report, delivered also on 11 May 2021 a letter to the President of the Security Council, whose subject is the alleged omission of the Republic of Serbia to apprehend and turn over to the Mechanism Petar Jojić and Vjerica Radeta, indicted of contempt of court, claiming that in this way the Republic of Serbia was acting contrary to its obligations towards the UNSC Resolution 1966 (2010) and asking the Security Council to take measures in order to ensure that Serbia meets the alleged obligations in accordance with the Mechanism Statute and Resolution 1966.

The point of the argumentation of the President of the Mechanism comes to that that the Republic of Serbia has the obligation to deprive of liberty and extradite to the Mechanism its citizens accused of contempt of court, regardless of the nature of accusation, circumstances under which such an order was made and consequences that might result from its implementation.

It is about accusations that do not refer to severe violations of international humanitarian law and that are related to a case before the ICTY, which ended in 2018 (Vojislav Šešelj case), by acquitting the defendant in the first instance, and upon the Prosecutor's complaint the defendant was declared guilty and sentenced to a 10-year imprisonment, which was covered by the time he spent at the UN Detention Unit.

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Judge Agius states that Serbia ignores its obligations in accordance with the Resolution 1966 (2010). Quite the opposite- the Republic of Serbia takes seriously its obligations regarding cooperation with the Mechanism. After the warrant for apprehension and extradition of the two persons accused of contempt of court to the Mechanism had been introduced, the Higher Court in Belgrade established that assumptions for their apprehension and extradition to the Mechanism had not been met. The decision is founded on the rules of international law and domestic law of the Republic of Serbia and it is mandatory for holders of the executive power in the Republic of Serbia.

I would remind here that the first decision of a sole judge (Aydin Sefa Akay, 12 June 2018), that was acting in this case was that the criminal prosecution of V. Radeta and P. Jojić for alleged contempt of court was to be forwarded to the judicial authorities of the Republic of Serbia. In procedures that followed, the argument of the alleged unwillingness of the witnesses to cooperate with the judicial authorities of the Republic of Serbia was stated for the first time, and the decision on deprivation of transferring the case to the jurisdiction of the judicial authorities of the Republic of Serbia was based on the respective argument.

The Republic of Serbia expressed its readiness to take over the court procedure against Petar Jojić and Vjerica Radeta on several occasions and it provided appropriate guarantees. Additionally, the Republic of Serbia fully recognizes and accepts the obligation of the Mechanism to monitor trials that were transferred to national courts with the help of international and regional organizations, as well as to take measures envisaged by Article 6 of the Statute of the Mechanism.

I would remind here that the Republic of Serbia extradited to the tribunal all the persons indicted by the Prosecutor's Office, and among the respective mostly highest political, military and police officials; it enabled presence of vast number of witnesses, delivered extensive documentation. Obligation of the Mechanism, in accordance with the Resolution of this Security Council, is to take measures that enable transfer of cases to national justice system. In previous practice, 13 cases were transferred to Bosnia and Herzegovina, 2 to Croatia and only one to Serbia.

The last but not the least, I want to remind all of you here of the fact that France- of course as a sovereign and independent country- upon request for apprehension and extradition of Florence Altman for publishing documents and contempt of court, refused the request for extradition, with an explanation that it does not extradite its citizens. For far smaller offence you ask as to extradite our citizens Jojic and Radeta, showing both the distrust to Serbian justice and judiciary and Serbian State, as well as a fact that the rule from ancient Rome is still valid – quod licet lovi non licet bovi.

It does not harm to underline that high-level officers and politicians were not trialed for crimes against Serbs, and that crimes against Serbs remained unsanctioned before ICTY and Mechanism. Let me remind you, just as an example that Ademi and Norac case for ferocious crimes against Serb civilians in Medački Džep was left to Croatian justice institutions. Proven crimes against Serbs, like those of Ramuš Haradinaj, Naser Orić, then Ante Gotovina and other indicted for military operation “Storm” that led to a complete ethnic cleansing of Serb population in the big part of today’s Croatia, resulted before the ICTY in acquittals. Many horrible crimes against Serb civilians that were committed in the territory of Bosnia and Herzegovina, Croatia and the Autonomous Province of Kosovo and Metohija, and that resulted in ethnic cleansing, simply were not the subject of interest of the ICTY.

What’s very important and not to leave anything unclear, Serbia is a country that condemns all crimes and all criminals who perpetrated them in the region of former Yugoslavia. However, it is interesting that despite often criticism Serbia is the only one that speaks openly and condemns crimes perpetrated by Serb nationals, while in other regional countries they do not speak at all about crimes that representatives of those nations committed against members of Serbian people. And I want to emphasize once again here in front of you that Serbia condemns terrible crime in Srebrenica and extends its deepest condolences to the families of all killed in that massacre. And there are no “buts” about the respective.

Nevertheless, we are here to analyze results and penal policy of ICTY and the Mechanism and it was such that it has never gained trust among Serbian people, no matter where they live. And not because we Serbs do not acknowledge crime committed by some of our compatriots, but because The Hague Tribunal, with exceptions, was judging only to Serbs and in all three territories of former Yugoslavia- Croatia, Bosnia and Herzegovina and Kosovo and Metohija, which some of the SC Member States see and name of course, contrary to law and legal norms and UN Resolutions, as an independent state. I would try to plastically prove to you how The Hague justice was tailored even though I know that it will not come to understanding of many of you, but to me it is important because of the history, facts, and school books that will be made in accordance with the facts.

Namely, Serbs were sentenced to totally 1138 years of imprisonment, and to 8 life imprisonments. At the same time, The Hague Tribunal did not sentence a single Croat for crimes against Serbs, neither in actions Medački Džep, nor Flash and Storm. How politically cunning it was done in the Tribunal, and all wrapped in the form of law and justice. Prosecutors of The Hague Tribunal chose on purpose three military and political leaders of Croats, Bosniac Muslims and Albanians, on all three mentioned territories, committed against Serbs. – Ante Gotovina, Naser Orić and Ramuš Haradinaj. It is interesting that following the same pattern, the same pattern, this injustice was shared. Namely, all of them were sentenced in the first instance procedure, with the exception of

Ramuš Haradinaj, because not a single witness survived. Gotovina was sentenced to 24 years' imprisonment in first-instance procedure, while by a mysterious decision of the second instance council and 3:2 judge ratio, the verdict was changed to acquittal. Naser Orić, for crimes against Serbs, was also sentenced in first instance verdict, but by a mysterious decision of the second instance court, and again 3:2 ratio decision was an acquittal and he was set free of any liability. Let me reiterate, all witnesses in process against Ramus Haradinaj, either committed suicide or were killed under very, very strange circumstances.

Let me conclude, I do not want to believe that someone wants to say that there had been no crimes against Serbs, but judging by the verdicts of The Hague Tribunal, no one- absolutely no one- is responsible for those crimes.

Nevertheless, we in Serbia will show responsibility and we will fight for peace, stability and reconciliation in the region.

We ask UN Security Council Member States to help us with rational and pragmatic approach and respect for international law and not by attempts of further humiliation of Serbia. Serbia is a small country, with proud and courageous people, the one that gave the biggest sacrifice during the WWI and WWII; people who wants to leave in peace with their neighbors. And when I am asking you for this, I do not think I am asking for too much.

At the very end, Serbia is the fastest growing country of the Western Balkans region and we cannot progress if our relations with neighbors, friends and other countries are good, solid and better. That is why- despite the selective justice that was applied in The Hague Tribunal- we will be open for any dialogue, any kind of cooperation and we will look towards the future and not towards the past. And I have only one message for the citizens of Serbia and citizens of Serbian nationality in the entire region- keep your heads up, neither Serbia nor Serbian people are convicted of anything and it is up to us to work even more diligently, to open factories and to fight for our children and our future.

God Bless Serbia!