



## Security Council

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### **Letter dated 18 January 2019 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council**

As President of the International Residual Mechanism for Criminal Tribunals, I have the honour to write to you with regard to paragraph 10 of Security Council resolution [2422 \(2018\)](#), in which the Security Council noted the views and concerns expressed by some Member States during the Security Council debate on 6 June 2018 on the current approach of the Mechanism to grant early release of persons convicted by the International Criminal Tribunal for Rwanda, and encouraged the Mechanism to consider an appropriate solution, including by considering putting in place conditions on early release in appropriate cases.

The discretion to grant early release falls under the authority of the President of the Mechanism in accordance with the Statute and the Rules of Procedure and Evidence of the Mechanism and in consultation with fellow judges as required by the Rules. As I stated when I appeared before the Security Council to provide my final briefing to the Security Council in December 2018, I regret that some of my rulings on matters pertaining to early release have caused pain or concern for victims and their communities. As I have likewise stated, I have reflected at great length about the guidance provided by the Council in its resolution [2422 \(2018\)](#) in relation to this matter and about how best to address this guidance while continuing to ensure adherence to the Statute and Rules of Procedure and Evidence of the Mechanism, jurisprudence and governing legal principles, including the overarching demands of fundamental fairness.

When I appeared before the Council on 11 December 2018, I had already taken certain concrete steps to address the guidance set forth in Security Council resolution [2422 \(2018\)](#). As I bring my term as President of the Mechanism to a close, I wish to take this opportunity to report on further developments in this regard since I briefed the Council on 11 December 2018.

In particular, following my 2017 ruling in the *Beara* case, in which early release was granted subject to certain conditions, I have issued rulings in two additional cases this month (one at each of the Mechanism's two branches) in which, following consultations with some of my fellow judges of the Mechanism, I have granted early release subject to certain conditions being imposed, such as with regard to denials of genocide in the case of a person convicted by the International Criminal Tribunal for Rwanda, and made it clear that, if these conditions are violated, the released individual may be subject to contempt of court proceedings, the possibility of the revocation of the conditions imposed and termination of the conditional release. I have likewise made it clear in the respective decisions that the States to which the



convicted persons will relocate are obligated to cooperate with the Mechanism and to comply with the conditions imposed on the respective convicted persons, pursuant to article 28 of the Mechanism's Statute.

In the years to come, the practice of the Mechanism will no doubt continue to evolve in this important and challenging area of our mandate and decisions granting or denying early release will continue to garner strong reactions in different corners and communities. Whatever changes may arise, I remain confident that, under the able leadership of my successor as President, Judge Carmel Agius, the Mechanism will continue to ensure adherence to the highest legal principles and norms of humane treatment, as I have always strived to do throughout my Presidency.

I should be grateful if you would have the present letter circulated as a document of the Security Council.

*(Signed)* Theodor **Meron**  
President

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