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Official Records

President: Mr. Thomson (Fiji)

The meeting was called to order at 10.10 a.m.

Agenda items 71 and 129

Report 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

Note by the Secretary-General transmitting the twenty-third annual report of the International Tribunal for the Former Yugoslavia (A/71/263)

International Residual Mechanism for Criminal Tribunals

Note by the Secretary-General transmitting the fourth annual report of the International Residual Mechanism for Criminal Tribunals (A/71/262)

The President: I give the floor to Judge Carmel Agius, President of the International Tribunal for the Former Yugoslavia.

Judge Agius (International Tribunal for the Former Yugoslavia): Allow me to begin by extending my sincere congratulations to you, Sir, on your election as President of the General Assembly. I wish you a successful tour of duty.

This is the first time that I appear before the Assembly in my capacity as President of the International Tribunal for the Former Yugoslavia (ICTY). It is an immense honour for me to address the members of the

Assembly and it is my pleasure to present the twenty-third annual report (A/71/263) of the ICTY.

Almost exactly one year ago, I assumed my new functions as President of the ICTY. However, as most of the Member States know, I have been a Judge of the Tribunal since 2001 and previously served as Vice-President for four years, before being elected as President. The Tribunal's new leadership also includes a new Vice-President, my colleague from China, Judge Liu Daqun. Today, I also wish to thank my predecessor, Judge Theodor Meron, who is present and with whom I continue to work very closely in his capacity not only as an Appeals Chamber Judge, but also as President of the International Residual Mechanism for Criminal Tribunals. That is particularly relevant because the report before the Assembly details not only the progress made in the past year towards completion of the Tribunal's mandate, but also the transition to the Mechanism.

I am truly fortunate to have assumed office at a time when the Tribunal is fully operational, strong and well prepared for its final chapter. We have reached that stage thanks to the leadership of my predecessors, the relentless efforts of my fellow judges past and present, and the superb staff with whom the institution has been blessed. The Tribunal has now concluded proceedings against 154 accused of the 161 persons indicted for serious violations of international humanitarian law. I am pleased to say that there are no remaining fugitives charged with such violations. In a pending contempt case, however, there are three accused persons whose arrest warrants are yet to be executed.

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As we prepare to close in 2017, the Tribunal has continued its diligent efforts to complete the remaining judicial work expeditiously, while respecting due process and the fair trial rights of the accused, which must remain paramount. The work undertaken throughout the reporting period, which ended on 1 August, saw more cases disposed of than in the previous reporting period, with judgments issued in two cases at the trial level, and two cases on appeal. In addition, the judges of the Appeals Chamber delivered their judgment in the final and largest-ever appeal case from the International Criminal Tribunal for Rwanda (ICTR). A further trial case was terminated in July of this year following the death of the accused.

Today I wish to outline for the Assembly the five main challenges that the ICTY will face in the next 12 months.

The first challenge is ensuring that the remaining cases stay on track for a timely and responsible closure, as well as a smooth transition to the Mechanism. Under my leadership, the Tribunal is committed to completing its remaining judicial work as quickly and efficiently as possible. The judges and legal staff are now focused on one remaining trial, namely that against Ratko Mladić, one remaining appeal, the *Prosecutor v. Prlić et al.* case, and one contempt case, the *Jojić et al.* procedure. While in number of cases alone that might not seem like much work, I can assure the Assembly that the ongoing Mladić case is one of the Tribunal's most complex trials and that *Prlić et al.* is the largest appeal case in the history of international criminal justice.

At the same time, as the Tribunal concludes its judicial work, certain essential functions continue to be transferred to the Mechanism. In the light of the projected completion dates of the Mladić and Prlić cases, which are set for the end of November 2017, a request for a final extension of the judges' terms of office was recently made to the Security Council. I am hopeful that the States members of the Council will support the request, as the extension of the judges' mandates is crucial if the Tribunal is to complete its remaining work on time and ensure an orderly closure.

The second challenge is the taking of all necessary measures to encourage the retention of all Tribunal staff and prevent accelerated staff attrition. As we near the end of the Tribunal's mandate and continue working diligently in order to complete the final cases without delay, all organs of the Tribunal are closely

cooperating to address the escalating challenges of staff attrition and staff morale. In that regard, the Tribunal is coordinating with the Department of Management to explore possible further measures to address that critical situation. It is incumbent upon me to take this opportunity to underscore that the staff of the Tribunal are highly dedicated, talented and professional individuals. It is thanks to their enormous efforts and contribution that we continue to make good progress in the remaining cases. However, the fact remains that as the Tribunal nears its ultimate closure, staff members at all levels will continue to depart from the Tribunal for more secure employment elsewhere. While that is disappointing, it is understandable; they are, indeed, free to do so.

The Tribunal urgently needs the assistance of Member States to address the acute staffing challenges and urges them to give serious and favourable consideration to measures that would prevent accelerated staff attrition. Exceptional circumstances require exceptional remedies. Furthermore, the Tribunal hopes that Member States will continue to offer other forms of staffing assistance to reinforce our work, as the People's Republic of China generously offered in 2016. I recently had the opportunity to host Chinese diplomats, fellows and staff in my Chambers in appreciation of that support, and today I take the opportunity to publicly acknowledge the efforts of the Chinese Government in that respect. Nevertheless, a more comprehensive solution is needed. This will involve finding a way of keeping experienced staff, who know the cases and the Tribunal's working methods, until the end.

The third challenge is that of defending the integrity of the Tribunal, which includes enforcing a zero-tolerance policy in respect of witness interference. The role of witnesses is central to any international criminal justice system. Over the course of the past 23 years, the ICTY has heard 4,670 witnesses — far more than any other war crimes tribunal in modern history. At the Tribunal, we have a specially established unit aimed at supporting and protecting witnesses. So far, the ICTY has managed to prosecute and convict several persons responsible for witness interference, including intimidation and tampering. I must emphasize that any interference with the administration of justice not only undermines the integrity of proceedings, but also has a chilling effect on actual and potential witnesses. International courts and tribunals must

therefore continue to take a decisive stand against witness interference and enforce a zero-tolerance policy. Contempt trials have a crucial role to play in this respect. Accordingly, the total support of the United Nations is imperative.

As Member States will be aware, in the *Prosecutor v. Jojić et al.* contempt case, the accused Petar Jojić, Jovo Ostojić and Vjerica Radeta are charged with four counts of contempt of court in relation to alleged witness intimidation in the Seselj case. The Republic of Serbia has yet to execute their arrest warrants, which were issued over 21 months ago. The Tribunal appreciates that political sensitivities may arise in certain circumstances as a result of cooperating with the ICTY. However, these can never constitute an excuse for failing to cooperate with the Tribunal, when such cooperation is a responsibility flowing from the Statute of the Tribunal itself and reflects the desire of the Security Council that the fight against impunity remain meaningful. The Tribunal's next steps regarding Serbia's non-cooperation will be communicated to the Security Council in December.

The fourth challenge involves promoting the Tribunal's image and engaging in discussion to consolidate the shared legacy of both the Tribunal and the United Nations. As the Tribunal prepares to close in December 2017, ensuring that its work and achievements are accessible and impactful for stakeholders in the former Yugoslavia and elsewhere is more important than ever. In order to best utilize this crucial remaining time, the ICTY has developed an initiative entitled ICTY Legacy Dialogues, which will consist of a series of events, both this year and next, that are designed to enable others to build on the achievements of the Tribunal. Each event will aim to engage with actors in the former Yugoslavia and elsewhere who can utilize the ICTY's experience to continue to develop accountability for international crimes. These encounters are planned to take place in Sarajevo, The Hague and New York and will be designed as dynamic, interactive dialogues. We are counting on the full participation of Member States, as what the Tribunal will leave behind after December 2017 is not merely its own legacy, but primarily the legacy of the United Nations. The Tribunal's experience has been a ground-breaking, challenging and rewarding journey in international humanitarian law, and I barely need remind the Assembly that what amounts to a success

for the Tribunal is even more so a success for this Organization as a whole and for international justice.

The fifth and final challenge is supporting and enabling national jurisdictions to adjudicate international crimes, including by enhancing regional cooperation. In accordance with its completion strategy, which was endorsed by the Security Council, the ICTY has focused its work on the prosecution of the most senior leaders, while referring a number of cases involving intermediate and lower-rank accused to national courts in the countries of the former Yugoslavia. These referrals have helped to strengthen the capacity of national courts to handle core international crime cases, ensure fair trials in accordance with international standards and consolidate the rule of law. With the completion of the Tribunal's mandate approaching, accountability for these crimes now depends on national prosecution offices and judiciaries. Within existing capacities, the Tribunal is committed to assisting national authorities in the former Yugoslavia to expeditiously and effectively handle the large number of remaining war crimes cases. The Tribunal has also strongly supported efforts to enhance cooperation between the States of the former Yugoslavia, as regional cooperation is an essential step in combating impunity, securing justice for all victims and rebuilding trust in the region.

In closing, on behalf of the entire Tribunal, I wish to express our deep gratitude to the Governments of Member States for continuing to support our work. I would also like to acknowledge the tremendous support of the Office of Legal Affairs, which reflects the Legal Counsel's unwavering commitment to international criminal justice, and to thank the Permanent Representative of Uruguay, together with his team, for so ably chairing the Security Council's Informal Working Group on International Tribunals.

In addition, I take the opportunity to pay tribute to the outgoing Secretary-General, His Excellency Mr. Ban Ki-moon, for his dedicated efforts in fostering the age of accountability, and to congratulate His Excellency Mr. António Guterres on his appointment as the next Secretary-General. Last but not least, I would also like to thank you, Sir, for your support of the Tribunal.

With only one trial, one appeal and one contempt case remaining, the Tribunal's mandate is nearly complete. Although it is not over and we face some formidable challenges in the coming year, I have faith that, through the continued efforts and support of

the international community, this bold experiment in international justice will successfully conclude on time and, in the years to come, will continue to serve as a reminder of what is possible and what is achievable in the fight against impunity.

The President: I now call on Judge Theodor Meron, President of the International Residual Mechanism for Criminal Tribunals.

Judge Meron (International Residual Mechanism for Criminal Tribunals): It is a privilege for me to appear before the General Assembly once again in my capacity as President of the Mechanism for International Criminal Tribunals.

Before I turn to the substance of my remarks, I wish to take this opportunity to congratulate you, Mr. President, on Fiji's assumption of the presidency of the General Assembly and to wish you every success during your term. I also wish to acknowledge the steadfast support and assistance provided by the Office of Legal Affairs and, in particular, by Mr. Miguel de Serpa Soares, the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, and by Mr. Stephen Mathias, the Assistant Secretary-General for Legal Affairs. Last, but certainly not least, I would like to acknowledge with pleasure my fellow Judge at the Mechanism and the President of the International Tribunal for the Former Yugoslavia, Judge Agius.

As many know, this year, 2016, marks the 400th anniversary of William Shakespeare's death. His fellow poet and playwright, Ben Jonson, wisely and correctly anticipated in 1623 that Shakespeare was not of an age, but for all time. Yet it is to my deep dismay that Shakespeare's depictions of the ravages of war remain equally relevant today, some 400 years after he wrote them. War, in Shakespeare's words, is the "son of hell" (*Henry VI*, Part 2); it is "fierce and bloody" (*King John*); and "cruel" (*Timon of Athens*). *Troilus and Cressida* gives us a gruelling account of the senseless slaughter of war, while *Hamlet* offers the most powerful statement on the futility of war in a speech against sacrificing thousands of lives for trivial causes, for "a fantasy and trick of fame".

While much has not changed when it comes to conflict and bloodshed in the course of 400 years, at least one important thing has. During the past quarter century, the international community has come together as never before in an effort to end impunity for grave violations of international law and to promote respect

for the rule of law — or what Shakespeare refers to as "the majesty and power of law and justice" (*Henry IV*, Part 2), which the Chief Justice of England invokes in explaining to the new King Henry V that even he had to submit to justice for infractions he had committed as Prince Hal.

By establishing the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) in the early 1990s and the other international and hybrid criminal courts that would follow thereafter, the international community has made manifest its commitment to justice and to the principle of individual criminal responsibility. In doing so, the international community has helped to bring about the dawn of what Secretary-General Ban Ki-moon has described as a new age of accountability.

The International Residual Mechanism for Criminal Tribunals is very much a part of this global effort to ensure accountability, for by establishing it, the Security Council was making certain that the closure of the ICTR and the ICTY would not open the way for impunity to re-emerge and recognizing that justice and the rule of law require a sustained commitment and support even after trials and appeals have been concluded.

As detailed in the written report submitted on behalf of the Mechanism in August (A/71/262), much has transpired in the year since I last appeared before the Assembly (see A/70/PV.31). On the judicial front, following the issuance of ICTY judgments in December 2015 and March 2016, the Mechanism is seized of a retrial in the case of *Jovica Stanišić* and *Franko Simatović* and appeals in the cases of *Radovan Karadžić* and *Vojislav Šešelj*. A wide variety of other requests and applications are regularly filed before the Mechanism and addressed by the Mechanism's Judges, the majority of whom are — consistent with the Security Council's vision of the Mechanism as a small and efficient institution — working remotely and part-time from their homes and offices around the world, carrying out their functions for the Mechanism on top of their other professional commitments. Since its establishment, the Mechanism has issued in excess of 800 judicial orders and decisions.

With the closure of the ICTR in December 2015, the Mechanism has assumed responsibility for all remaining functions of that Tribunal, and preparations

for the transfer of relevant remaining ICTY functions continue, in anticipation of that Tribunal's expected closure at the end of 2017.

Throughout the reporting period, essential ongoing functions — such as the protection of vulnerable victims and witnesses, the provision of assistance to national jurisdictions seeking to ensure accountability in local proceedings, and the supervision of the enforcement of sentences — have also continued to be carried out with care and professionalism. Important steps have likewise been taken with regard to the management and preservation of the vital archives of the ICTR and the ICTY entrusted to the Mechanism.

It is in great part thanks to the sustained cooperation and generosity of the Government of the United Republic of Tanzania that we will, less than three weeks from today, mark the opening of the Mechanism's new premises in Arusha. This construction project, which reflects a lean and minimalist approach and incorporates best practices from other United Nations capital projects, has taken place under the stewardship of the General Assembly and remains — importantly — on budget. In the meantime, both Tanzania and the Netherlands, as the host States of our respective branches, continue to support the Mechanism's work on a near-daily basis in countless but meaningful ways.

It is thanks to the support and assistance of Member States in Africa and Europe that we are able to enforce sentences pronounced by the ICTR, the ICTY and the Mechanism. The support and cooperation of individual Member States is likewise essential to resolving the situation faced by the Mechanism with regard to individuals indicted by the ICTR who were subsequently acquitted or released in Tanzania. The appropriate relocation of these individuals, as I have stated before, is a crucial challenge for international justice and a humanitarian imperative. And the Mechanism will, of course, not have fulfilled its mandate unless and until all remaining fugitives indicted by the ICTR have been called to account. Success on this front will depend in great part upon the timely cooperation of individual Member States. I wish the greatest success to Prosecutor Brammertz in his continuing efforts in this regard. Indeed, as we move forward, seeking to fulfil all other aspects of our mandate in the best way possible, the cooperation and support of the United Nations and its Members form the essential and invaluable basis for all our efforts.

It is in this context that I find that I must advise the Assembly of a serious matter having a great impact on the effective discharge of the Mechanism's functions. On 20 December 2011, following the nomination by the Government of Turkey, the Assembly elected Judge Aydin Sefa Akay, of Turkey, as a Judge of the Mechanism (see A/66/PV.87). This election followed Judge Akay's distinguished prior service as a Judge of the ICTR and, earlier, as an Ambassador of Turkey. After consultation by the Secretary-General with the Presidents of the Assembly and of the Security Council, Judge Akay was recently appointed for a new term as Judge of the Mechanism, commencing on 1 July 2016.

On 25 July, as President of the Mechanism, I appointed Judge Akay to a bench of the Appeals Chamber to address a motion for review of judgment and associated applications advanced by Mr. Augustin Ngirabatware, who is currently detained following his conviction. Without notification to the United Nations or the Mechanism, on or around 21 September 2016, Judge Akay was detained in Turkey in relation to allegations connected to the events of July 2016 directed against the constitutional order of Turkey, and has remained in detention since that time. As a result of Judge Akay's detention, the proceedings to which he has been assigned have necessarily come to a standstill, with corresponding implications for the fundamental rights of the applicant to the determination of his claims within a reasonable time.

Judicial independence is a cornerstone of the rule of law, and it is a long-standing and consistent practice to accord international judges privileges and immunities in order to protect the independent discharge of their judicial functions. The Security Council accorded the judges of both the ICTR and the ICTY diplomatic immunity to that end. The Statute of the Mechanism, adopted by the Council acting under Chapter VII of the Charter of the United Nations, likewise accords the judges of the Mechanism diplomatic immunity for those periods of time in which they are engaged in the business of the Mechanism. In according the Judges of the Mechanism such immunity, the Council necessarily understood that, thanks to the Mechanism's lean and efficient design and the statutory expectation that Judges will work remotely as much as possible and away from the seats of the Mechanism, the Judges would typically be carrying out their judicial work for the Mechanism in their State of nationality.

As a result of this legal framework, Judge Akay enjoyed diplomatic immunity from the time of his assignment to the *Ngirabatware* proceedings on 25 July, and continues to enjoy such immunity through to the conclusion of those proceedings. The United Nations Office of Legal Affairs, on behalf of the Secretary-General, has formally asserted this protection to the Government of Turkey and, as a consequence, requested Judge Akay's immediate release from detention and the cessation of all legal proceedings against him. In the meantime, on 17 October, as President of the Mechanism, I formally requested permission from the Government of Turkey to visit Judge Akay to consult him confidentially and ascertain his conditions of detention.

I deeply regret that the Government of Turkey has thus far provided no formal communication whatsoever on these matters to either the United Nations or the Mechanism, and that the Government continues to maintain Judge Akay's detention, in breach of the Statute of the Mechanism and of Turkey's obligation to cooperate with the Mechanism in accordance with paragraph 9 of Security Council resolution 1966 (2010). I likewise regret that, as a result of Judge Akay's detention, the will of the Assembly that he discharge judicial functions for the Mechanism, consistent with the provisions of the Statute pursuant to which he was elected and then appointed to a new term, is concurrently being frustrated.

As Judge Akay's detention becomes increasingly prolonged, its effects on the Mechanism's ability to perform its core mandate become ever more pronounced, as this detention has materially impeded the Mechanism's ability to perform one of its most fundamental functions: to judicially determine, in accordance with the law, matters going to an individual's responsibility for the most serious international crimes. Absent clear understanding of his conditions of detention and a response to my request for authorization to visit Judge Akay, my concern for my judicial colleague's welfare from a humanitarian perspective likewise becomes all the stronger. I therefore call upon the Government of Turkey, consistent with its binding international obligations under Chapter VII of the Charter of the United Nations, to immediately release Judge Akay from detention and enable him to resume his lawfully-assigned judicial functions.

In discharging our mandates to pursue justice and accountability for the most serious crimes known to

humankind, international criminal tribunals, such as the Mechanism, serve the interests of all States and their peoples. At the same time, however, and as the past 25 years have demonstrated, international criminal tribunals are fully dependent both on the cooperation of States and on States' respect for the international legal framework applicable to such institutions. Without such cooperation and respect, international courts cannot ensure their independent operation, wherever around the world court functions may be exercised, and they therefore cannot carry out the vital mandates entrusted to them.

I have every confidence that the Government of Turkey shares this common interest in enabling the Mechanism to function efficiently and effectively, in accordance with its mandate and with applicable law, and that the Government will, without further delay, take the necessary steps with respect to the situation I have just described towards that end.

Mr. Braun (Germany), Vice-President, took the Chair.

The resolution of this matter is not only critically important for the Mechanism; it is also essential for all of us if we are to ensure that United Nations institutions are able to carry out their mandates in accordance with the law and without interference. It is therefore essential for all of us if we are to work together to bring about an era of accountability based upon and enshrining respect for the rule of law, for which judicial independence is fundamental. It is essential for all of us who wish to be able to say that we have done all that we can to end impunity for horrific crimes in violation of international law and to seek to bring about a world in which the highest humanitarian principles are upheld. But to accomplish all of this, it is essential that all Members of the United Nations, in addressing vital requests from Chapter VII tribunals, act in accordance with good faith, the duty to cooperate and unimpeachable due process.

The Acting President: I now give the floor to the observer of the European Union.

Mr. Chaboureau (European Union) (*spoke in French*): I have the honour to speak on behalf of the European Union (EU) and its member States. The candidate countries of the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Albania; the country of the Stabilization and Association Process and potential candidate Bosnia and Herzegovina;

Ukraine and the Republic of Moldova align themselves with this statement.

We reaffirm our unwavering support for the work of the International Tribunal for the Former Yugoslavia (ICTY). We commend the ICTY for its achievements and invaluable contributions to our shared goal of ending impunity for serious international crimes committed since 1991 in the territory of the former Yugoslavia. We thank President Agius for his report and commend him for his efforts aimed at completing the work of the ICTY.

The ICTY has played a key role in strengthening the rule of law and promoting long-term stability and reconciliation in the former Yugoslavia. Since its establishment, the ICTY has embodied the need to fight impunity and the international community's refusal to allow the perpetrators of the most serious international crimes to escape justice. The Tribunal played a forward-looking role in establishing jurisprudence in this field, paving the way for the International Criminal Court.

We welcome the fact that each organ of the ICTY continued to undertake the necessary measures to ensure completion of the Tribunal's mandate by the end of 2017. We value the fact that the ICTY has been taking steps to ensure the continued smooth handover of functions to the Mechanism for International Criminal Tribunals. This harmonious transition process is important in order for the Mechanism to carry on and protect the work of the Tribunal. We note with satisfaction that the ICTY is committed to completing its proceedings in an efficient and timely manner, without compromising the right to a fair trial.

We note that at the closure of the reporting period, one trial and one appeal are pending, with, in all, 161 individuals being indicted and held accountable. We praise all the Tribunal's organs for having taken measures to prevent and address the impact of staff attrition. We note that the ICTY Office of the Prosecutor has acknowledged the assistance it received from the European Union and its member States, and we will continue to support the Office of the Prosecutor. We recall that States' responsibility to cooperate with the ICTY remains crucial for it to be able to complete its mandate, particularly with a view to bringing those indicted to international justice.

Completing the process of rendering justice for crimes committed during the conflicts in the former Yugoslavia is an essential contribution to lasting peace,

accountability and the rule of law. Full and complete cooperation with the ICTY is therefore an essential condition for the Stabilization and Association Process in the Western Balkans and for membership in the EU. We commend the ICTY for its work on strengthening the capacity of national authorities to handle the remaining war crimes cases effectively and we call on all the States of the region to make progress in the processes of investigation and prosecution in the context of the transition from the ICTY to national courts.

We welcome the fact that the Joint EU-ICTY Training Project for National Prosecutors and Young Professionals from the former Yugoslavia remains a central component of the efforts made by the Office of the Prosecutor to build national capacity in the national justice sectors in order to ensure an efficient transition from the ICTY to national courts mandated to prosecute war crimes. We praise the Office of the Prosecutor for having shared the lessons learned and best practices from its work with national counterparts working across a range of criminal justice sectors in various parts of the world. This is important for the Tribunal's legacy and for the domestic capacity to adjudicate war crimes.

In its Stabilization and Association Process for the Western Balkans, the EU is increasingly underlining the importance of local ownership for handling war crimes cases in line with the need to fight impunity. In this regard, direct budgetary support from the EU to domestic courts prosecuting war crimes, which has been in place in some Western Balkan countries since 2013, complements efforts undertaken to build national capacities in addressing the backlog of war crimes cases.

We note that the Office of the Prosecutor continued to promote improved regional cooperation between States of the former Yugoslavia in judicial matters and welcome the fact that meaningful results were achieved in this regard, even though, as the President of the ICTY stated in his assessment and report,

“[t]he pace of national prosecutions is still not yet commensurate with the backlog of cases remaining to be completed”(*S/2016/454, annex I, para. 25*).

We call on the States of the former Yugoslavia to continue regional cooperation in criminal matters, in accordance with the rules and principles of international law, including international criminal law.

On the Mechanism for International Criminal Tribunals, the EU and its member States thank President Meron for his report (see A/71/262) and commend him for his efforts to advance the work of the Mechanism. We welcome the fact that the Mechanism is increasingly assuming responsibility for all aspects of the work of the ICTY, together with the activities of the Arusha branch.

The EU and its member States welcome the development by the Mechanism of procedures and policies that build upon the best practices of the ICTY and of the International Criminal Tribunal for Rwanda (ICTR). We commend the efforts of the Mechanism to streamline operations and reduce costs. The EU and its member States are aware that, as mentioned in President Meron's report, further accountability for crimes committed in Rwanda and the former Yugoslavia depends on national justice systems which will benefit from the expertise and evidence from the Office of the Prosecutor. The EU and its member States are grateful to States that are enforcing sentences, and they call on all States to continue existing cooperation in the enforcement of sentences of the ICTY, the ICTR and the Mechanism or to conclude agreements with the Mechanism in order to increase its enforcement capacity.

The European Union and its member States will continue to support both the principle of international criminal justice and its essential role in achieving lasting peace, accountability and the rule of law. We call on all States to cooperate with the International Tribunal for the Former Yugoslavia and the Mechanism, in full compliance with their obligations under the relevant Security Council resolutions. It is important that the knowledge gained and the lessons learned in the fight against impunity not be forgotten.

Ms. Bird (Australia): I have the honour of speaking today on behalf of Canada, New Zealand and my own country, Australia.

Canada, Australia and New Zealand (CANZ) wish to take this opportunity to reaffirm our strong support for the International Criminal Tribunals, for the important work that continues before the International Criminal Tribunal for the Former Yugoslavia (ICTY), for that completed by the International Criminal Tribunal for Rwanda (ICTR), and for the essential role of the International Residual Mechanism for Criminal

Tribunals in carrying forward the unprecedented legacy of both.

Viewed through a lens spanning more than 20 years since their establishment, the exceptional contribution of the Tribunals is clear. The significance of their legacy for the practice of international criminal law and for ending impunity cannot be overstated. Administering justice in cases involving some of the most horrific crimes in recent history, they have added breadth and depth to international criminal law jurisprudence. Theirs is a concrete example of how the international community can realize accountability for serious international crimes committed in complex conflict situations.

We note that, while the ICTR has now completed its work and is closed, eight fugitives remain at large. If apprehended, three of the fugitives will be tried by the Residual Mechanism and five of the fugitives will, pursuant to the referral by the ICTR Prosecutor, be tried by Rwanda. It is important that those individuals also have their day in Court, and therefore we urge States to cooperate to ensure their arrest and surrender.

CANZ acknowledges the continued efforts of the ICTY to complete its work, all the while ensuring that fundamental procedural safeguards are met. We commend in particular the cooperation between the Tribunal and the international community that has resulted in the fact that there are no fugitives at large from the ICTY, which, in turn, is a testament to the fact that those accused of serious international crimes might be able to run, but, if we work together, they will not be able to hide from justice.

While the trials and appeals of the ICTY are nearing an end, important work remains. In that context, we are concerned that staff attrition is an increasing challenge for the ICTY and that the loss of senior staff and their extensive case-specific knowledge has resulted in delays. We encourage the United Nations to look at creative solutions to this challenge, including the consideration of an incentives structure. We also encourage the ICTY to continue in its efforts to ensure that its remaining judicial proceedings make progress both efficiently and effectively.

CANZ wishes to reiterate its support for the December 2010 decision of the Security Council to establish the International Residual Mechanism for Criminal Tribunals. The Mechanism has a critical role to play in completing trials and appeals, protecting

witnesses, enforcing sentences, providing assistance to national jurisdictions and maintaining the Tribunal archives. We welcome the smooth handover from the ICTR to the Mechanism, as well as the ICTY's demonstrated commitment to ensuring the effective transfer of its remaining activities to the Residual Mechanism, in accordance with the Tribunal's completion strategy.

One issue on the Mechanism's agenda of particular importance to CANZ is the need to engage in dialogue to develop options for addressing the plight of the persons acquitted and released by the ICTR who need to be relocated from Arusha. We welcome the Mechanism's efforts to address this issue, and welcome as well news that the number of persons in this difficult situation has been reduced. We encourage States to continue to try to find workable solutions to address the situation of these individuals.

As with the ICTR, the successful completion of the ICTY's work, and the Tribunals' ultimate legacy for international criminal justice, is dependent, in large part, on the individual and collective efforts of Member States. For our part, Australia, Canada and New Zealand will continue to offer our full cooperation and support to the ICTY and to the Residual Mechanism in order to give practical effect to our steadfast commitment to international criminal justice.

The Acting President: I would like to take this opportunity to welcome and acknowledge the presence in our midst today of three members of the Indian Parliament, namely, Mr. Palani Gounder Nagarajan, Mrs. Ratna De Nag and Mr. Gajendrasingh Shekhawat.

Mr. Obradović (Serbia): It is my honour to address the General Assembly today as the representative of the Republic of Serbia. I would like to welcome Judge Carmel Agius, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), and Judge Theodor Meron, President of the International Residual Mechanism for Criminal Tribunals, and thank them for their annual reports (see A/71/263 and A/71/262).

Before I proceed, I would like to note that Serbia aligns itself with the statement made on this subject today by the observer of the European Union.

International courts and tribunals can hardly be expected to achieve their objectives without the cooperation and support of the States Members of the United Nations. In that respect, my country's

cooperation with and support for the Tribunal and the Mechanism have been very important indeed. All along, Serbia has consistently complied with its international obligations, and no request made of it has remained unaddressed. It has surrendered the greatest number of persons accused by the Tribunal, including the highest-ranking Government officials, and has had an extensive role in making sure that no fugitive indicted for core international crimes is now on the loose.

Serbia also provided the ICTY with important evidence. It received 3,505 requests for assistance concerning access to documents, State archives and witnesses — 2,177 from the Office of the Prosecutor and 1,328 from defence counsel teams — and there are no pending cases, except for those in which requests have been issued only very recently. Serbia carried out all the orders of the judicial chambers for delivering subpoenae ad testificandum in time. All witnesses for whom waivers in respect of State, military or official secrets were requested were allowed to testify freely. All requests for witness protection in the territory of Serbia were complied with. All conditions under which the Tribunal ordered the provisional release of accused persons were honoured and monitored by the relevant Government agencies, and in all those cases the accused were returned to ICTY detention, in accordance with the Tribunal's orders and decisions.

However, the recent delay in cooperation in the matter of the Trial Chamber's arrest warrants issued against three individuals indicted in a case of contempt of court resulted from a decision of the High Court in Belgrade dated 18 May 2016. The Court decided that the legal conditions for the execution of the Tribunal's warrants had not been met in that case, on the basis of the stipulation in the domestic law on cooperation with the ICTY that provides that only indictments for core statutory crimes — namely, grave breaches of the Geneva Conventions of 1949, violations of the laws or customs of war, genocide, and crimes against humanity — can constitute legal grounds for executing ICTY arrest warrants, while an indictment for contempt of court, which is not a crime under the ICTY statute, does not. The High Court decision does not, however, stand in the way of Serbia's cooperation with the ICTY and its resolve to help the Tribunal accomplish its mission.

Since 2009, Serbia has pleaded with the United Nations to sign an agreement with the Tribunal on the enforcement of sentences in its penal institutions.

Yet despite the fact that my country signed such an agreement with the International Criminal Court in 2011, no progress has been made on a similar agreement with the ICTY, nor have the relevant organs of the United Nations accorded proper attention to the humanitarian aspect of the request. It is clear that the May 1993 recommendation of the Secretary-General to the Security Council to the effect that the enforcement of sentences should take place outside the territory of the former Yugoslavia remains in place. However, although that position may have been considered justified in 1993, when the former Yugoslavia was riven by war and experienced grave breaches of international humanitarian law, it is clear that the logic behind, and justification for, this recommendation are no longer valid today.

Serbia's request is motivated by the following considerations. The treatment of convicted persons varies from country to country and depends on the specific conditions of incarceration. The difference, however, is not rooted in the Trial Chambers' decisions. The relevant United Nations organs would be hard pressed to explain why two persons sentenced to imprisonment for identical terms would serve their sentences under different conditions, nor could the United Nations organs provide a rationale for such inconsistency. In some cases, the convicted persons, most often politicians, army generals and other Government officials, are accorded no special treatment to reflect the specific nature of their previous responsibilities.

Many of these persons serve their sentences in penitentiaries that are thousands of kilometres away from their country and their society. As a result, they do not understand the language or culture of the prison community in which they find themselves, and many of them do not receive regular visits from their families. That makes them doubly isolated — from outside society and from their fellow prison inmates. These persons often mistrust recommendations for treatment or therapy simply because they do not understand the language. Furthermore, they receive no organized legal aid consistent with the specific procedures of the jurisdiction where they had been convicted.

The Government of the Republic of Serbia is ready to take responsibility for the enforcement of sentences passed by the ICTY, accept international monitoring and provide guarantees that no early release will be allowed without prior authorization from the

Mechanism. My Government will raise this issue in the Security Council at its December meeting on the ICTY completion strategy.

In conclusion, let me point out that Serbia has achieved significant results in the domestic prosecution of the grave breaches of international humanitarian law perpetrated during the armed conflict in the former Yugoslavia. Proceedings in these cases take place without discrimination based on the national, ethnic or religious origin of the perpetrator or the victim. We must not be deterred in our efforts to bring about reconciliation and cooperation, which includes through trying those responsible for crimes in domestic courts. The victims deserve justice.

Serbia will continue its cooperation with both the ICTY and the Mechanism.

Mrs. Biden Owens (United States of America): The United States thanks President Meron for his report on the work of the International Residual Mechanism for Criminal Tribunals (see A/71/262) and for his leadership and contributions to advancing justice for victims of the worst atrocities committed in the former Yugoslavia and Rwanda. We also thank President Agius for his leadership of the International Criminal Tribunal for the Former Yugoslavia (ICTY). The diligence and determination of jurists at these Tribunals to bring to justice those responsible for committing the worst crimes known to humankind — genocide, war crimes and crimes against humanity — serve as a model for future international criminal-justice institutions and as a warning to potential perpetrators that there can be no impunity for atrocity crimes. It is a special honour for me in particular, to participate in today's important debate as the representative of the United States.

With regard to the work of the ICTY, the United States continues to support the Tribunal's important work in moving thoroughly and expeditiously forward to render verdicts in cases that serve the broader needs of justice, while protecting the rights of the accused. We have confidence that the ICTY can meet its commitment of completing its work by the end of 2017. Accordingly, the United States would like to reiterate the importance of the full cooperation of all States concerned with the ICTY, including with respect to the execution of arrest warrants issued by the ICTY for three individuals in a contempt case.

Turning now to the International Residual Mechanism for Criminal Tribunals, the United States

commends the Mechanism's efforts to assist national jurisdictions. The pursuit of justice for victims in Rwanda and the former Yugoslavia must not end with the closure of the ICTY and the International Criminal Tribunal for Rwanda (ICTR). While both the ICTR and the ICTY have successfully tried many high-level perpetrators, further accountability for the crimes committed now depends upon fair and effective trials for mid- and low-level perpetrators in national courts. The United States recognizes the great depth of expertise and breadth of evidence that the Tribunal counsel, judges and staff can bring to bear in assisting national prosecutions, and supports the Mechanism's efforts to assist national justice sectors.

The United States furthermore supports the Mechanism's giving high priority to the locating and arrest of the remaining fugitives from the ICTR. The international community must not relent in the pursuit of these defendants, whose names and associated heinous allegations bear repeating.

Fulgence Kayishema is accused of orchestrating the massacre of thousands. Charles Sikubwabo is accused of instigating massacres at a church. Aloys Ndimbati, a former mayor, is accused of being directly involved in these massacres. Augustin Bizimana, the former Defence Minister of the interim Rwandan Government, is alleged to have controlled the nation's armed forces in preparing and planning for the genocide campaign and in preparing lists of people to be killed. Charles Ryandikayo is alleged to have participated in the massacre of thousands of men, women and children who had congregated in a church, and directed militants and gendarmes to attack the church with guns, grenades and other weapons. Pheneas Munyarugarama, a former lieutenant colonel in the Rwandan Army, allegedly helped to direct and take part in the systematic killing of Tutsi refugees fleeing the fighting; Félicien Kabuga, the alleged main financier and backer of the political and militia groups that committed the genocide, is also accused of transporting the death squad in his company's trucks. Finally, Protais Mpiranya, Commander of the Rwandan Presidential Guard, allegedly directed his soldiers to kill the sitting Rwandan Prime Minister and the 10 United Nations peacekeepers guarding her home.

We must continue to recall those names and deeds until each and every one of those men stands to answer for their alleged actions. Recognizing that State cooperation will be essential for their capture, the United States remains unwavering in its commitment

to ensuring that the eight fugitives are apprehended and brought to justice. We continue to offer a reward of up to \$5 million for information leading to the arrest or transfer of the fugitives.

The United States would like to express its concern with respect to the impact of Judge Akay's detention on the important work of the Mechanism. Judge Akay was arrested during a period of time when he was working on the Mechanism's case. In that regard, we recall that the statute of the Mechanism provides for judges to work remotely, except for sittings or as directed by the President. With that in mind, we hope that the matter can be resolved expeditiously and in a transparent manner.

As the Mechanism commences its next phase of operations, we commend President Meron for his judicious leadership in ensuring the seamless transfer of functions from the ICTY and the ICTR to the Mechanism. Although the size and functions of the Mechanism will diminish over time, a great deal of work remains to be done, and its importance remains as central as ever.

Because of these Tribunals, the victims of horrific atrocities have received a meaningful measure of justice, and the international community has greatly advanced international peace and security via justice and accountability for atrocities committed over the past 20 years. The successful completion of the work of the Mechanism will serve to prove that justice is not a distraction from the work of achieving international peace and security, but the essence of it.

Mr. Drobnyak (Croatia): Croatia aligns itself with the statement delivered earlier today by the observer of the European Union. I will add a few points in my national capacity.

First of all, allow me to welcome the President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), Judge Agius, and to thank him for his report (see A/71/263). We commend him as well as Prosecutor Brammertz for their important work and for the continued efforts of the ICTY to ensure accountability and promote the fight against impunity.

During the reporting period, the Tribunal also saw a change in leadership. Allow me now to pay tribute to the former ICTY President and current President of the International Residual Mechanism for Criminal Tribunals, Judge Meron, whose leadership ensured important progress in ending impunity and

pivotal achievements in the proper interpretation and application of international humanitarian law.

We welcome the fact that the Residual Mechanism is assuming responsibility for all aspects of the Tribunal's important work, and we praise the continuing progress in that regard. Croatia stands firm in its position that full cooperation with the ICTY must be ensured and that both the Tribunal and the Mechanism must receive all the necessary support for completing their mandates in time.

Croatia carefully follows all remaining cases before the Tribunal and expects their swift and efficient conclusion. We strongly believe that this final chapter in the work of the Tribunal, a body that irreversibly shaped contemporary international criminal justice and our attitude towards impunity, will live up to its expectations, in particular with regard to the scrupulous interpretation and appropriate implementation of international humanitarian and human rights law.

Croatia welcomes the fact that all 161 individuals indicted by the ICTY for serious violations of international humanitarian law in the former Yugoslavia have been accounted for. At the same time, regrettably, not all of them were prosecuted to the point of delivery of a final judicial verdict, as was seen in the notorious case of Slobodan Milošević and the more recent case of Goran Hadžić, which was terminated on 22 July following the death of the accused. As a result, full justice for their countless victims was not properly served.

Full cooperation with the ICTY is of paramount importance, as much for the credibility of the Tribunal as for its efficiency. We therefore share the Tribunal's serious concerns about the continued non-cooperation of Serbia. As President Meron, President Agius and Prosecutor Brammertz have reported to the Security Council more than once, and as stated in the report before us, arrest warrants for three indictees have been pending execution since January 2015. This matter must not fade from our attention until it is fully resolved.

Croatia is deeply concerned about parallel developments outlined in the report, such as the failure of the Serbian judiciary to enforce the sentence imposed by the State Court of Bosnia and Herzegovina, or "the continued glorification of war criminals in Serbia" (A/71/263, para. 52). We have said it before, and I shall repeat it here today: convicted war criminals have no place on ceremonial stages and in public and

political life. They belong on the margins of society as an eternal reminder of failed policies that led to unspeakable atrocities.

Mr. Pecsteen de Buytsverve (Belgium), Vice-President, took the Chair.

In the debate in the Sixth Committee, Croatia carefully elaborated its position regarding Serbia's law on the organization and competence of Government authorities in war crimes proceedings. I would therefore simply add that the law, which in our opinion is neither universal nor ancillary nor politically neutral in its application, hinders successful regional cooperation in criminal matters.

Under its completion strategy, the ICTY has transferred a number of cases to national courts. In parallel, domestic prosecutors and courts can also initiate cases without any involvement by the ICTY. In that regard, it is of the utmost importance to refrain from engaging in any form of manipulation of investigation or prosecution processes. The work of the judiciary must remain impartial and independent and remain outside and above daily politics, which carries particular significance in the prosecution of war crimes.

Croatia is considering with interest a proposal for a series of Tribunal legacy and closing events developed within the Office of the President and in consultation with representatives of the Registry, the Office of the Prosecutor and the Association of Defence Counsel. Croatia is ready to take part in those events, engage in discussions on how best to ensure the Tribunal's lasting legacy and share its own experiences with the Tribunal.

As stated in previous debates on this matter, the important legacy of the ICTY is not entirely without flaw or controversy. Nevertheless, that fact should in no way tarnish the Tribunal's overall record and historic legacy in the area of international criminal justice. Rather, they should serve as an important lessons learned for the benefit of other stakeholders in this field, in particular the International Criminal Court.

In conclusion, we reiterate the importance of full cooperation with the Tribunal and express our firm support for its work. At the same time, we look towards the completion of the ICTY mandate, the timely closure of the Tribunal and for smooth and efficient transition processes for both branches of the Mechanism.

Mr. Barros Melet (Chile) (*spoke in Spanish*): Chile would like to reiterate its appreciation for the work of

the International Criminal Tribunal for the Former Yugoslavia and the International Residual Mechanism for Criminal Tribunals. We are aware of their notable contributions to international justice. That is especially reflected in their struggle for accountability, for an end to impunity and for the progressive development of international law.

Our sincere thanks go to President Carmel Agius and President Theodor Meron for their excellent leadership, which is reflected in the detailed reports (see A/71/263 and A/71/262) presented to us today in the General Assembly. We note that the activities carried out by those bodies during the reporting period demonstrate their commitment to complete the pending procedures expeditiously and in accordance with the rules of due process.

Likewise, we note that the Tribunal continues to successfully transition its functions to the International Residual Mechanism for Criminal Tribunals, with the assistance of the United Nations Office of Legal Affairs and the Informal Group on International Tribunals of the Security Council, chaired by Uruguay.

However, we believe that it is necessary to join in the urgent call for greater international cooperation, especially in those situations where the Office of the Prosecutor has highlighted State inaction in the execution of arrest warrants issued by the Tribunal. Good practices in the field of international criminal justice should be observed by each and every one of the Members of the United Nations, without exception. Similarly, my country calls for correct adherence to the principles of universal jurisdiction and complementarity, on the understanding that they are fundamental for an international society that is rooted in the rule of law, to which we all aspire.

Finally, my country fully supports the implementation of an appropriate completion strategy for the closure of the Tribunal, including administrative solutions for its human resources, in compliance with the respective mandates, in order to guarantee the effectiveness and efficiency required.

Mr. Manongi (United Republic of Tanzania): The United Republic of Tanzania welcomes the twenty-third annual report (see A/71/263) of the International Tribunal for the Former Yugoslavia (ICTY), presented here today by the President of the Tribunal, Judge Carmel Agius, whom we congratulate on his assumption

of the presidency of the Tribunal. We also congratulate Judge Liu Daqun on his election as Vice-President.

We are gratified that the judges of the Appeals Chamber have delivered judgments in the final appeals in the *Butare* case from the International Criminal Tribunal for Rwanda (ICTR). That moves us closer to bringing to account those who had opened a dark chapter in the history of Rwanda, Africa and the world.

We commend the efforts by the Registrar to coordinate the arrangements necessary for the downsizing of the Tribunal's operations and for transferring its responsibilities to the International Residual Mechanism for Criminal Tribunals as part of its completion strategy. With the completion of the Tribunal's mandate approaching, it is critical that war-crimes cases transferred to national jurisdictions for prosecution not only be prosecuted in a timely manner, but also be seen to be prosecuted fairly and openly. Furthermore, national offices undertaking those responsibilities need to be supported in order to ensure accountability.

We note the efforts undertaken by the Office of the President and the Registrar to address the increasing challenges of staff attrition and staff morale as the Tribunal winds down its judicial mandate. While welcoming those efforts, we wish to advise the sharing of the lessons learned and best practices in the ICTY completion with those involved in the completion of the work of the ICTR. We commend the close collaboration between the Tribunal's Office of the Prosecutor with that of the Prosecutor of the Mechanism as the Tribunal continues to downsize posts and implement a resource-sharing policy.

We appreciate that, as ICTY approaches the end of its life, matters regarding its legacy in the former Yugoslavia — and we would like to add, beyond the region — have assumed greater significance. We join in urging full cooperation with the Tribunal. To us, the legacies of both of the International Criminal Tribunals are of special significance and an admonition to the humanity that we all share.

The United Republic of Tanzania also welcomes the note by the Secretary-General submitting the fourth annual report (see A/71/263) of the International Residual Mechanism for Criminal Tribunals. We wish to commend progress towards the completion, within the budget, of the construction of the new premises of the Mechanism in Arusha, Tanzania. In that regard, we

particularly thank the Registrar, Mr. John Hocking, for his leadership and cooperation.

The establishment of the Mechanism was, among other things, intended to ensure the preservation of the legacies of the Tribunals. It is gratifying that the Mechanism, operating from its branch Offices in Arusha and in The Hague, continues to discharge its responsibilities efficiently, fairly and diligently. It is encouraging to note that coordination undertaken by the Mechanism with other tribunals is focusing on ensuring an efficient and seamless transfer of functions and responsibilities.

The activities of the Office of the Prosecutor show the beginning of a period of intense trial and appeals work. That stage of litigation will have its unique challenges and requires the support and cooperation of the United Nations and its Members. We endorse continuing efforts to locate and arrest the remaining fugitives indicted by the ICTR. We commend the readiness of the Prosecutor to work with and support national jurisdictions in the litigation of the cases referred to national prosecution.

The report expresses concern regarding a trend on the part of convicted persons to seek a review and possible revocation of their convictions handed down by the ICTR and the ICTY. Doubtlessly, such applications need to be approached with great caution so as to prevent frivolous claims and preserve the integrity of the convictions previously made, while also ensuring that justice is done.

It needs to be pointed out that issues pertaining to supporting and protecting witnesses deserve greater and more humane attention. Many witnesses appearing before the Tribunals have also been victims and have suffered serious emotional and psychological impacts. It would be useful to ensure that their support continues to be at the heart of the continuing mandate of the Mechanism. In addition, acquitted persons and those who have served their sentences have rights too. The continued presence in Arusha of persons who have been acquitted or released by the judicial process but do not have States that would receive them must be a matter of concern to all of us. We urge increased efforts to ensure the relocation of those individuals and to uphold the equally important element of the rule of law.

Finally, we want to acknowledge and commend the seamless transfer of the work of the International Criminal Tribunal for Rwanda to that of the Mechanism

following the closure of the Tribunal in December 2015. It was an effort overseen by many in Arusha, The Hague and New York, including the Office of the Legal Counsel. They all deserve our gratitude and thanks.

Mr. Zagaynov (Russian Federation) (*spoke in Russian*): We would like to thank the leadership of the International Tribunal for the Former Yugoslavia (ICTY) and the International Residual Mechanism for Criminal Tribunals for the reports (see A/71/263 and A/71/262) on their activities submitted to the General Assembly.

The Russian delegation has been following very closely information concerning the costs of the proceedings at the ICTY, since, as we know, the Tribunal has gone beyond the deadline set for concluding its activities in Security Council resolution 1966 (2010). We welcome the determined commitment of the new leadership of the ICTY to conclude all cases at the Tribunal by November 2017 and to follow the recommendations contained in paragraph 6 of the report on efforts to prevent delays. However, we would like to note that the issues concerning the loss of staff, to which that paragraph refers, cannot justify any further delays in the proceedings. Accordingly, the Security Council will attempt to facilitate the smooth functioning of the ICTY. Only a short time ago, Security Council resolution 2306 (2016) amended the Tribunal's Statute, which enabled the Secretary-General to appoint a former judge of either the Tribunal or its counterpart for Rwanda to serve on the Tribunal's Appeals Chamber. We hope that the Tribunal's management will shoulder its share of the work and find effective personnel solutions.

The staff of the Tribunal and the Residual Mechanism are adequately supported financially and materially. Let us point out, nevertheless, that various types of awards and grants are not part of the conditions of service at the United Nations, a fact that has repeatedly been brought to the Tribunal's attention. With regard to the contempt of court case, initiated by the Tribunal in the concluding proceedings against Vojislav Šešelj, such charges are not part of the main business of the Tribunal. The statute of the ICTY does not cover such matters, as it was conceived in Security Council resolutions. Jurisdiction over such issues was established by the Tribunal itself through its own rules of procedure. In that regard, we believe that the winding down of the proceedings of the ICTY cannot be allowed to be affected by contempt of court cases.

The Residual Mechanism's docket grew significantly during the reporting period, with a first-instance trial and two appeals cases before it. We would be grateful for more detailed information on the estimated duration of those cases and the approximate dates of their completion.

We recall that, pursuant to Security Council resolution 1966 (2010), the Mechanism is a temporary structure. We expect it to work as efficiently as possible in terms of upholding the standards of the administration of justice, including abiding by deadlines for proceedings. In that regard, we call on the leadership of the Mechanism to make full use of the statute's existing provisions.

The Acting President (*spoke in French*): May I take it that it is the wish of the Assembly to take note of the twenty-third annual report 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?

It was so decided.

The Acting President (*spoke in French*): May I take it that it is the wish of the Assembly to take note of the fourth annual report of the International Residual Mechanism for Criminal Tribunals?

It was so decided.

The Acting President (*spoke in French*): A representative has asked to speak in the exercise of the right of reply. May I remind Member States that statements in the exercise of the right of reply are limited to 10 minutes for the first intervention and to five minutes for the second intervention, and should be made by delegations from their seats.

I now give the floor to the representative of Turkey.

Mr. Begeç (Turkey): In his briefing, Judge Meron mentioned my country and at least one Turkish national. Aydin Sefa Akay is indeed a Turkish national who was nominated by Turkey and elected as a judge to the International Residual Mechanism for Criminal Tribunals in 2011. His term was automatically extended for a period of two years last June. He was detained in Turkey following the decision of a competent court in Turkey because of criminal charges filed against him, which are outside of the scope of his function as a judge of the Mechanism. The investigation is ongoing

within the framework of the rule of law and in line with Turkish national procedures. In that regard, it is a matter of regret that Mr. Meron, who spoke at length of the independence of the judges of international tribunals in his statement, did not show the same sensitivity with regard to the independence of the judges of a Member State. We cannot concur with an approach that calls for interference in the ongoing judicial processes of a Member State, and we call for greater respect in that regard.

Immunity based on United Nations functions cannot be used and abused as a pretext to develop or promote a culture of impunity. Nobody is above the law. To suggest otherwise is wrong. We should have learned that from the cases involving United Nations mission personnel in Africa. With regard to the alleged impediment caused to the efficient work of the Mechanism, I would like to recall in particular, with Judge Meron in mind, the provisions for filling vacancies among judges, which are set in the rules of procedure of the Mechanism. Mr. Meron has chosen solidarity with a fellow colleague over his responsibility to ensure the efficient and effective functioning of the Mechanism. He has purposely not used the power vested in him by the Security Council, thereby inevitably putting himself in a position of responsibility for the delay of the administration of justice in the *Ngirabatware* case.

It is also worth emphasizing that Mr. Akay was assigned to the management of the Mechanism by Mr. Meron only 10 days following the coup attempt in Turkey on 15 July. We therefore call on Mr. Meron to respect the independence of the judiciaries of Member States and not to use the Akay case to cover the slowness of the Mechanism's functioning. He should rather use his powers to ensure the timely administration of justice in the *Ngirabatware* case.

I reiterate that no one is above the law, whether it be with regard to the commission of a crime, an offense or a felony. No act of terrorism, sexual assault or murder can be condoned on the grounds of diplomatic immunity. We reject any effort to establish impunity on such a basis.

Finally, the concern expressed by the United States delegation must be the result of poor knowledge of the rules of procedure of the Mechanism, as vacancies in judges' positions can easily be filled by invoking the existing rules of procedure. Perhaps the United States should advise Mr. Meron in that regard.

The Acting President (*spoke in French*): May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 71?

It was so decided.

The Acting President (*spoke in French*): The General Assembly has thus concluded this stage of its consideration of agenda item 129.

The meeting rose at 11.50 a.m.