UN Security Council resolution 1165 (1998) on the International Tribunal for the former Yugoslavia (ICTY)

RESOLUTION 1165 (1998)

Adopted by the Security Council at its 3877th meeting,
on 30 April 1998

The Security Council,

Reaffirming its resolution 955 (1994) of 8 November 1994,

Recalling its decision in that resolution to consider increasing the number of judges and Trial Chambers of the International Tribunal for Rwanda if it becomes necessary,

Remaining convinced that in the particular circumstances of Rwanda, the prosecution of persons responsible for serious violations of international humanitarian law will contribute to the process of national reconciliation and to the restoration and maintenance of peace in Rwanda and in the region,

Stressing the need for international cooperation to strengthen the courts and judicial system of Rwanda, having regard in particular to the necessity for those courts to deal with a large number of accused awaiting trial,

Having considered the letter of the President of the International Tribunal for Rwanda, transmitted by identical letters from the Secretary-General to the Presidents of the Security Council and the General Assembly dated 15 October 1997 (S/1997/812),

Convinced of the need to increase the number of judges and Trial Chambers, in order to enable the International Tribunal for Rwanda to try without delay the large number of accused awaiting trial,

Noting the progress being made in improving the efficient functioning of the International Tribunal for Rwanda, and convinced of the need for its organs to continue their efforts to further such progress,

Acting under Chapter VII of the Charter of the United Nations,

1. Decides to establish a third Trial Chamber of the International Tribunal for Rwanda, and to this end decides to amend articles 10, 11 and 12 of the Statute of the Tribunal and to replace those articles with the provisions set out in the annex to this resolution;

2. Decides that the elections for the judges of the three Trial Chambers shall be held together, for a term of office to expire on 24 May 2003;

3. Decides that, as an exceptional measure to enable the third Trial Chamber to begin to function at the earliest possible date and without prejudice to Article 12, paragraph 5, of the Statute of the International Tribunal for Rwanda, three newly elected judges, designated by the Secretary-General in consultation with the President of the International Tribunal, shall commence their term of office as soon as possible following the elections;

4. Urges all States to cooperate fully with the International Tribunal for Rwanda and its organs in accordance with resolution 955 (1994), and welcomes the cooperation already extended to the International Tribunal in the fulfilment of its mandate;

5. Urges also the organs of the International Tribunal for Rwanda actively to continue their efforts to increase further the efficiency of the work of the International Tribunal in their respective areas and in this connection further calls upon them to consider how their procedures and methods of work could be enhanced, taking into account relevant recommendations in this regard;

6. Requests the Secretary-General to make practical arrangements for the elections mentioned in paragraph 2

above and for enhancing the effective functioning of the International Tribunal for Rwanda, including the timely provision of personnel and facilities, in particular for the third Trial Chamber and related offices of the Prosecutor, and further requests him to keep the Security Council closely informed of progress in this regard;

7. Decides to remain actively seized of the matter.

ANNEX

STATUTE OF THE INTERNATIONAL TRIBUNAL FOR RWANDA

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Article 10

Organization of the International Tribunal for Rwanda

The International Tribunal for Rwanda shall consist of the following organs:

(a) The Chambers, comprising three Trial Chambers and an Appeals Chamber;

(b) The Prosecutor;

(c) A Registry.

Article 11

Composition of the Chambers

The Chambers shall be composed of fourteen independent judges, no two of whom may be nationals of the same State, who shall serve as follows:

(a) Three judges shall serve in each of the Trial Chambers;

(b) Five judges shall serve in the Appeals Chamber.

Article 12

Qualification and election of judges

1. The judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law.

2. The members of the Appeals Chamber 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 (hereinafter referred to as “the International Tribunal for the Former Yugoslavia”) shall also serve as the members of the Appeals Chamber of the International Tribunal for Rwanda.

3. The judges of the Trial Chambers of the International Tribunal for Rwanda shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

(a) The Secretary-General shall invite nominations for judges of the Trial Chambers from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

(b) Within thirty days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in paragraph 1 above, no two of whom shall be of the same nationality and neither of whom shall be of the same nationality as any judge on the Appeals Chamber;

(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received, the Security Council shall establish a list of not less than eighteen and not more than twenty-seven

candidates, taking due account of adequate representation on the International Tribunal for Rwanda of the principal legal systems of the world;

(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list, the General Assembly shall elect the nine judges of the Trial Chambers. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters shall be declared elected. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.

4. In the event of a vacancy in the Trial Chambers, after consultation with the Presidents of the Security Council and the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of paragraph 1 above, for the remainder of the term of office concerned.

5. The judges of the Trial Chambers shall be elected for a term of four years. The terms and conditions of service shall be those of the judges of the International Tribunal for the Former Yugoslavia. They shall be eligible for re-election.