



Security Council

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Letter dated 11 May 2021 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council

Pursuant to my responsibilities as President of the International Residual Mechanism for Criminal Tribunals and the decision of 16 April 2021 issued by Judge Liu Daqun, I write to report that Serbia continues to fail to comply with its international obligations to arrest Petar Jojić and Vjerica Radeta and surrender them to the Mechanism.

The accused, who reside in Serbia, are charged in the *Case Against Petar Jojić and Vjerica Radeta* before the Mechanism with contempt of the International Tribunal for the Former Yugoslavia for having threatened, intimidated, offered bribes to, or otherwise interfered with witnesses in the case of *Prosecutor v. Vojislav Šešelj*. Interference with the administration of justice, such as that alleged in this case, undermines the integrity of judicial proceedings and has a chilling effect on the willingness of actual or potential witnesses to provide evidence in trials concerning international crimes.

I note that this unfortunate state of affairs has been ongoing for more than six years. Warrants for arrest and orders for surrender pertaining to the accused were first issued by the Tribunal on 19 January 2015. Following the transfer of the case to the Mechanism, new arrest warrants and orders for surrender were issued by Judge Liu on 13 May 2019. Serbia has therefore had ample time and opportunity to execute the arrest warrants and orders for surrender, but to date has taken no action towards doing so. By failing to comply with the orders issued by the Tribunal and the Mechanism, Serbia ignores its obligations under Security Council resolution [1966 \(2010\)](#) and defies the Security Council acting under Chapter VII of the Charter of the United Nations.

Moreover, I regret that this is the third time that the non-compliance of Serbia in this same matter is being referred to the Security Council. Serbia was first referred to the Council, confidentially, by the President of the Tribunal on 13 October 2015, and then for a second time on 1 March 2017, publicly, as contained in document [S/2017/180](#). This protracted situation has also been mentioned in numerous reports by both the Tribunal and the Mechanism.

According to article 28 of the statute of the Mechanism, States must comply without undue delay with any request for assistance or order issued by the Mechanism in relation to cases involving persons covered by article 1, which specifically includes persons alleged to have interfered with the administration of justice by the Mechanism or the Tribunal.



The explanations provided by Serbia, namely that there are domestic legal impediments preventing it from executing the arrest warrants and orders for surrender, do not justify its non-compliance. In fact, they fully disregard the Chapter VII obligations of Serbia under paragraph 9 of Security Council resolution [1966 \(2010\)](#), which states:

[...] that all States shall cooperate fully with the Mechanism in accordance with the present resolution and the Statute of the Mechanism and that consequently all States shall take any measures necessary under their domestic law to implement the provisions of the present resolution and the Statute of the Mechanism, including the obligation of States to comply with requests for assistance or orders issued by the Mechanism pursuant to its Statute.

First, it is for Serbia to take any measures necessary to ensure that its domestic law enables its compliance with the international obligations created by Security Council resolution [1966 \(2010\)](#), and that the 2019 arrest warrants and orders for surrender are assessed within that legal framework.

Second, the declaration by Serbia that it is capable of conducting the proceedings itself is immaterial to its obligation to execute the arrest warrants and orders for surrender. Moreover, in his decision of 13 May 2019, Judge Liu rejected this possibility and considered, inter alia, that witnesses critical for the viability of the case were not willing to cooperate with the Serbian authorities for fear of their life and personal safety, which rendered the conduct of the proceedings in Serbia impossible. This decision was subsequently upheld by the Appeals Chamber.

In the current circumstances, it is apparent that only through a fair, transparent and expeditious trial at the Mechanism can the accused be brought to justice. Furthermore, upholding the rule of law through the effective administration of justice is imperative not only for the integrity of judicial proceedings at the international level, but also for promoting justice in the region of the former Yugoslavia.

Finally, the decisions of the Security Council under Chapter VII of the Charter of the United Nations must be adhered to. It is beyond time that Serbia fulfils its international obligations and executes the arrest warrants and orders for surrender of the accused.

For these reasons, I respectfully call upon the Security Council to take the necessary measures to ensure that Serbia fulfils its obligations under the statute of the Mechanism and Security Council resolution [1966 \(2010\)](#). In addition, I appeal to all States Members of the United Nations to do their utmost to ensure that the outstanding international arrest warrants and orders for surrender, as issued on 13 May 2019, are executed as soon as possible.

I should be most grateful if, in your capacity as President of the Security Council for the month of May, you would bring the present letter to the attention of the members of the Security Council and have it circulated as a document of the Council.

(Signed) Carmel **Agius**
President