

Statement by

H.E. Mr. Vladimir Drobnyak
Permanent Representative of
the Republic of Croatia

at the

Security Council Debate
on
ICTY/ICTR

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Mr. President,

Let me start by welcoming honorable Presidents of the International Criminal Tribunal for former Yugoslavia and the International Criminal Tribunal for Rwanda, Judges Meron and Joensen, as well as distinguished Prosecutors Brammertz and Jallow.

We commend their important work and appreciate comprehensive reports on the work of the Tribunals and the International Residual Mechanism for Criminal Tribunals in the reporting period.

Mr. President,

There is an appropriate symbolism in the date of today's Security Council meeting: today we celebrate the Human Rights Day; yesterday we commemorated the Genocide Convention Day. The issues we are discussing now fit properly into both categories.

As the ICTY prepares to bring its work to the final conclusion, after more than two decades of existence, there has been an increasing focus on the question of the legacy that the Tribunal leaves behind. The *ad hoc* Tribunals have been widely praised for playing a pioneering role in the development and implementation of the international criminal law. The ICTY has produced an impressive body of jurisprudence in the field of international humanitarian law and international criminal procedure.

The Tribunal has contributed to putting an end to the culture of impunity, providing an incentive for domestic judiciaries to conduct proceedings impartially and to incorporate international legal standards. Due to the existence of the Tribunal, voices of victims are being heard and written historical records established. This is a worthy legacy.

There is no doubt that the Tribunal's principal contribution to the peace and security, regional stability and reconciliation is by establishing the undisputed facts and individual criminal responsibility, and by bringing to justice the persons who are responsible for widespread and flagrant violations of international humanitarian law. The road toward justice is not an easy one, but at its very end lays the true peace and appeasement.

Mr. President,

As many would say - "Justice delayed is justice denied". In our view a speedy trial resulting in a court decision - a conviction or an acquittal - represents not only one of the most essential rights of the

accused, but also an equally essential right of the victims. Protracted proceedings may lead to the weakening of the public trust in the international justice and its appropriate administration.

In that context, let us not forget the case of the mastermind of the terrible events in the former Yugoslavia - Slobodan Milošević - where the proceedings lasted so long that his death thwarted his deserved conviction. Very long trials, measured not in months but in too many years, are not an exception in the ICTY practice, but unfortunately the rule.

Vojislav Šešelj, notorious for his warmongering, was indicted in 2003 with war crimes and crimes against humanity, as well as with making inflammatory speeches spreading hatred in the media and during public events – and as regards the latter, these are precisely the activities Šešelj is carrying out as we speak. ICTY indictment against Šešelj, it is worth noting, is 33 pages long. He was advocating an ideology which left thousands of deaths and horrible crimes, destruction and suffering behind.

If the Tribunal's procedures or decisions are perceived by the general public, especially by the victims, as unjust or grossly imbalanced, they could produce quite an opposite effect. Such negative perception can be the result of a number of factors, including, in particular, lengthy trials, such as in the case of Vojislav Šešelj, notwithstanding the fact that he contributed to it to the great extent by himself.

Mr. President,

Šešelj was released for humanitarian reasons, but the present consequences of this decision are anything but humanitarian. It is difficult to understand, to say the least, that Šešelj was released with no clear conditions attached to his activities and conduct. The fact that he is abusing his temporary freedom to the fullest extent comes as no surprise to anyone familiar with his indictment and behavior demonstrated during the trial.

The basic conditions for provisional release as provided by the Rules of Procedure and Evidence, stipulate that an accused provisionally released must not in any way obstruct proceedings and harm by his deeds the fundamentals of international justice, for which the ICTY was established. The potential escalation of Vojislav Šešelj's political activities and the danger that his hate speech might gain new advocates, as well as followers, are inflicting an increasing damage to the very foundations of peace and stability in South East Europe.

To wait for more than 11 years for the justice to be served is painful and difficult enough. To see that the accused is set free to continue with his inflammatory speeches and scandalous provocations, for which he has been on trial, is beyond difficult. It is utterly unacceptable and insulting.

Because of all this the President of the Republic of Croatia, Ivo Josipović, has decided to draw attention of the Tribunal and the Security Council to the impact of the Trial Chamber's decision to allow the temporary release of Vojislav Šešelj. His letter has been distributed as the document of the Security Council and the General Assembly and we hope that the Member States took a good note of it.

On 26 November 2014 the Croatian Parliament adopted the Declaration with regard to the ICTY decision on Šešelj's provisional release, expressing its deep concern.

We highly commend prosecutor Bramertz's recent motion to the Tribunal demanding that Šešelj's temporary release be revoked, based on his well-founded opinion that the Tribunal's trust in Šešelj's conduct was without foundation. We expect this motion to be processed rapidly.

Mr. President,

The ICTY describes its role (on its official web-page) as follows: (quote) "The Tribunal has contributed to an indisputable historical record, combating denial and helping communities come to terms with their recent history. Crimes across the region can no longer be denied." (end of quote). By

provisionally releasing Šešelj this noble goals have been not only ignored but seriously compromised as well.

Šešelj is now mocking both the victims and the international criminal justice. Through his speeches he spreads the hatred which led to the war in former Yugoslavia. While we are not questioning the legal foundation of the Tribunal's decision, we have to say loud and clear: releasing Šešelj is nothing short of the cynical laughter in the faces of his countless victims.

Bearing in mind irritating, abusive and highly dangerous behavior of Šešelj, Croatia sincerely hopes that many will join us in voicing its discontent and calling for putting a definitive end to it.

For that matter it is worth noting that the European Parliament adopted on 27 November 2014 in Brussels the Resolution on the case of Šešelj, strongly condemning his warmongering and deploring his provocative public activities. This resolution notes with concern that the absence of an adequate political reaction and legal response by the Serbian authorities regarding Šešelj's behavior undermines the trust of the victims in the judicial process. At the same time the European Parliament, in the mentioned resolution, encourages the ICTY to take determined actions to reaffirm confidence in the ICTY weakened by Šešelj's appalling and inadmissible public statements.

We hope that the messages contained in this important resolution will be taken seriously by all concerned.

Some of us were present in this very room, more than 21 years ago, when the Security Council adopted resolution 827 establishing the ICTY. Croatia came a long way since then, becoming the European Union and the NATO Member State, the anchor of stability and cooperation in the region. The last thing we need today, while facing together with the international community all new challenges of the 21st century, is an indicted war criminal set loose to re-ignite ghosts from the past, stirring hatred and national intolerance. All who can stop that, both through legal action and public statements, must do their utmost. Inaction in this regard is not an acceptable option.

Mr President,

Croatia supports and will continue to support both, the immediate goal of the ICTY to end impunity and prosecute those responsible for the most serious crimes in the former Yugoslavia, as well as its more ambitious and long-term goal to contribute to lasting peace in the region.

We fully respect the independence of the Tribunal and its Trial and Appeal Chambers and are well aware of the challenges they are faced with. We also agree that reconciliation and confidence building must primarily come from within societies. However, the Tribunal does not exist in a vacuum, and its decisions do have impact on the ground, either positive or negative. It would not be prudent to ignore this important fact.

Clearly, the decision to provisionally release a person that has been charged with numerous war crimes committed in Bosnia and Herzegovina and in Croatia can only add to growing distrust regarding international tribunals and justice they provide, even among those who are strong proponents of the international criminal law.

Finally, Mr. President, let me reiterate our full and continuous support to the work of the Tribunal, despite the criticism that Croatia has voiced today or on previous occasions. We shall continue to cooperate fully with the Tribunal and we hope that the lessons learned will be used appropriately for the improvement of international criminal justice and future work of the International Criminal Court, which Croatia strongly supports.

Thank you Mr. President.