



THE SECRETARY-GENERAL

HR/former Yugoslavia  
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30 July 1997

Dear Mr. President,

The President of the International Tribunal for the Former Yugoslavia has requested, for the reasons set out in his attached letter of 18 June, an extension of the terms of office of the non-elected judges of the International Tribunal in order to allow them to dispose of on-going cases. This matter raises institutional and budgetary questions pertaining to the status of the judges beyond their elected term of office and to related financial arrangements; these were explored in subsequent correspondence with the President, the Prosecutor and the Registrar of the Tribunal.

You may recall that at the election of judges of the International Tribunal by the General Assembly on 20 May 1997, a number of judges currently serving with the Tribunal were not elected for a second term of office. This in particular is the situation of the three judges composing Trial Chamber II sitting in the Celebici case and whose term of office expires on 16 November 1997. If the same judges are not allowed to complete the case, it would be necessary to restart the trial with a new panel of judges and order the rehearings of witnesses and testimonies. At this stage of the proceedings this would unnecessarily prolong the trial and violate the right of the accused to due process of law.

The Statute of the International Tribunal does not contain a provision similar to the one provided for in Article 13, paragraph 3, of the Statute of the International Court of Justice, whereby members of that Court continue to discharge their duties until they are replaced and, thereafter, until they finish any cases which they may have begun. It is, however, provided in Article 13, paragraph 4, of the Statute of the Tribunal that the terms and conditions of service

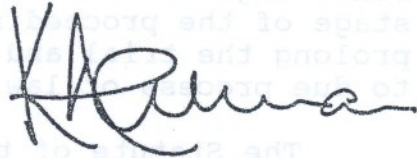
His Excellency  
Mr. Razali Ismail  
President of the General Assembly  
New York

of judges of the Tribunal shall be those of the judges of the International Court of Justice. Nevertheless, in the absence of an explicit statutory provision providing for the extension of the term of office of Tribunal judges to complete ongoing cases, an approval of the Security Council, as the parent organ, and of the General Assembly, as the electing organ, would be desirable to preclude any question about the legality of such an extension.

As more fully elaborated in the letter addressed to me by the President of the International Tribunal, the period required to complete the Celebici case is estimated at one year and the annual budgetary costs are estimated at \$668,480. It is, of course, understood that in the period until the expiration of their elected term of office said judges would be assigned efficiently so as to reduce the period of extension required beyond the end of their elected term to the minimum consistent with due process of law.

I would appreciate it if you could bring this letter and its attachment to the attention of Members of the General Assembly for their approval in the manner they deem fit. I have also addressed a similar letter to the President of the Security Council.

Please accept, Mr. President, the assurances of my highest consideration.



Kofi A. Annan

His Excellency  
Mr. Kofi Annan  
President of the General Assembly  
New York