



# Security Council

Distr.: General  
21 December 2020

Original: English

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## Letter dated 18 December 2020 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council

I have the honour to enclose herewith a copy of the briefings provided by Judge Carmel Agius, President of the International Residual Mechanism for Criminal Tribunals, and Mr. Serge Brammertz, Prosecutor of the International Residual Mechanism for Criminal Tribunals, as well as the statements delivered by the representatives of Belgium, China, the Dominican Republic, Estonia, France, Germany, Indonesia, the Niger, the Russian Federation, Saint Vincent and the Grenadines, South Africa, Tunisia, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Viet Nam, in connection with the video-teleconference on “The International Residual Mechanism for Criminal Tribunals” convened on Monday, 14 December 2020. Statements were also delivered by His Excellency Mr. Čedomir Backović, Assistant Minister of Justice of Serbia, and by the representatives of Bosnia and Herzegovina, Croatia and Rwanda.

In accordance with the procedure set out in the letter by the President of the Security Council addressed to the Permanent Representatives of the members of the Security Council dated 7 May 2020 (S/2020/372), which was agreed in the light of the extraordinary circumstances caused by the coronavirus disease pandemic, these briefings and statements will be issued as a document of the Security Council.

*(Signed)* Jerry Matthews **Matjila**  
President of the Security Council



**Annex 1****Statement by the President of the International Residual Mechanism for Criminal Tribunals, Judge Carmel Agius**

[Original: English and French]

It is my sincere pleasure to address the Security Council once again to present the seventeenth progress report of the International Residual Mechanism for Criminal Tribunals (IRMCT). While I regret that we are once again unable to gather in person, I am very honoured to meet with members today, on the eve of an auspicious occasion for the Mechanism and also for the Council.

Next Tuesday, 22 December 2020, will mark 10 years since the Security Council adopted resolution 1966 (2010), by which the Council established the Mechanism. Although the Mechanism did not commence operations until 1 July 2012, with respect to the remaining functions of the International Criminal Tribunal for Rwanda (ICTR), and until 1 July 2013 regarding those of the International Tribunal for the Former Yugoslavia (ICTY), its inception in 2010 was a truly significant moment.

Resolution 1966 (2010) acknowledged the vital contributions made by the two ad hoc Tribunals to international criminal justice, accountability and the rule of law, and sought to build upon them. It symbolized the determination of the international community to continue fighting impunity for serious violations of international humanitarian law and to see the work of the ICTR and the ICTY through until the very end, thereby ensuring that their precious legacies would be strengthened and safeguarded.

On that day almost exactly 10 years ago, the members of the Security Council therefore came together to take the bold step of creating a new kind of judicial institution, which was unique in its purpose, scope and structure and would help close the impunity gap after the ad hoc Tribunals had gone. While it was not the first-ever residual court, the brand new Mechanism was the first entrusted to complete the substantive judicial caseload of its predecessors and ensure that a number of remaining fugitives would be brought to justice.

Remarkably, it was mandated to do so from two branches on different continents, with a roster of 25 independent judges working predominantly from their own countries. Other institutions have been established that mirror the Mechanism in certain respects. However, back in 2010 that was a novel approach within the United Nations system, and more generally.

It is particularly special for the Mechanism to reach this anniversary during a year marking the United Nations own seventy-fifth birthday. Milestone events such as these remind us of our *raison d'être* and allow us to take stock of the progress we have made, as well as how much more remains to be done.

By doing so they encourage us to reaffirm the values that unite us and underlie our daily work, thereby providing fresh impetus for renewed efforts and further refinements. The Mechanism is, as always, proud to form a small part of the bigger story of the United Nations and to be able to contribute to its broader aims. On this occasion, the Mechanism also examines its own record of performance, especially in view of the Council's favourable review of its progress this year, which culminated during the reporting period in the adoption of resolution 2529 (2020).

From the early days of transitional arrangements and double-hatting to navigating the closure of the ad hoc Tribunals and finding its feet as a stand-alone institution, the Mechanism has certainly covered much territory over the years. In addition, we have managed a considerable workload and consolidated the best

practices of two disparate institutions. Throughout, we have remained mindful of the imperative to continually strive for better, more harmonized and more efficient ways of operating within the parameters of our specific mandate. Let me assure the Council that our quest for improvement will not cease.

There is also some satisfaction in marking the Mechanism's tenth birthday at the end of 2020, a year that has tested us more than any other and has allowed us to demonstrate our dedication and resilience and that intrinsic aspect of our nature I mentioned earlier — innovation.

Indeed, the Mechanism recognized at the outset of the coronavirus disease (COVID-19) pandemic that, as a court of law with fundamental responsibilities to accused, detained and convicted persons, as well as victims and witnesses, it was essential to keep functioning. While in-court proceedings were initially affected, work on cases continued around the clock and the Mechanism prepared for the various pandemic-related scenarios that could unfold. It responded by identifying creative solutions that utilize and expand upon the distinctive features built into its legal framework, such as our familiarity with remote working methods and provisions that allow for hearings by remote participation of judges, parties and witnesses.

That flexible approach enabled the Mechanism to remain operational and smoothly resume in-court proceedings once certain restrictions were eased, leading to a number of significant results during the reporting period. That the Mechanism was able to effectively overcome the many challenges of 2020 is a testament to its maturation as an institution, as well as the outstanding commitment of its judges and staff, whom I thank sincerely.

The report before the Council provides ample evidence of the progress made in relation to the Mechanism's judicial caseload, despite the ongoing global health crisis. Notably, the appeal hearing in the case against Ratko Mladić was held at the Mechanism's Hague premises in late August, with four of the five judges of the Appeals Chamber participating by video-teleconference from their own countries. Judicial deliberations and judgement preparation have since continued apace and the case is expected to conclude in May 2021.

Soon afterwards, in September, in-court proceedings resumed in the case against Jovica Stanišić and Franko Simatović, with the Trial Chamber hearing the final five witnesses for the Simatović defence. The evidentiary hearings concluded in October, and judgement is likewise expected by the end of May 2021, once final trial briefs have been filed and closing arguments made.

At the Arusha Branch, the trial in the case against Maximilien Turinabo and others was finally able to commence on 22 October, following similar preparations, and the presentation of witnesses for the prosecution has now concluded. The defence phase will commence in the first part of 2021, with the trial judgement also expected in May.

I wish to alert the Council also to a very recent update in another case. Last week, on 8 December, the single judge seized of the contempt case against Petar Jojić and Vjerica Radeta issued a public decision reiterating the previous request to Serbia to comply with its obligation to transfer the accused to the seat of the Mechanism in The Hague without delay. The single judge decided to remain seized of the matter with a view to ascertaining Serbia's compliance with his decision within 90 days.

In addition to that activity in existing cases, important events took place in relation to fugitives indicted by the ICTR. New pretrial proceedings commenced in the case against Félicien Kabuga, who was transferred to the United Nations Detention Unit in The Hague in October following his arrest earlier in the year. His

initial appearance took place on 11 November, during which a plea of not guilty was entered on his behalf.

Furthermore, the case against fugitive Augustin Bizimana was formally closed during the reporting period, following the filing in October of a Prosecution motion to terminate the proceedings based on proof of the accused's death. Now only six ICTR fugitives remain, and one of them is expected to be tried by the Mechanism. As the Council will later hear from Prosecutor Serge Brammertz, the search for those individuals continues to be a top priority.

Following those developments, the Mechanism is poised to conclude a significant proportion of its pending judicial caseload by the end of May next year. It is almost with a sense of *déjà vu* that I say that because, were it not for COVID-19, the Mechanism would have been able to conclude the existing proceedings in 2020, as anticipated in December 2019.

Nevertheless, rather than to wish for something different, we must continue to mitigate the challenges as best we can and proactively address the reality of our current circumstances. I can confirm that the Mechanism is prepared for what lies ahead. Our judges and staff are aware that the coming months are critical and have been spurred on by the achievements of the reporting period. We are ready to exert all efforts to ensure the completion of the relevant cases by the projected dates, with full regard for the rights of our accused persons.

In connection with the previous point, I wish to emphasize that the Mechanism continues to do its utmost to ensure the safety and well-being of all persons under its supervision, including those in the United Nations detention facilities here in The Hague and in Arusha, as well as the 50 convicted persons serving sentences in 15 Member States. As can be seen in the report before the Council, the Mechanism takes those responsibilities extremely seriously and maintained a system of heightened vigilance during the reporting period, owing to the COVID-19 pandemic.

Under the excellent stewardship of our new Registrar, Mr. Abubacarr Tambadou, the strict measures in place at our detention facilities have been effective to date in protecting our detained persons from exposure to the virus. Such measures are of course a supplement to the medical care already available, and our facilities are subject to inspections by independent monitoring bodies such as the International Committee of the Red Cross. In addition, detainees are free to avail themselves of the Mechanism's comprehensive detention-related complaints procedure and raise concerns before the Chamber seized of the relevant proceedings.

Separately, in order to ensure that the Mechanism's responsibilities vis-à-vis convicted persons continue to be optimally fulfilled, I issued three further orders for COVID-19 updates from enforcement States during the reporting period, the most recent of which extended the reporting period from every 14 days to every month, unless urgent circumstances require otherwise, in recognition of the potential burden of having to provide fortnightly updates during a time when resources are already stretched.

I take this opportunity to express the Mechanism's wholehearted gratitude to each of the enforcement States for their conscientious responses to the pandemic-related orders, as well as their generous cooperation with, and support for, its core mandated activity more generally. In particular, I would like to praise Belgium, which became our fifteenth enforcement State in September. The Mechanism looks forward to being able to share further news in the near future regarding other enforcement-related developments.

The enforcement of sentences is only one area in which the Mechanism has benefited immensely from the active cooperation of States since it commenced operating. It has been said before, but bears repeating — the support of Member States is crucial to the Mechanism's ability to effectively discharge its functions, and we will continue to rely on their valuable assistance in the months and years to come, not only in relation to enforcement-related activities but in other areas as wide-ranging as the tracking of remaining fugitives or securing a viable budget that will allow us to conclude our work. An additional issue that I have highlighted on previous occasions is the relocation of the nine acquitted and released persons, who are still waiting in a safe house in Arusha.

While the Mechanism will do everything within its power, it is only with the continued help of Member States that such matters will be resolved in a way that furthers the Mechanism's — and thereby the Security Council's — aims. In that respect, the arrest of Félicien Kabuga by French authorities was an invigorating example of what the Mechanism can achieve with the collaboration and committed efforts of States and other stakeholders.

Following that breakthrough, the Mechanism was also most gratified to note the terms of resolution 2529 (2020), in which the Council urged all States to intensify their cooperation with, and render all the necessary assistance to, the Mechanism regarding the remaining ICTR fugitives, as well as the protracted situation of the nine individuals in Arusha.

The Mechanism is deeply thankful to the Security Council, not only for that most recent expression of support but for all the support provided since the Mechanism was brought into being 10 years ago. The Mechanism is mindful that it owes its very existence to the members of the Council. With the continued backing of Member States and with our dedicated judges and staff ready to meet the challenges of the times, the Mechanism has every reason to be hopeful that it will make important headway during the coming reporting period and ultimately succeed in fulfilling its mandate.

**Annex 2****Statement by the Prosecutor of the International Residual Mechanism for Criminal Tribunals, Serge Brammertz**

[Original: English and French]

I thank you, Sir, for this opportunity to remotely address the Security Council about the activities of the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals. My written report (see S/2020/763) provides details about our activities and results during the reporting period in relation to our strategic priorities. Today I would like to highlight a few important issues.

At the outset, I would like to bring to the Council's attention the continued commitment of the staff of the Office of the Prosecutor, who remain fully focused on completing our important work despite the disruptions and difficulties resulting from the global coronavirus disease (COVID-19) pandemic. The past nine months have been a test for all of us. Yet my Office has maintained full business continuity and is achieving important results inside and outside the courtroom.

I would also like to express my appreciation to President Agius and Registrar Tambaou. As principals, we have worked closely together this year to lead the Mechanism through the challenges it has confronted. I can say without hesitation that cross-organ cooperation is at its highest level in years.

In relation to our trials and appeals, I am pleased to report that in-court proceedings recommenced in late August, only five months after the pandemic forced the Mechanism to shift to remote working. My Office presented its oral appellate arguments in *Mladić*, and we are now awaiting the judgment in that case.

In *Turinabo et al.*, my Office expeditiously presented its witness evidence in only six weeks, consistent with the directions of the single judge. We are now preparing to respond to the defence cases and then make our final submissions. The presentation of evidence in the *Stanišić and Simatović* retrial has been completed. The Prosecution team is working quickly to prepare its final trial brief and closing oral arguments.

In our newest case, *Kabuga*, our work has proceeded well. By August, only two and a half months following the arrest, we established a team in Kigali to prepare the case for trial. We are in the process of contacting witnesses, and the team is reviewing the evidence collected. Travel restrictions and other pandemic-related restrictions are posing challenges that we are working to overcome.

The prosecution is also meeting its pretrial obligations. The initial appearance of Kabuga was held on 11 November in The Hague. Disclosure of material to the defence is already under way. We will file a request for leave to amend the indictment by 15 January and will adhere to further deadlines set by the pre-trial judge.

My Office would like to extend its gratitude to the Government of Rwanda for its strong cooperation in relation to the *Kabuga* case. Our requests for assistance are being promptly and fully answered, and we are being granted swift access to witnesses and documentary records. The efforts of Rwandan authorities are having a direct and positive impact on the expeditious preparation of that case for trial.

With regard to my Office, we remain firmly focused on completing the remaining ad hoc judicial activity as quickly as possible. We look forward to receiving judgments in three cases by the end of May 2021, which will mark important steps towards the achievement of our goals.

With respect to the remaining fugitives indicted by the International Criminal Tribunal for Rwanda (ICTR), my Office has viable leads and is implementing our strategies, with a particular focus on Protais Mpiranya, who will be tried by the Mechanism upon his arrest. In the last three years, my Office confirmed the death of Augustin Bizimana and located two other fugitives.

The Council knows the story of one of them — Félicien Kabuga. As I reported to Council members earlier this year (see S/2020/527, annex 2), my Office identified Kabuga's likely location following an intensive analysis of telecommunications and other data. Thanks to efficient cooperation from French authorities, Kabuga was arrested just a few months later on 16 May 2020.

However, the story of the other — Fulgence Kayishema — is that he remains at large following South Africa's failure to provide effective cooperation over the past two and a half years. My Office alleges that Kayishema, the local police inspector, played an important role in the 16 April 1994 massacre at Nyange Church. In the days leading up to the massacre, 2,000 Tutsi civilians — women, men, children and the elderly — sought refuge in the church.

Initially, militias surrounded the church and launched an attack, including by throwing hand grenades into the packed building. While many were wounded and killed, the refugees resisted, forcing the attackers to retreat. Determined to murder those innocent civilians, local leaders, including Kayishema, brought a bulldozer to the church grounds. In an act of unimaginable brutality and sacrilege, the bulldozer was used to demolish the church with the refugees still inside. More than 1,500 were crushed to death. Survivors who escaped were hunted down and killed.

Kayishema fled from justice and remained a fugitive for years, but almost three years ago my Office finally located him. Relying on records and sources, my Office concluded in early 2018 that Kayishema was living in Cape Town. That was confirmed by South African authorities via INTERPOL in August 2018. We immediately submitted an urgent request for assistance to South Africa seeking his prompt arrest.

We were therefore surprised to be informed that because Kayishema had been granted refugee status in South Africa, he could not be handed over to the Mechanism. The excuse was withdrawn months later and replaced with a new argument that South Africa lacked a legal basis to cooperate with the Mechanism.

After 16 months of intense negotiations, in December 2019, South Africa finally submitted the United Nations arrest warrant for execution, which a local magistrate approved. However, by then Kayishema could no longer be found. It is important to note that my Office has reliable information that Kayishema was present in South Africa as late as October and November 2019, only a few weeks before South Africa reported in the Security Council that the arrest operation was unsuccessful.

Little has improved since then. A year ago, after the failed arrest, my Office submitted an extensive request for assistance detailing information that we required to continue the pursuit of Kayishema. Our request has yet to be satisfactorily answered.

Two months ago in October, it was agreed that my Office would send a technical team to Pretoria to finally receive the requested material. The Foreign Affairs and Justice Ministries convened a number of joint meetings with responsible officials, but the Department of Home Affairs, which has responsibility for key information, did not attend as scheduled.

My Office was then again requested to send last week another mission to specifically meet with the Department of Home Affairs and receive the outstanding documents. To our great surprise, on the last day of the mission, Home Affairs

representatives informed us that Kayishema's refugee file and fingerprints do not exist. That is difficult to understand.

I report those facts to explain why, despite all my Office's efforts, Kayishema remains at large. The situation raises many questions. How can it be that South Africa refused to arrest Kayishema two and a half years ago based on a refugee file that, it is now claimed, does not exist?

Why did the authorities not take obvious measures after being informed that an internationally wanted fugitive indicted for genocide was present in their country? Despite a United Nations warrant calling for Kayishema's immediate arrest, South African authorities did not provisionally detain him or put him under any surveillance to prevent his escape.

Yet what remains most important is that we move forward and finally secure Kayishema's arrest. Let me therefore make this request today to the representative of South Africa to empower operational services — particularly police and prosecutors — to work directly with us on a day-to-day basis and truly give them his Government's full political and diplomatic support, as well as the resources they require to help us.

I am prepared to visit Pretoria in the new year to discuss our further cooperation and agree on a clear joint strategy and operational arrangements. That would also send the right message to other capitals.

I previously mentioned my Office's efforts to engage with Zimbabwean authorities, and I intend to travel to Harare soon for further discussions. To move cooperation in the right direction, we would expect to see a more proactive approach by the Zimbabwean task force. In that regard, effective investigations would need to begin with the acknowledgment that a fugitive is known to have sheltered in Zimbabwe and has deep, long-standing connections with Zimbabwean persons.

Similarly, my team and I will need to return to Kampala to engage in open and frank discussions about the urgent steps needed to remedy long-standing issues. Authorities have acknowledged that a fugitive obtained an official Ugandan passport, but our requests for investigation records and access to persons of interest have not been answered after more than a year.

My Office is determined to account for the remaining fugitives as quickly as possible so that our tracking activities can finally be brought to an end. I know the Council fully shares and supports that goal. But the absence of effective cooperation continues to set back our work and prevent the completion of this critical residual function.

As my Office works to resolve the challenges we face, the firm support of the Council will be vital. Member States should understand that, when my Office requests their cooperation, we are acting with the authority given to us by the Security Council. All of us owe nothing less to the victims and survivors of the 1994 genocide.

My Office's third strategic priority is to assist national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda. We also provide support to authorities searching for persons still missing as a result of the conflicts.

I would now like to briefly update the Council on three important developments.

First, the arrest of Félicien Kabuga has brought renewed attention to continuing national efforts to prosecute alleged génocidaires. Arrests conducted by Belgian and Dutch authorities in September and October, respectively, demonstrate both that



international cooperation is essential and that justice can be achieved in courtrooms around the world. My Office continues to urge full cooperation with the work of the Prosecutor General of Rwanda as he seeks to account for hundreds more fugitives who remain at large.

Secondly, my Office continues to strengthen our direct support to national prosecutors in the countries of the former Yugoslavia. As a result of our efforts, a number of important complex case files have been transferred to Croatia and Serbia. During the reporting period, we also handed over to Montenegrin authorities a requested dossier concerning more than 15 suspects who can now be investigated for serious crimes, including sexual violence.

Those developments present an important opportunity for the States concerned to clearly demonstrate their commitment to full accountability, particularly with respect to senior- and mid-level suspects who have enjoyed safe haven and impunity up to now. My Office will continue to engage directly with our counterparts to support further investigations and prosecutions. Diplomatic support from the European Union and other partners will remain critical.

Lastly, I would like to take this opportunity to reiterate the importance of the search for missing persons in the former Yugoslavia. My Office continues to work closely with the International Committee of the Red Cross and national missing persons authorities. We can report that our efforts have produced significant results.

Through that cooperation between international and national organizations, just a few weeks ago a new mass grave for Kosovo Albanian victims was found at Kizevak, Serbia, where exhumations are now under way. Similarly, in Bosnia and Herzegovina, assistance from my Office contributed to locating four new grave sites during the reporting period.

More than two decades after the end of the conflicts, 10,000 families are still waiting to learn the fate of their loved ones. Accounting for all missing persons is a humanitarian imperative.

In conclusion, my Office is pleased that courtroom proceedings have now resumed and congratulates all Mechanism staff for making this possible despite the COVID-19 pandemic. We are undertaking all efforts to expeditiously complete our work and look forward to the delivery of three judgments in the first half of next year.

The search for the remaining six fugitives indicted by the ICTR continues to be a critical priority. My Office is grateful for the strong support it receives from some Member States, but we are deeply concerned that the lack of cooperation from others significantly hinders our efforts. In order for that work to be successfully completed, it is critical for the Security Council to send an unmistakable message that Member States should treat the matter as an urgent priority and offer my Office their full cooperation.

We are grateful for the continued support of the Council in all of our efforts.

**Annex 3****Statement by the Permanent Representative of Belgium to the United Nations, Philippe Kridelka**

[Original: French]

I thank Judge Carmel Agius and Prosecutor Serge Brammertz for their written reports and enlightening briefings.

Today I would like to address three points — the efforts of the Mechanism to discharge its important mandate in the challenging environment caused by the health crisis; the essential cooperation between the States Members of the United Nations and the Mechanism; and the importance of our duty to remember future generations.

First of all, I would like to underscore that Belgium remains very committed to the mandate of the Mechanism, whose work it continues to fully support. After his arrest in May, Félicien Kabuga's initial appearance in The Hague in November gave hope to the survivors and relatives of the victims of the genocide in Rwanda, who continue to call for justice. I therefore welcome the establishment of an investigative team within the Office of the Prosecutor to ensure that the procedural steps ahead of a trial can be swiftly taken. Established 10 years ago by the Security Council, the Mechanism continues to play a fundamental role in the process of reconciliation between communities, both in Rwanda and in the countries that emerged from the former Yugoslavia.

In that context, my country welcomes the measures taken by the Mechanism, to the extent possible, to continue effective and efficient operations despite the constraints associated with the coronavirus disease pandemic. We welcome the fact that hearings in the various cases were able to resume in August thanks to the use of video-teleconferencing and properly equipped rooms. Through those efforts, the Mechanism meets its priority of completing ongoing judicial proceedings in a timely and efficient manner, while taking into account the procedural safeguards and fundamental rights of the persons under its care.

My second point concerns the effective implementation of the Mechanism's mandate, which relies on good cooperation with the States Members of the United Nations. It is in this spirit that Belgium recently agreed to take over the execution of the sentence imposed on a convicted person.

While the cooperation provided by States to the Mechanism remains generally satisfactory, there are still exceptions. Such exceptions are unacceptable because they are not in compliance with international obligations, such as, first and foremost, the execution of arrest warrants. Therefore, following the decision of the Appeals Chamber of 24 February in the *Prosecutor v. Jovo Ostojić and Vjerica Radeta* contempt case, Belgium calls on Serbia to make every effort to ensure that the two accused are arrested, placed in detention and transferred to the Mechanism without delay.

Furthermore, it is unacceptable that requests for assistance from the Office of the Prosecutor concerning the six fugitives from the International Criminal Tribunal for Rwanda remain unanswered. In that regard, I would like to recall paragraph 3 of resolution 2529 (2020), adopted in June, which continues to urge

“all States, especially States where fugitives are suspected of being at large, to intensify their cooperation with and render all necessary assistance to the Mechanism”.

Belgium supports the Prosecutor's call for South Africa to respond decisively and without delay to the requests for assistance addressed to it. We also call on the other States concerned to provide all assistance required so that the fugitives can be quickly arrested and transferred.

In conclusion, I would like to refer to the situation in the countries of the former Yugoslavia. Although we welcome the progress made, it remains inadequate and varies greatly from one country to another. Regional judicial cooperation has remained marginal for years. Moreover, the denial of genocide and war crimes and the glorification of war criminals persist, which are not only contrary to the values and principles of the United Nations and the European Union but also undermine the memory of the hundreds of thousands of victims of the Balkan wars. Those practices must stop. Moreover, care must be taken to preserve for future generations the truth about the most serious crimes committed so as to prevent their recurrence.

## Annex 4

### **Statement by the Deputy Permanent Representative of China to the United Nations, Geng Shuang**

[Original: English and Chinese]

China thanks President Agius and Prosecutor Brammertz for their briefings on the recent work of the International Residual Mechanism for Criminal Tribunals.

Under the leadership of President Agius, the staff of the Mechanism have made every effort to overcome the impacts of the coronavirus disease. Since August, in-court proceedings have resumed and judicial activities have been well conducted. China commends the Mechanism for its efforts.

During the reporting period, the Mechanism officially commenced pre-trial proceedings against Mr. Kabuga, one of the main suspects in the Rwandan genocide of 1994. That shows the resolve of the Mechanism to combat impunity and its efforts to advance the proceedings without delay. China commends the efforts of all parties, especially those of the Office of the Prosecutor.

Pursuant to Security Council resolutions, the Mechanism is a small, temporary and efficient structure, whose size and function will diminish over time. We hope that the Mechanism will continue to carry out its work in accordance with Council resolutions, in particular to advance and complete all pending cases based on the projected timelines provided in the progress report. In doing so, it is important for the Mechanism to reasonably allocate budgetary resources to guarantee the priority of judicial activities.

China hopes that, going forward, the Mechanism will continue to improve its work by implementing the recommendations made by the Council's Informal Working Group on International Tribunals and the United Nations Office of Internal Oversight Services. We also hope that the Mechanism will work with the countries concerned to properly resolve the relocation of acquitted and released persons.

In conclusion, I wish to take this opportunity to thank Viet Nam, Chair of the Council's Informal Working Group on International Tribunals, and the Office of the Legal Affairs of the United Nations for their efforts in coordinating the Council and the Mechanism.

**Annex 5****Statement by the Permanent Mission of the Dominican Republic to the United Nations**

[Original: Spanish]

We thank Judge Agius and Prosecutor Brammertz for their enlightening and detailed briefings.

We must congratulate President Agius, Prosecutor Brammertz and their entire team for their efforts to ensure the continuity of the work of the International Residual Mechanism for Criminal Tribunals during these extraordinarily difficult times. Their resilience has been crucial and outstanding, as reflected in the briefings.

We also welcome Registrar Tambahou and congratulate him on his appointment. We trust that the Secretary-General has chosen an excellent professional whose contributions will be of great value to the work of the Mechanism.

The Dominican Republic welcomes the considerable progress made in judicial activities during the reporting period, in particular in the *Prosecutor v. Ratko Mladić*, *Prosecutor v. Stanišić and Simatović*, *Prosecutor v. Félicien Kabuga* and *Prosecutor v. Augustin Bizimana* cases. We urge the Mechanism to continue its work to meet the deadlines for the completion of those cases. Justice for the victims of the cases being handled by the Mechanism should not be delayed further.

The foreign policy of the Dominican Republic is based on fundamental principles that prioritize the protection of human rights. In that regard, we note with regret that the issue of relocating individuals who have been acquitted and released has not been resolved. We call on the international community to cooperate with the Mechanism and find the best solution to the situation.

In the same regard and after listening to Prosecutor Brammertz, we underscore the importance of cooperation. As Members of the United Nations, and in particular as members of the Security Council, we must bear in mind and honour our obligation to cooperate with the Mechanism so that it can fulfil the mandates given by the Council.

The reprehensible crimes committed in the former Yugoslavia and in Rwanda continue to haunt not only the survivors and their families but everyone who knows what happened there. Completing the work of the tribunals that have provided justice for the thousands of victims is critical for demonstrating the Council's commitment to combating impunity.

As today's meeting will be the last for the Dominican Republic with Judge Agius and Prosecutor Brammertz, I would like to wish them all the best in the recent extension of their mandates. We urge the other members of the Council, as well as the incoming members, to strengthen the cooperation between the Mechanism and States — all united by the common goal of dispensing justice.

**Annex 6****Statement by the Deputy Permanent Representative of Estonia to the United Nations, Gert Auväärt**

I thank Judge Carmel Agius, President of the International Residual Mechanism for Criminal Tribunals, and Prosecutor Serge Brammertz for the detailed progress reports submitted to the Security Council and for the informative briefings provided today.

Estonia commends the work of the Mechanism and welcomes the continuation of its mandate, which was established by the Council 10 years ago as a small, temporary and efficient structure. We welcome the reappointment of Mr. Serge Brammertz as Prosecutor of the Mechanism, as well as the reappointment of 25 judges and of Judge Carmel Agius as the Mechanism's President, along with the appointment of Abubacarr Tambadou as Registrar.

Estonia notes with appreciation the continuation of the Mechanism's judicial activities and the significant progress made, despite the current extraordinary circumstances, to advance the caseload during the reporting period, both in The Hague and Arusha, while minimizing the possible exposure of personnel and other individuals to the coronavirus disease (COVID-19). We note that the in-court proceedings previously postponed due to COVID-19 restrictions have resumed in the *Prosecutor v. Ratko Mladić*, *Prosecutor v. Stanišić and Simatović* and *Prosecutor v. Turinabo et al.* cases. We also note the transfer of Félicien Kabuga to the Mechanism's custody and the subsequent commencement of the new pre-trial proceedings in his case.

Estonia would like to commend the President of the Mechanism for the steps taken to ensure its supervisory responsibility with regard to detained persons, including requiring regular updates from enforcement States on convicted persons and detention facilities in Arusha and The Hague.

We welcome the continued efforts of the Office of the Prosecutor of the Mechanism to build the capacity of national judiciaries for prosecuting war crimes and its continued cooperation with the International Committee of the Red Cross, pursuant to the memorandum of understanding. We also welcome the launch of the new court database that houses all public judicial documents related to the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda and the Mechanism, and appreciate that it has been made available in several languages.

International criminal justice and the fight against impunity rely on collective efforts. While welcoming the arrest of Félicien Kabuga in May of this year, Estonia remains concerned about the challenges that the Office of the Prosecutor of the Mechanism continues to face in relation to cooperation with national authorities in apprehending the remaining fugitives. The success of the Mechanism depends on the cooperation of Member States, who bear that ultimate responsibility and have a legal obligation to cooperate fully with the Mechanism in its effort to track and arrest the fugitives.

Therefore, Estonia strongly urges Member States, especially States where fugitives are suspected of being at large, to intensify their cooperation with the Mechanism and to arrest and surrender all of the remaining fugitives.

## Annex 7

**Statement by the Legal Adviser of France to the United Nations,  
Diarra Dime Labille**

[Original: English and French]

I thank President Agius and Prosecutor Brammertz for their reports and briefings. We welcome their reappointment under resolution 2529 (2020), which renews the mandate of the International Residual Mechanism for Criminal Tribunals for two years. We also welcome the appointment of Mr. Abubacarr Tambadou as Registrar. We assure them of France's full support for their efforts to combat impunity and preserve the legacy of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda.

In order to carry out all of its activities on two continents, the Mechanism must have adequate financial resources. By contributing more than \$4 million per year, France actively plays its part. In return, it is incumbent upon the Mechanism to continue the concerted efforts of the two Branches, at The Hague and in Arusha.

The reporting period was marked by the health crisis. However, pending legal proceedings have moved forward, given that three important rulings — in the *Prosecutor v. Stanišić and Simatović*, *Prosecutor v. Turinabo et al.* and *Prosecutor v. Ratko Mladić* cases — could be issued as early as the end of the first half of 2021. We welcome the adaptability demonstrated by the Mechanism's three organs and its staff in order to ensure the continuity and coherence of their activities.

The trial in the *Prosecutor v. Félicien Kabuga* case is also expected to begin next year. Following his arrest in France — the result of close international cooperation — that trial will be another important moment for the victims, national reconciliation in Rwanda and international criminal justice. We have taken note of Mr. Kabuga's initial appearance on 11 November at The Hague, where the accused was temporarily transferred pending a new judicial decision. Our priority remains ensuring that justice is served as soon as possible. We know that the Prosecutor's team based in Kigali is fully mobilized to move proceedings forward.

Following the confirmation of the death of Mr. Augustin Bizimana, it is of the utmost importance that the six suspects still at large be brought before the courts. To that end, we once again urge States to cooperate fully with the Mechanism, in accordance with their international obligations. We regret that some partners still refuse to do so, in spite of the numerous appeals from the Prosecutor and many Member States, relayed in the Council.

With regard to cases referred to national jurisdictions, France reaffirms its full mobilization to bring the *Prosecutor v. Laurent Bucyibaruta* case to a conclusion within a reasonable time frame. In particular, our objective remains to ensure that no crime of genocide will go unpunished, which has notably resulted in the strengthening of the judicial resources devoted to the prosecution of participants in the genocide of Tutsis in Rwanda who reside in France. The creation of the National Anti-Terrorist Prosecutor's Office on 1 July 2019, as a specialized prosecutor's office that includes responsibility for combating crimes against humanity and war crimes, has allowed for the allocation of two additional prosecutor's posts.

Finally, no lasting reconciliation can take place without the acknowledgement of crimes and responsibilities. We consider unacceptable the denial of crimes and the glorification of those who are responsible for genocide and war crimes and have been convicted by international criminal tribunals after impartial and independent proceedings. In a year commemorating the terrible events related to the conflicts of the 1990s in the Western Balkans, we renew our call to all those responsible to refrain from statements denying the crimes committed.

**Annex 8****Statement by the Permanent Representative of Germany to the United Nations, Christoph Heusgen**

Germany will continue to support the International Residual Mechanism for Criminal Tribunals, both politically and financially. We consider it essential for the legacy of the institution that the Court complete its activities in good order and with sufficient means, as has been done to date.

We commend the Court on the way forward this year. In particular, we are delighted to see that, through creative means, the Mechanism was able to commence, resume and conclude the in-court hearings that had previously been postponed due to the coronavirus disease pandemic. In the light of the various challenges posed by the pandemic, we also appreciate the efforts undertaken by the Mechanism to ensure the health of those in its custody.

We remain deeply concerned about the denial of genocide in the situations under the jurisdiction of the Mechanism. History is not to be twisted so that it fits into today's political narratives. A common understanding of the historic facts is fundamental for much-needed reconciliation and improving neighbourly relations. We urge political leaders to actively work on promoting reconciliation and ensuring accountability for war crimes.

We would like to highlight once again the crucial contribution the Mechanism makes to our common fight against impunity. We renew our congratulations to the Office of the Prosecutor for its extraordinary work regarding the arrest of Félicien Kabuga. The detention of Kabuga is a visible example of what can be achieved when Member States and the Mechanism work together. Unfortunately, in some concrete cases, cooperation with the Mechanism is not as it should be.

We would like to congratulate President Agius on the efforts made to minimize delays caused by the COVID-19 pandemic. Thanks to those efforts, the remaining cases originating from the International Tribunal for the Former Yugoslavia appear to be on track. To further minimize delays, we call on all the relevant States to respond to requests for assistance issued by the Office of the Prosecutor in a timely manner.

We are very disappointed to hear that Serbia has decided not to implement the arrest warrants for Jovica Stanišić and Franko Simatović. They have been indicted for extremely serious crimes. We urge Serbia to implement the decision of the Appeals Chamber and extradite both men to the jurisdiction of the Mechanism. Justice for crimes of war has to be — and will be — served. That is also a major concern if a country wants to become a member of the European Union.

In 2020 we commemorated the twenty-fifth anniversary of the genocide in Srebrenica — a stark reminder of the essential role of the Mechanism. Despite the constructive work conducted by the Mechanism, the issue of war crimes remains an open wound in the Western Balkans. We note with grave concern a rise in incendiary rhetoric and historical revisionism regarding war crimes and their perpetrators in the region.

I have also previously highlighted the fact that, in Republika Srpska, there is a university dormitory named after Radovan Karadžić, which is something that has not been condemned by everyone here. I would urge the representative of Serbia to address that and follow in the footsteps of President Vučić, who actually went to Srebrenica and paid tribute to all of the victims. It would also be good to hear a condemnation of the fact that Karadžić is experiencing a revival in Republika Srpska.



In previous meetings, we heard the representative of Serbia complain that Ratko Mladić was unwell. We looked into the matter and did not hear anything from the International Committee of the Red Cross. Mr. Mladić is in very good health. We are more concerned about the 8,000 dead in Srebrenica and their families, as we should be.

On the Mechanism's work relating to Rwanda, resolution 2529 (2020) underscored the importance of finding a solution for the resettlement of the nine acquitted and released persons presently residing in Arusha, who are unable, or afraid, to return to their country of citizenship. We are encouraged to hear that efforts to that end have been enhanced and a strategy is being prepared. Germany urges all States called upon by the Prosecutor to implement requests made by the Mechanism to assist in the apprehension of fugitives for whom arrest warrants have been issued. As members of the Council, we also bear a particular responsibility.

It is not only a legal but also a moral obligation to hold accountable those who are responsible for such horrific crimes. My plea is that the representative of South Africa report about this meeting back home to ensure that everything is done by all institutions, including the Ministry of the Interior, so that when Prosecutor Serge Brammertz visits South Africa next month he will not leave empty-handed.

**Annex 9****Statement by the First Secretary of Indonesia to the United Nations,  
Iis Widyastuti**

I would like to thank Judge Carmel Agius and Prosecutor Brammertz for their reports, as well as for their briefings today. Despite the challenges of the coronavirus disease pandemic, my delegation is reassured of their commitment and efforts to adapt and to ensure the continued implementation of their respective mandates. I will focus on three issues today.

First, I will address the operational aspect of the International Residual Mechanism for Criminal Tribunals. We are pleased to note the Mechanism's continued efforts, under the leadership of Judge Agius, to further enhance the efficiency, effectiveness and transparency of its operations. It is crucially important for the Mechanism to continue making headway in line with the recommendations of the Office of Internal Oversight Services and resolution 2529 (2020). We are also encouraged by the Mechanism's efforts during this challenging time to resume its functionality, including with regard to in-court activities and its responsibility to supervise accused, detained and convicted persons.

Secondly, I will turn to the progress in Mechanism's activities. Indonesia appreciates the progress that the Mechanism has achieved, thanks to the dedication of its President, judges, Prosecutor and all staff members in carrying out its essential residual functions while mitigating the impact of the pandemic. We are pleased to note that the Mechanism was able to restart its core judicial activity, which was postponed due to the pandemic, at The Hague as well as at the Arusha Branch. We look forward to its further achievements despite these unprecedented and difficult times. The pandemic shall not hamper the Mechanism's priority to conclude its mandate in a timely and efficient manner.

That brings me to my final point, which concerns the cooperation of States. We recall that States are required to cooperate with the Mechanism, including by complying with orders and requests for assistance in relation to cases before it. We note the ongoing efforts of the Prosecutor to locate and arrest the six fugitives indicted by the International Criminal Tribunal for Rwanda who remain at large. Therefore, we would like to call on relevant States to intensify cooperation with, and render assistance to, the Mechanism, in accordance with the relevant Security Council resolutions. Félicien Kabuga's arrest was a success story of cooperation between the Mechanism and Member States that needs to be replicated. We need to make sure that no one can escape justice and, at the same time, render justice to the victims and survivors.

As this is our very last intervention on this file, I would like to express our delegation's sincere appreciation to the Assistant Secretary-General for Legal Affairs and his team for their cooperation and excellent work. We also extend our best wishes to the Chair of the Council's Informal Working Group on International Tribunals, Ambassador Dinh Quy Dang, as well as his hard-working team, in steering the Group as it moves forward.

I would like to reaffirm Indonesia's commitment to strengthening the rule of law and promoting justice by supporting the work of the Mechanism in order to put an end to impunity and ensure accountability.

**Annex 10****Statement by the Deputy Permanent Representative of the Niger to the United Nations, Niandou Aougi**

[Original: French]

Allow me first of all to congratulate Judge Carmel Agius and Mr. Serge Brammertz, President and Prosecutor, respectively, of the International Residual Mechanism for Criminal Tribunals, namely the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, for the presentation of their detailed biannual report.

It must be said that, in addition to reflecting the will of the international community to continue the work of the ad hoc Tribunals to advance international criminal justice, the establishment of the Mechanism undoubtedly responds to the need to maintain international peace and security.

By adopting resolution 2529 (2020) in June, the Security Council reaffirmed its determination to combat impunity for serious international crimes and the need to bring all persons indicted by the International Criminal Tribunals for Rwanda and the former Yugoslavia to justice. To that end, Member States should provide their full support to that commitment through good cooperation with the Mechanism, in accordance with the principles that guided its establishment.

We further welcome the renewal by the Secretary-General of the mandate of the President of the Mechanism, the appointment of a new Registrar and the reappointment, via resolution 2529 (2020), of the Prosecutor, all for a period of two years. We also wish to express our support for the actions of the President and other senior officials taken to mitigate the impact of the coronavirus disease (COVID-19) pandemic on the staff and work of the Mechanism. In that connection, my delegation expresses its gratitude to the judges for their dedication in carrying out their duties and continuing courtroom proceedings without hesitation despite the COVID-19 pandemic.

My delegation also encourages the Mechanism to continue to discharge all its responsibilities with regard to the human rights of the detained persons under its care.

We commend the Mechanism for the progress made, including on the amendment of protective measures and monitoring the enforcement of sentences, the protection of victims and witnesses, the search for the remaining fugitives indicted by the International Criminal Tribunal for Rwanda and assistance provided to national jurisdictions, as well as the Mechanism's own internal management measures.

In conclusion, we reiterate our appreciation of all the staff of the Office of Internal Oversight Services and encourage them to take steps to implement the recommendations of the Informal Working Group on International Tribunals, as set out in resolution 2529 (2020).

**Annex 11****Statement by the Deputy Permanent Representative of the Russian Federation to the United Nations, Gennady Kuzmin**

[Original: Russian]

At the outset, allow me to welcome President Agius and Prosecutor Brammertz. We have closely studied their reports; however, today we wish to address the issues that are not reflected in the reports, rather than those that are.

The status of the province of Kosovo has not changed since the adoption of resolution 1244 (1999); however, the reports lack any mention of that fact when referring to Kosovo. We therefore request that such a reference be added and an official corrigendum to the report be issued.

Moving on, in resolution 2529 (2020) the Security Council indicated the need to uphold the rights of persons held in custody, including the right to medical attention. Nevertheless, the report fails to inform us on how those rights are being implemented.

The health of General Ratko Mladić is of particular concern. We have learned from media reports and statements by Serbian representatives that Mladić's defence lawyers and family members are literally fighting for his life. The Mechanism's leadership and judges are rejecting all their petitions, claiming that they do not fall within the interests of justice, thereby impeding access to medical records and ignoring medical conclusions provided by independent doctors. Meanwhile, Ratko Mladić himself has no opportunity to implement his right to consult with a doctor of his choice under rule 48 of the rules of detention.

That is not only a matter of the health of an accused individual in custody. Rather, the question is: how long can the Security Council turn a blind eye to the use of inhumane methods of treatment by one of its subsidiary bodies? Is the aim to deliver a definitive guilty verdict against yet another Serb by all possible means, regardless of human rights standards and considerations of humanity?

Unfortunately, almost all of the verdicts pronounced by the predecessor of the International Residual Mechanism for Criminal Tribunals — the International Tribunal for the Former Yugoslavia (ICTY) — and for that matter by the Mechanism itself, were predetermined in advance. Let us preserve at least a shred of dignity and not breach the rights of detainees. We continue to hear reassurances that Mr. Mladić has been provided with all the necessary medical attention and health care and that he is supposedly capable of appearing in court. If that is the case, then what is the problem with having him undergo an independent medical examination before those court sessions are scheduled?

Russia has continuously advocated for expediting legal proceedings, but not at any cost. In that context, Judge Nyambe provided a very telling dissenting opinion regarding the decision of the Appeals Chamber dated 14 August. Judge Nyambe stated:

“I would thus vacate the Appeal Hearing as scheduled, and adjourn the proceedings such that an international team of medical professional expert doctors can come to The Hague to examine Mr. Mladić at a medical facility for such amount of time and manner as is needed to reach a professional conclusion as to his medical and mental state so as to be able to generate a report and participate in a Competency Review Hearing to determine his ability to meaningfully participate in further legal proceedings, and give an assessment of his medical and mental state for purposes of establishing his fitness and capacity for legal proceedings.”

We therefore strongly urge the Mechanism's leadership to grant Mr. Mladić access to independent doctors of his own choosing in order to undergo a complete medical screening and examination, including an assessment of whether he retains his cognitive functions.

The Mechanism's predecessor, the ICTY, has a very poor reputation when it comes to observing the rights and upholding the health status of accused and detained Serbs, 12 of whom died either during their trials or while serving their sentences. We hope that the Mechanism will not inherit the cruel practices of the ICTY.

**Annex 12****Statement by the Counsellor of Saint Vincent and the Grenadines to the United Nations, Diani Jamesha Prince**

I thank Judge Agius, President of the International Residual Mechanism for Criminal Tribunals, and Prosecutor Brammertz for their comprehensive briefings. We congratulate Judge Agius and Prosecutor Brammertz on their reappointments. We also congratulate Mr. Abubacarr Tambaou on his appointment as the Mechanism's new Registrar.

As we approach the tenth anniversary of the adoption of resolution 1966 (2010), which established the Mechanism, Saint Vincent and the Grenadines reaffirms its unwavering support for that important pillar of the international criminal justice system. The critical role that the Mechanism continues to play in the fight against impunity for mass atrocity crimes and its contribution to reconciliation is irrefutable. The Mechanism has also substantially developed jurisprudence and continues its effective and efficient work in other practical aspects, such as witness support and protection and multifaceted assistance to Member States.

We continue to applaud the Mechanism's commitment to maintaining operational continuity while ensuring the health and safety of staff, witnesses and persons in detention, despite the challenges resulting from the coronavirus disease pandemic. We are pleased to note that courtroom proceedings have resumed, with the implementation of special arrangements, and we commend the Mechanism's use of virtual processes in its adjusted working methods.

The Mechanism's success is greatly dependent on the full cooperation of Member States, without which the Mechanism cannot achieve the Security Council's vision of being a small, temporary and efficient structure. The arrest of Félicien Kabuga in May after 23 years as a fugitive is a testament to the effectiveness of international cooperation, which is the only path towards the tracking, apprehension and prosecution of the remaining six fugitives of the International Criminal Tribunal for Rwanda.

International cooperation also enables the search for missing persons and the enforcement of judgments, as well as assisting with witness protection and relocation. On the point of witness relocation, there remains the unfortunately unresolved matter of those individuals who have been acquitted and released and are currently residing in Arusha, Tanzania. It is our hope that a sustainable solution will swiftly be found, and we welcome the Registrar's proactive efforts in that regard.

Saint Vincent and the Grenadines emphatically denounces all forms of genocide denial and the glorification of convicted war criminals. Genocide denial promotes dangerous ideologies, impedes the fight against impunity and hinders reconciliation. It further delegitimizes, and shows wanton disregard for the suffering of, the victims of such horrendous crimes, the facts of which have been incontrovertibly determined. The recognition, education and remembrance of painful periods in history are critical in preventing the re-emergence of hateful rhetoric and ensuring that such crimes are never repeated.

The Mechanism continues to effectively fulfil its obligation to uphold the principles of international law, even in the face of a global health crisis. However, that is a shared responsibility, and we urge Member States to intensify their cooperation with the Mechanism. We must remain committed to the pursuit of international justice and the protection and strengthening of the rule of law.

**Annex 13****Statement by the Deputy Permanent Representative of South Africa to the United Nations, Xolisa Mabhongo**

At the outset, I wish to thank President Agius and Prosecutor Brammertz for their comprehensive reports and their presentations to the Security Council today. We congratulate them on their reappointment. South Africa believes that the International Residual Mechanism for Criminal Tribunals is carrying out commendable work, and we note the significant efforts to continuously improve its functioning.

As pointed out in the President's report (see S/2020/763), the coronavirus disease has had a far-reaching impact on the Mechanism's operations. In that respect, the Mechanism and its staff are to be commended for their commitment to ensuring that it remains operational during these difficult times.

We acknowledge the noteworthy coordination between the Prosecution and certain States that resulted in the arrest of Félicien Kabuga in France. That underscores the importance of international cooperation to prevent suspects from evading arrest.

While we have encountered a number of challenges in providing assistance to the Mechanism, we wish to underscore that South Africa is deeply committed to its international obligations in that regard and stands ready to fulfil them.

We have taken note of the remarks by the Prosecutor this afternoon. We assure Council members that the recommendations made by the Prosecutor will receive the necessary attention by our Government.

Regarding the most recent interaction between the Prosecutor and South Africa, I can report that the matter is being escalated to the highest authorities. A visit by the Prosecutor to South Africa will be welcome and will be in line with the escalation of that matter. Therefore, South Africa will continue to cooperate with the Prosecutor. We reaffirm our determination to continue all efforts to trace and surrender the fugitives from justice.

**Annex 14****Statement by the Permanent Representative of Tunisia to the United Nations, Tarek Ladeb**

I thank President Agius and Prosecutor Brammertz for their briefings and for the eighteenth progress report (see S/2020/763) of the International Residual Mechanism for Criminal Tribunals.

As the Mechanism is soon to mark the tenth anniversary of its creation, it is worth recalling the significant contribution it has made to accountability for core international crimes. The Mechanism was not created as simply an annex of the ad hoc International Criminal Tribunal for Rwanda (ICTR) and International Tribunal for the Former Yugoslavia. It is a successor court vested with different residual functions and ad hoc functions, namely, the tracing of remaining ICTR fugitives, hearing remaining appeals, holding retrials and conducting contempt cases.

The work of the Mechanism remains all the more pertinent amid the resurgence of pernicious ideologies that deny genocide and glorify convicted war criminals. As has often been argued, behaviours change in the shadow of the court. It is therefore critical that the Mechanism continue to cast that shadow by bringing suspects to trial so as to deter would-be perpetrators and counter revisionist narratives.

To that end, the Mechanism must continue to rely on the full and swift cooperation of States and enjoy the support of the Security Council so that the six remaining suspects currently at large, including major fugitive Protais Mpiranya, are not shielded from justice.

Tunisia appreciates continued efforts by the principals of the Mechanism, despite the impact of the coronavirus disease, to bring more effectiveness and efficiency to the administration and operation of the Mechanism, guided by the Security Council's vision of it as a small, temporary and efficient institution, the functions and size of which will diminish over time.

We recall the recent significant developments following the transfer of suspect Félicien Kabuga to, and his initial appearance before, the Mechanism in The Hague, as well as the judicial closing of the Augustin Bizimana case. We salute Serge Brammertz's prosecutorial efforts, which enabled that breakthrough in the judicial caseload of the Mechanism.

We take note that a final decision as to the location of Félicien Kabuga's trial remains to be made. We are confident that the Mechanism will be able to identify appropriate ways that best serve the effectiveness and fairness of its trials, while taking into consideration questions and concerns that may arise with regard to the health and overall detention conditions of the suspects.

We commend the flexible measures and working arrangements undertaken by the Mechanism to ensure both physical and virtual business continuity across duty stations, allowing it to adapt to the pandemic as it evolves while closely monitoring the safety of staff and non-staff personnel. We express satisfaction at the resumption of the in-court hearings that were previously affected by the pandemic and take note of the reasonably adjusted projections for the completion of the remaining trials and appeals. We stress the importance of adhering to the newly anticipated timelines as closely as possible so as to maintain the requisite focus on the expeditiousness of the Mechanism's core mandated activities.

Finally, identifying a permanent solution to the issue of persons who were acquitted or released by the ICTR and who currently reside in a safe house in Arusha remains an unresolved and weighty issue. We recall the stipulations of resolution 2529



(2020) on the importance of finding expeditious and durable solutions, including as part of a reconciliation process, which would help further downsize the work of the Mechanism and provide a sustainable outlook for the persons concerned.

**Annex 15****Statement by the Legal Counsellor and Deputy Legal Adviser of the United Kingdom of Great Britain and Northern Ireland to the United Nations, Amy Townsend**

I would like to start by thanking the President, His Honour Judge Carmel Agius, and Prosecutor Brammertz for their briefings to the Security Council today, and we welcome their reappointment to the Mechanism.

On this day 25 years ago, the Dayton Peace Agreement was signed in Paris. Today we remember the victims of that bitter conflict in Bosnia and Herzegovina and celebrate 25 years since its end. The International Tribunal for the Former Yugoslavia (ICTY), and now the International Residual Mechanism for Criminal Tribunals, has brought justice to the victims and tirelessly pursued those responsible for this dark chapter in European history.

I would like to reiterate the United Kingdom's unwavering commitment to the Mechanism and reaffirm our willingness to assist it wherever possible in fulfilling its mandate and implementing its vision of being a small, temporary and effective organization. We would like to take this opportunity to praise the work undertaken by the Mechanism and the results that have been achieved so far.

Throughout this reporting period, the coronavirus disease continued to affect the entire world. We would like to commend the Mechanism on its valiant efforts to continue international justice even in the face of the challenges of the pandemic. While there are some delays to cases, the efforts of the Mechanism have ensured that many of them will be concluded in first half of 2021. The Mechanism has taken a huge step in showing that impunity is not and will not be allowed to prevail.

We welcome the Mechanism's increased presence within Rwanda, which fully displays its commitment to continuing its work at full speed despite the challenging operational environment. We also welcome the renewed drive by the Mechanism to build upon the success of the arrest of Félicien Kabuga in order to bring the remaining alleged génocidaires to justice. We are pleased to see that legal proceedings against Kabuga are being taken forward, working closely with the Government of Rwanda.

We would like to praise the Mechanism as a force for good. Its work is a reminder of how international justice can be achieved through international collaboration. We call on all Member States to assist the Mechanism; it is our collective responsibility to seek justice for victims, and our obligation under the Charter of the United Nations to cooperate with the Mechanism.

We commend the Mechanism's efforts to progress and minimize delays in the *Mladić* and *Stanišić & Simatović* cases. We note the progress made between countries of the Balkans region in the transfer of cases. However, regional judicial cooperation in the Western Balkans remains inadequate, which has direct implications for achieving justice for victims. Furthermore, we echo the Prosecutor's call to countries in the former Yugoslavia to register criminal convictions entered by the ICTY and the Mechanism into domestic criminal records, honouring the commitments that they made when they signed the joint declaration on war crimes at the 2018 London Western Balkans Summit and committed themselves to

“recognizing and respecting verdicts from international and domestic courts relating to war crimes and other atrocity crimes”.

The United Kingdom remains deeply concerned at the fact that the glorification of war criminals and denial continues. It is reprehensible that individuals and groups continue to deny those events and in some cases glorify the perpetrators and

instigators of those heinous acts. The United Kingdom will continue to condemn denial and glorification in all its forms. The road to reconciliation is difficult, but we must accept the truth of the past to move forward.

The year 2020 has been significant for us all, but it has also been a year that we have remembered. Earlier this year we marked one of the gravest anniversaries in European history, 25 years on from the Srebrenica genocide. Today we mark the anniversary of the end of the conflicts in Bosnia and Herzegovina. And it was only last year that we commemorated the twenty-fifth anniversary of the events in Rwanda. After 25 years, we want those who suffered as a result of these events to know that they remain at the forefront of our thoughts: the survivors, the victims and those still missing and their families remain a priority for the United Kingdom.

As time moves on, we must all recommit to ensuring that impunity does not prevail. There is no time for complacency. There is still more work to be done by the Mechanism in relation to the awful events that took place in Rwanda and the territories of the former Yugoslavia, and States must continue to support it in that work.

**Annex 16****Statement by the Minister Counselor for Legal Affairs of the United States of America to the United Nations, Mark Simonoff**

I thank President Agius and Prosecutor Brammertz for their briefings. We are grateful for their hard work and for the unwavering commitment of the judges, attorneys and staff in Arusha and The Hague, as well as in field offices in Kigali and Sarajevo, in their pursuit of justice for the victims in Rwanda and the former Yugoslavia.

We are pleased that Prosecutor Brammertz and President Agius have been reappointed to their positions and that Abubacarr Tambadou has been appointed as the new Registrar. Mr. Tambadou had an impressive record as Attorney General of the Gambia, and we understand that he is already making a valuable contribution to the Mechanism's work. We also welcome Pierre St. Hilaire, the new head of fugitive tracking, whose work we have also been impressed with.

We are pleased to hear that the Mechanism was able to make progress on its judicial caseload despite the ongoing coronavirus disease pandemic, which continues to affect us every day. The progress made since the most recent briefing (see S/2020/527) is commendable given the circumstances.

We are impressed to hear about the steps taken to allow the Mechanism's work to continue in both its Branches and are glad that the Mechanism is able to hold hearings in a way that does not jeopardize the health and safety of those involved. We thank President Agius and Prosecutor Brammertz for those efforts and for their commitment to justice in these extraordinary times.

After the historic arrest of Rwandan businessman Félicien Kabuga, who was indicted for genocide, crimes against humanity and other serious violations of international humanitarian law, it is good to hear that he has successfully passed into the Mechanism's custody and that pre-trial proceedings have begun.

These developments, which are taking place after Kabuga spent 26 years at large, demonstrates the continued relevance and impact of the Mechanism and its work. We support its efforts to ensure that justice is meted out for Kabuga's alleged role in the horrific acts perpetrated in Rwanda.

We will continue to support the Mechanism's efforts to apprehend the remaining six Rwandans still wanted for their roles in the 1994 genocide. The United States continues to offer rewards of up to \$5 million for information that leads to the arrest, transfer or conviction of any of the remaining fugitives. We strongly urge all countries to cooperate fully with the Mechanism and bring these people, wanted for some of the worst crimes in history, to justice.

We further congratulate the court for successfully holding the appeal hearing for Ratko Mladić. As we all know, General Mladić served as the commander of the Bosnian Serb Army during the genocide of Bosnian Muslim men and boys in Srebrenica, and his forces raped women and girls, shelled and sniped the civilian population of Sarajevo and brutalized Muslim and Croat prisoners — all with the horrifying objective of permanently removing Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory. We welcome the Mechanism's work to adjudicate General Mladić's responsibility for grave crimes committed during the war and await the results of the Mechanism's judgment as soon as possible.

Similarly, we commend the Mechanism's progress on the retrial of Jovica Stanišić and Franko Simatović on charges of crimes against humanity and war

crimes for their alleged roles in the unlawful, forcible removal of non-Serbs from Croatia and Bosnia and Herzegovina.

With regard to the contempt proceedings in the *Turinabo* and *Jojić and Radeta* cases, we are relieved that trial proceedings were finally able to commence, despite attempts to interfere with witnesses and efforts to undermine court proceedings.

We also commend the Mechanism's efforts to support national judicial efforts, from the Balkans to Rwanda. Those proceedings remain vital to ensuring that the pursuit of justice will not end even as prosecutions at the Mechanism conclude. We note Rwanda's progress in continuing to try cases related to the genocide and urge Balkan States to improve their cooperation across national systems.

We remain extremely concerned about the Mechanism's reporting about genocide denial, the non-acceptance of historical facts and the glorification of war criminals. We must do more to fight such rhetoric, particularly in the Balkans, and we condemn efforts by political leaders to distort historical facts and to use their platforms to increase divisions and exacerbate tensions.

We welcome the Mechanism's recent progress in increasing transparency and education regarding its work, including the launch of the unified judicial database in September, additional workshops for educators and the public streaming of court sessions. Those efforts are a valuable contribution to establishing a public record of the crimes committed.

We must recommit to protecting civilians during armed conflict and holding those who violate international humanitarian law accountable. The Mechanism has been an important part of this work, and we continue to support its efforts on behalf of victims.

**Annex 17****Statement by the Permanent Representative of Viet Nam to the United Nations, Dang Dinh Quy**

I thank Judge Carmel Agius, President of the International Residual Mechanism for Criminal Tribunals, and Mr. Serge Brammertz, Prosecutor of the Mechanism, for presenting their seventeenth reports. I take this opportunity to congratulate the President and the Prosecutor on their reappointment by the Secretary-General and the Security Council, respectively. I also congratulate Mr. Abubacarr Tambadou on his appointment as the Registrar of the Mechanism.

I welcome the representatives of Serbia, Rwanda, Croatia and Bosnia and Herzegovina to today's meeting.

We take note of the progress made in the judicial activities of the Mechanism during the reporting period, especially as compared with the previous one. Most notably, under the leadership of Judge Agius, the Mechanism was able to resume in-court hearings and implemented rigorous measures to maintain the health and safety of its staff, witnesses and detainees and other persons under the supervision of the Mechanism.

The case of Mr. Félicien Kabuga was added to its docket following his arrest, sending a strong message that those who are alleged to have committed grave crimes cannot evade justice.

The launching of the Mechanism's unified judicial database to bring together all public records of the ad hoc Tribunals, and the Mechanism is expected to facilitate public access to their jurisprudence and aid research, study and greater transparency.

We welcome the President's determination and priorities to implement resolution 2529 (2020), including by providing a clear projection of timelines for the completion of its judicial activities and other residual functions, strengthening close collaboration among the main organs of the Mechanism and fostering high staff morale and performance.

Looking forward, we encourage the Mechanism to continue implementing meaningful steps to adhere to its schedule of completion, realizing the Security Council's vision of the Mechanism as a

“small, temporary and efficient structure, whose functions and size will diminish over time”.

We cannot overemphasize the importance of a strong relationship and cooperation between the Mechanism and concerned States. We take note of the close cooperation between the Mechanism and enforcement States in monitoring the situation of the coronavirus disease that might affect prisoners serving sentences.

We encourage considerations to give enforcing States greater responsibility in supervising the enforcement of sentences after the Mechanism ceases to exist.

It is the State that bears the primary responsibility for fighting and preventing heinous crimes. Further efforts should be made in building national capacity and assisting States to exercise their responsibility. We therefore welcome the assistance provided by the Office of the Prosecutor to national authorities with regard to the cases that are referred to them.

We acknowledge the challenges that the Mechanism faces with regard to the search for remaining fugitives and the relocation of acquitted and released persons. Forging stronger direct communication with the relevant States to identify challenges that might hinder cooperation and to work out durable solutions must be

a high priority for the Mechanism. We encourage the relevant States to show their support for the Mechanism by stepping up cooperation and assisting the Mechanism where needed.

In conclusion, Viet Nam reiterates its firm commitment to the work of the Security Council in upholding the Charter of the United Nations and international law in the maintenance of international peace and security.

**Annex 18****Statement by the Assistant Minister of Justice of Serbia,  
Čedomir Backović**

I thank you, Mr. President, for this opportunity to speak to the Security Council on Serbia's behalf.

This is the second time this year that we are considering the regular six-monthly reports of the President and the Prosecutor of the International Residual Mechanism for Criminal Tribunals in an open video-teleconference. This is strong evidence of the great risk of the spread of the coronavirus disease (COVID-19), and I thank the President and the Prosecutor for their efforts to acquaint us with the work of the Mechanism in these extraordinary circumstances.

We in Serbia adjusted to these circumstances, too, and advised the Mechanism immediately after the outbreak of the pandemic that we were going to cooperate and continue with the supervision of persons on parole under the conditions specified in the decisions of its Trial Chambers. To that end, the question of communication limitations has been resolved, and Serbia considers its cooperation with the Mechanism one of its key obligations, the fulfilment of which is among its priorities.

Serbia's results in this field stand out when compared to those of the other countries of the region, in respect of cooperation with both the Mechanism and the domestic judiciary. Let me point out that Serbia has enabled unrestricted access by the Office of the Prosecutor of the Mechanism to all evidence, documents, archives and witnesses, and that cooperation with those organs is proceeding smoothly. All the requests have been attended to, and only those of more recent date are under consideration. Replies are forwarded to the Office of the Prosecutor, the Trial Chambers and the secretariat of the Mechanism, while witnesses are exempted from the obligation to keep State, official and/or military secrets on a regular basis. With regard to the remaining cases, first-instance proceedings are currently under way in the retrials of Franko Simatović and Jovica Stanišić and in the appeal case of Ratko Mladić.

Serbia has aligned its laws with the relevant standards, making cooperation possible and exception-free, including in matters recognized by the Security Council as serious international crimes under the statute of the Mechanism. My country's commitment to combating impunity is also reflected in the number and rank of the accused persons whom it surrendered to the Tribunal. It has been our duty to prosecute those responsible regardless of the national, ethnic or religious status of the perpetrators or the victims. The persons surrendered include the President of the Federal Republic of Yugoslavia, a President of Serbia, a Federal Deputy Prime Minister, a Deputy Prime Minister of Serbia, three former Chiefs of the General Staff of the Army of Yugoslavia, a former Head of the State Security Agency and many army and police generals. That was not requested of any other State that emerged from the former Yugoslavia, even though the reasons were many. What there was not much of, to be exact, was political will. Now, is the non-selective cooperation of my country sufficiently appreciated? That is a call that each one of those present here must make.

With respect to the request to Serbia to surrender Vjerica Radeta and Petar Jojić for obstruction of justice, let me bring to the Council's attention once again the fact that an independent Serbian court rejected the request by a legally valid — final — decision.

The independence of the judiciary is one of the basic principles of a democratic society. Serbia is such a society, and there is no way in which that decision could



have been influenced. It is instructive, though, that the decision was brought in accordance with article 1 of the statute of the International Tribunal for the Former Yugoslavia, on “Competence of the International Tribunal”, which reads:

“The International Tribunal shall have the power to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia since 1991 in accordance with the provisions of the present Statute.”

Accordingly, it is evident that obstruction of justice does not belong under “serious violations of international humanitarian law”.

The extension of the operating period of the Mechanism until June 2022 brings into focus the issue of the consideration of those cases that remain unresolved. After all, the Mechanism’s mission is not only to end the remaining cases but also to address all questions still in dispute. My country will continue to insist that all key issues unaddressed in its cooperation with the Mechanism be resolved.

In resolution 2422 (2018), the Mechanism is encouraged to consider a conditional regime of early release. The latest report informs us that the Office of the Prosecutor is seriously concerned over the fact that the vast majority of the persons convicted have been unconditionally released after serving only two thirds of their sentences. Let me reiterate the position of my country in that regard: the “concern” is in fact a call for introducing unjustified changes into the work of the Mechanism.

The institution of conditional release is a legal achievement of civilized society. The previous Presidents of the Tribunal and the Mechanism decided this matter without interference by the Office of the Prosecutor. Of course, the President has the right to consult whomever he may deem relevant. Yet the interference by the Office in the sense of requesting changes in the Mechanism’s Rules of Procedure and Evidence is unacceptable.

This is all happening at a time when several Serbian citizens have made requests for early release after having served two thirds of their sentences. So far, a reply has been received to only one of those requests, and it has been rejected. Others are still waiting for a reply. Such important decisions related to human rights and the destiny of the convicted persons and, by extension, of their families must not be treated as a game of three-card monte. The completion of the work of the Mechanism and its budget are technical problems, not an excuse for sluggishness on its part. In legal systems all over the world, the “silence of the administration” is perceived as a procedural-legal institution concerning untimely decision-making, that is, failure to institute an act that is bound to produce multiple legal consequences.

The personal position of President Agius of non-belief in the rehabilitation of persons convicted by the Tribunal does not rest on the teachings of penology, yet it does end up producing consequences. In my opinion, no judge, even the President of the International Residual Mechanism, should have such liberty in decision-making. His only control mechanism is the founder of the Mechanism, the Security Council, and it must act.

Serbia has done its best to reply quickly and effectively to the request for expression of interest in connection with early release. Under the newly introduced practice, the President of the Mechanism contacts the country to which a convicted person is to return, and in March, May and November 2020 Serbia received three requests for Radivoje Đorđević, Sreten Lukić and Vlastimir Đorđević. It replied instantly.

In view of the failure of the competent organs of the Mechanism to provide answers regarding the conditional regime of early release, let me point out once

again the importance of Serbia's initiative launched in 2009 related to serving sentences imposed on its citizens by the Tribunal in Serbia. Notwithstanding the convincing arguments that we have continually made to highlight the importance of the initiative, we have to date received no reply from the Security Council. The following are some of the arguments.

The armed conflicts on the territory of the former Socialist Federal Republic of Yugoslavia ended more than two decades ago; the opinion of the Secretary-General contained in paragraph 121 of the report (S/25704) adopted along with the International Tribunal for the Former Yugoslavia (ICTY) statute on 3 May 1993 to the effect that convicted persons should serve sentences outside of the territory of the former Yugoslavia was a reasonable position at the time when the territory was engulfed in armed conflict; today, though, that position is anachronistic and, in the light of the manner in which sentences are enforced, generates harmful consequences both for the convicted persons and their families.

In addition, Serbia is a today democratically developed country and a candidate for European Union (EU) membership; its system of sentence enforcement is aligned with international standards in the area and is sometimes more progressive than those in some EU member States.

Many of Serbia's penitentiaries were built recently and are suitable for the enforcement of the sentences imposed for war crime offences, while the country has the legal basis for the enforcement of the sentences imposed for the criminal offences laid down in the statute of the Mechanism.

Serbia's Government has agreed to have the organs designated by the Tribunal or the Mechanism carry out supervision of the enforcement of sentences.

The importance of the initiative is particularly relevant now in the light of recent developments. Under Polish law, for instance, Sreten Lukić, sentenced by the Tribunal, will have completed two thirds of his sentence by January, and the Polish authorities intend to transfer him immediately upon that completion to some other country to continue to serve the rest of the sentence or to return him temporarily to the United Nations Detention Unit (UNDU) in Scheveningen. Is it not only too obvious that it would be in everybody's best interest to transfer him to serve the rest of his sentence in Serbia?

A person who has fulfilled the conditions for an early release, Sreten Lukić is being additionally punished by the above-mentioned procedural obstacles and a long wait for a reply to his request. In view of the ongoing COVID-19 pandemic, his transfer to another prison or the Scheveningen UNDU without the possibility to establish contact with his family would be tantamount to additional, inappropriate punishment.

Once again, Serbia is ready to take up the obligation, as well as the responsibility, in this and in all other cases, for the enforcement of sentences and is agreed to have relevant supervision. The competent Serbian institutions are ready to provide clear guarantees that convicted persons will not be released early short of a decision by the Mechanism.

Another point is worth mentioning. Unfortunately, the treatment of persons serving sentences imposed by the Tribunal varies from country to country. Neither the Tribunal nor the Mechanism has managed to set general standards that would be respected by all. Instead, each country in which the convicted persons serve their sentences upholds its own principles. Consequently, the treatment is significantly better in developed countries, as they attach greater importance to resocialization and their higher standards are reflected in all aspects of life, including the conditions under which the sentences are served.

I would like once again to bring to the Council's attention the failure to heed the provisions of the Updated Statute of the International Tribunal for the Former Yugoslavia of September 2009. Paragraph 1 of its article 24, on penalties, states:

“The penalty imposed by the Trial Chamber shall be limited to imprisonment. In determining the terms of imprisonment, the Trial Chamber shall have recourse to the general practice regarding prison sentences in the courts of the former Yugoslavia.”

The Updated Statute is widely available on the Tribunal's website. Nevertheless, the Tribunal and the Mechanism imposed life sentences on the Serbian citizens Stanislav Galić, Ljubiša Beara, Vujadin Popović and Zdravko Tolimir and a first-instance life sentence on Ratko Mladić. Life sentences were also imposed on Milan Lukić and Radovan Karadžić, persons of Serbian nationality but not Serbian citizens. At that time, Serbia provided for a sentence of up to 40 years in prison for the most serious crimes. The only conclusion to be drawn from this punishment policy is that the Tribunal imposed the said sentences contrary to its own statute. No mechanism is provided for the appeals procedure. The decisions made by the Tribunal contrary to its founding act resulted in far-reaching consequences, that is, sentences of many years imposed without recourse to legal remedy and absent any instruction in that regard. Some of the persons on whom life sentences were imposed — Tolimir and Beara — died while serving the sentences, which makes the need for the resolution of this legal nonsense even more apparent, all the more so now since the imposition of the first-instance sentences on Franko Simatović and Jovica Stanišić and the second-instance sentence on Ratko Mladić is expected to take place in May 2021.

Another issue of exceptional importance to my country is the fate of the Tribunal's archives. We submitted a large number of documents to the Office of the ICTY Prosecutor, the defence teams and the ICTY Trial Chambers. We believe that the documents submitted to the Prosecutor of the Tribunal, and subsequently the Mechanism, and not used as evidence in the proceedings should be returned to the authorities that submitted it. Our belief is predicated on the fact that the proceedings have been completed and that Serbia will not destroy the documents, will keep them in a proper way and will fully respect the standards of document safekeeping and use.

No concrete reply has yet been received to that request. The officials of the Mechanism continue to ignore our proposals. The return of the documents is of paramount importance not only because of the responsibility that we all have for documenting the events that took place in the former Yugoslavia in the 1990s, but also because of the enormous amount of material and the need to enlist the help and assistance of many Serbian institutions. It is not a simple task, and it has been continually postponed pending the completion of the Mechanism's work. The issue of the ICTY Information Centre in Serbia and the legacy of the Tribunal should not in any way be confused with the return of the documents.

A standard part of the six-monthly reports, including this one, deals with the denial and glorification of war crimes. In each report mention is made of public appearances by persons, sometimes expressly named, who have served sentences imposed by the Tribunal. It is not clear why. The job of the Office of the ICTY Prosecutor is completed once a judgment is handed down. After they serve their sentences, those persons cannot be further sanctioned on any basis or denied a personal or civil right. The position of the Office on the denial and glorification of war crimes is therefore irrelevant and selective, just as it is replete with political messages, which is well beyond the bounds of its competence.

The importance of regional cooperation in the field of war crimes is essential for prosecuting all suspects effectively, irrespective of the country in which they reside. The international legal framework, namely, the international agreement on cooperation in criminal matters, has long been amended by memorandums, bilateral agreements and protocols among the Ministries of Justice and the Prosecutor's Offices of the countries of the region.

Between May and November, the Prosecutor's Office of Bosnia and Herzegovina submitted to the Office of the War Crimes Prosecutor of the Republic of Serbia 27 requests for assistance, 11 of which were responded to, while 16 are still being considered. In the same period, the Office of the War Crimes Prosecutor of the Republic of Serbia submitted 67 requests to the Prosecutor's Office of Bosnia and Herzegovina, 21 of which were responded to, while responses to 46 are still awaited.

Between May and November, the Office of the War Crimes Prosecutor of the Republic of Serbia submitted to the State Attorney's Office of the Republic of Croatia 55 requests for assistance, nine of which were responded to, while no response has been received for any of the other 46 such requests. The State Attorney's Office of the Republic of Croatia submitted to the Office of the War Crimes Prosecutor of the Republic of Serbia 12 requests for assistance, seven of which were responded to, while five are still being considered.

In that connection, mention should be made that, after the Regional Prosecutors' Conference held in Belgrade in 2019, the representative of the State Attorney's Office of the Republic of Croatia presented in her letter of 2 October 2019 the position of her Office that its prosecutors acting in matters of war crimes should be exempted from regional training courses carried out jointly with the Prosecutor's Offices of other countries. She said that she was guided by the fact that Croatia is an EU member State and a signatory party to the conventions implemented under its criminal legislation and that, in view of the fact that its legislative solutions are different, its prosecutors need a different training. She also invoked a statement of the Mechanism to the effect that it would help regional Prosecutor's Offices of Bosnia and Herzegovina, Montenegro and Serbia to strengthen their capacities. The State Attorney's Office of the Republic of Croatia is left out, which, in her opinion, is a further indication that Croatian prosecutors should be exempted from regional training courses.

The Office of the War Crimes Prosecutor of the Republic of Serbia remains committed to strengthening cooperation with the Mechanism, which is one of the basic activities it engages in under the strategic documents in force in Serbia — the National Strategy for the Prosecution of War Crimes and the prosecutorial strategy, as well as the Chapter 23 action plan. The cooperation was very extensive in the reporting period, and a number of working meetings were held, including conference calls due to the COVID-19 pandemic. The most recent meeting was held at the level of Chief Prosecutors in October and focused on category II matters, which had also been the subject of discussion at the regional conference in Sarajevo in 2019. The Office took over the prosecution of a category II case, while the receipt of unredacted statements from the Prosecutor's Office of Bosnia and Herzegovina is awaited following the changes in protection measures.

Cooperation with the Mechanism continues through joint projects. One such project was launched last November with the participation of a number of representatives from the Office of the War Crimes Prosecutor and the Mechanism and the inclusion of a thorough analysis of category II cases, assistance requests, regional cooperation, the cases in which evidence is ceded, documents, information and the cases in which witness testimonies are ensured.

Let me point out that the Office was very active in the period from May to November and issued three indictments, taken over from the prosecution agencies of Bosnia and Herzegovina within the framework of regional cooperation. Two of the indictments refer to the commission of offences that accounted for a large number of casualties, while one was issued in a complex case with a large number of offences and casualties in which a high-ranking person was indicted. Furthermore, another indictment was issued last July, but it was dismissed due to insufficient evidence. The prosecution is now expected to come back with stronger evidence. Five more cases are to be taken over as soon as complete evidence is received from regional prosecution agencies. In one case a decision of the Mechanism is awaited following a request to change protection measures. The main trial is ongoing before first-instance courts in 15 cases against 37 persons, and three convictions were handed down under the indictments issued by the Office in the same period.

Fifty-four persons are currently being investigated by the Office of the War Crimes Prosecutor of the Republic of Serbia in eight cases. Two investigations were initiated in the period from May to November, and the others date back to the previous period. The investigation of unknown perpetrators was initiated in 11 cases. The investigation of 134 persons in 30 cases has been ceased, mainly because the defendants are at large and their whereabouts are unknown.

One of the priorities in the work of the Office is a solution to the issue of the large number of missing persons. In view of the importance of the issue, alongside the Commission on Missing Persons of the Government of the Republic of Serbia, the Office is regularly engaged in the pursuit of solutions to outstanding matters at the bilateral and regional levels and, to that end, a representative of the Office took part in a working meeting held on 23 October between the Commission and its Croatian counterpart.

It is hard to understand why my country's efforts to resolve certain questions, also presented in the Council, are met with official indifference. It sometimes seems that we are being convened here only for an informal meeting of interested parties and that the real decision-making takes place elsewhere. That does not benefit the Mechanism, and it is demeaning for the United Nations and disruptive of the international legal order. The only way to bridge the differences, overcome the impasse and embark on the path to addressing the initiative of my country is to get the Security Council actively engaged in this matter and provide answers and solutions, which we have long awaited.

**Annex 19****Statement by the Permanent Representative of Bosnia and Herzegovina to the United Nations, Sven Alkalaj**

At the outset, let me congratulate you, Mr. President, on assuming the presidency of the Security Council for this month. We wish you every success in performing your duties during these unprecedented circumstances caused by the spread of the coronavirus disease (COVID-19).

I would also like to thank the President and the Prosecutor of the International Residual Mechanism for Criminal Tribunals for their respective reports and for today's comprehensive briefings. We are grateful that the Mechanism continued to make progress in its work during the reporting period and continues to function despite the COVID-19 pandemic.

We note the continued progress made by the Mechanism in fulfilling the remaining activities of the International Tribunal for the Former Yugoslavia (ICTY). We wish to underline the importance of successfully concluding the mandate of the Mechanism in an efficient manner and within a reasonable time frame, which is crucial for justice and reconciliation in Bosnia and Herzegovina and the region.

The coronavirus disease pandemic has had an impact on the actions and activities of the International Residual Mechanism for Criminal Tribunals since the Security Council last met on this topic (see S/2020/527). I would like to inform Council members that the Council of Ministers of Bosnia and Herzegovina, in coordination with the authorities of both entities and the Brčko District of Bosnia and Herzegovina, has taken all responsible measures in combating the spread of COVID-19. The overall situation with the spread of the coronavirus disease, as well as the introduction of adequate measures to suppress the epidemic, has had a significant impact on the work of judicial institutions in the country. The work of the Prosecutor's Office and the Court of Bosnia and Herzegovina, which mostly deal with the still unfinished and most complex war crimes cases, was particularly affected.

I would like to inform members that the Council of Ministers of Bosnia and Herzegovina, at its session held on 24 September 2020, adopted a revised national war crimes processing strategy. The adoption of this decision was recognized by the Security Council, and we are very grateful for its support. The revised strategy is important for our judicial institutions to make additional efforts and conclude all unresolved war crimes cases. It is also a step towards strengthening the rule of law in Bosnia and Herzegovina, as stated in the opinion of the European Commission issued in May of 2019. The implementation of the revised strategy will send a very strong message that impunity will not, and must not, be allowed. It is also important for reconciliation and progress in Bosnia and Herzegovina, as well as in the Western Balkans region.

I would like to remind you, Mr. President, that over the years the cooperation of Bosnia and Herzegovina with the ICTY and its successor, the International Residual Mechanism for Criminal Tribunals, has been stable and complete, as evidenced by its reports. In the same vein, we remain committed to actively contributing to the Mechanism's efforts to accomplish its mission. We would also like to reiterate our commitment to its work and to call on all Member States to meet their obligations and contribute to the smooth running of the Mechanism.

We would like to express our gratitude for the support of the European Union, the Organization for Security and Cooperation in Europe and the United Nations Development Programme in terms of strengthening the human and

material resources of judicial institutions prosecuting war crimes and in terms of general capacity-building.

Bosnia and Herzegovina reiterates the importance of consistent cooperation among the prosecutors' offices and the competent authorities of Bosnia and Herzegovina and neighbouring countries, Croatia and Serbia, in accordance with the principles of international justice and the rule of law, which is crucial for the investigation and prosecution of war crimes.

Finally, I would like to emphasize that Bosnia and Herzegovina remains committed to investigating, prosecuting and punishing all persons responsible for war crimes, regardless of their nationality, political or other affiliation. We would also like to emphasize that witness protection is of the utmost importance for all judicial institutions in Bosnia and Herzegovina. This is most important for reconciliation in Bosnia and Herzegovina, as well as our path towards membership in the European Union, the main foreign policy goal, which has broad consensus among all political parties in the country. Keeping in mind that we recently marked the twenty-fifth anniversary of the end of the war in Bosnia and Herzegovina and the signing of the Dayton Peace Agreement, we are fully committed to continuing to strengthen the rule of law, human rights and economic development.

We will continue to work to strengthen the justice system in Bosnia and Herzegovina. Full justice means more trust, stability and progress.

**Annex 20****Statement by the Permanent Representative of Croatia to the United Nations, Ivan Šimonović**

I would like to thank The Honourable President of the International Residual Mechanism for Criminal Tribunals, Judge Agius, as well as Prosecutor Brammertz for their briefings today and for their recent reports. I also congratulate them on their reappointment.

The reporting period was marked by the coronavirus disease pandemic. We recognize that this global health crisis affected the Mechanism's work and caused unfortunate delays to the estimated timetable. We wish to commend the Mechanism for remaining operational and continuing to carry out its mandate, while safeguarding the health and safety of its staff members, non-staff personnel and those in detention facilities. However, the important work of the Mechanism in bringing justice to thousands of victims is not yet complete. The commemoration of the twenty-fifth anniversary of the Srebrenica genocide earlier this year reminded us all of the importance of holding its perpetrators to account.

Croatia takes note of the progress described in the most recent reports and supports the ongoing efforts of the Mechanism to complete its remaining trials and appeals efficiently and thoroughly. We still await judgement in the trial of Jovica Stanišić and Franko Simatović, as well as appeal an judgement in the Mladić case. It is extremely important that the judgements in both cases not be delayed any further. The trial of Slobodan Milošević lasted so long that he died before a verdict could be rendered and contribute to a better understanding of the dominant role of his regime in conflicts and atrocity crimes committed in the former Yugoslavia. Verdicts in the *Stanišić and Simatović* and *Mladić* cases are the last opportunities to make it up to the extent possible.

In addition, we would like to emphasize that, in the contempt of court proceedings against Petar Jojić and Vjerica Radeta, the latest decision by the Court, which was rendered only a few days ago, is clear. Serbia has to execute the arrest warrants and related transfer orders against the accused. And we underline once again the need for Serbia to fully cooperate with the Mechanism.

Croatia remains committed to the continuing cooperation with other countries in the region on matters related to war crimes. In that respect, we appreciate the positive developments in cooperation with Bosnia and Herzegovina, which resulted in the transfer of some cases to the Croatian judiciary. Croatia hopes to achieve the same progress with Serbia in due time as well. Croatia is still awaiting Serbia's response to its invitation from September 2019 to the fourth and final round of negotiations, which we hope will result in the finalization of the draft text of a bilateral agreement on processing war crimes. The invitation was renewed in November this year.

Croatia will continue its staunch support for the European and Euro-Atlantic perspective of the region, based on individual merit and fulfilment of all criteria. In that context, we underline the importance of effective handling of domestic war crimes cases without discrimination, including through meaningful regional cooperation and full cooperation with, and support to, the work of the Mechanism.

The search for missing persons and mortal remains is one of Croatia's top priorities. It is not just a political issue; it is a humanitarian imperative. After more than 25 years since the end of the war, Croatia is still searching for 1,869 missing persons. Strengthening cooperation among countries in the region with the aim of clarifying the fate of the missing persons is of the utmost importance. In recent years, certain steps forward have been made regarding the cooperation with Bosnia



and Herzegovina and Montenegro, but when it comes to the cooperation with Serbia there is still no real progress in resolving this open issue. We hope that the recent meeting of officials responsible for the search for missing persons in Croatia and Serbia is a step in the right direction towards more meaningful bilateral cooperation on this topic.

Croatia remains a strong supporter of international criminal justice mechanisms and believes that the Mechanism and other international courts are crucial cornerstones of the international rules-based order. Therefore, we will continue to offer our full support to the remaining work of the Mechanism, with the hope that the long-overdue justice in remaining cases will be fully served soon.

**Annex 21****Statement by the Permanent Representative of Rwanda to the United Nations, Valentine Rugwabiza**

I thank President Agius and Prosecutor Brammertz for the useful briefings. We appreciate the good cooperation between the International Residual Mechanism for Criminal Tribunals and the Government of Rwanda. Today's briefing, as previous ones, is a reminder to the Security Council that victims are still waiting for justice.

The Government of Rwanda takes note of the transfer of Mr. Kabuga to the Mechanism and his initial appearance. Now that Mr. Kabuga is in the custody of the Mechanism, Rwanda expects from the court efficient proceedings and for the trial to commence and conclude swiftly in order to finally render justice, 26 years after the genocide against the Tutsi in Rwanda and 23 years after Mr. Kabuga was indicted by the International Criminal Tribunal for Rwanda in 1997.

A constant of all reports by the Mechanism to the Security Council in the past two years is the lack of cooperation from some Member States with the Office of the Prosecutor in apprehending remaining genocide fugitives, which the Council has mandated that the court bring to justice. It is quite troubling that some Member States continue to fail to honour their legal obligations to cooperate with the Mechanism in bringing to justice genocide fugitives. The Office of the Prosecutor has struggled to obtain the cooperation of Member States in apprehending fugitives, even where there were clear leads and evidence of their presence in those countries. The pronouncements of commitment to international law and justice are not credible unless matched by action. Rwanda will not tire in seeking justice for the more than 1 million souls exterminated during the genocide against the Tutsi in 1994.

Two other issues stand out in the Mechanism's report that call for the attention of the Council.

With regard to the issue of genocide denial, the Office of the Prosecutor has regularly reported on genocide denial. The court has expressed its grave concern in that regard and called for urgent attention to those issues by the Council. Action must be taken by the Council to condemn genocide denial and hold to account cases of contempt of the court and attempts to revise witnesses' testimonies.

Finally, Rwanda disagrees with the characterization in the President's report on the issue of the resettlement of the nine acquitted and released persons. The report states that

“the resettlement of the nine acquitted and released persons who are presently residing in Arusha and are unable or afraid to return to their country of citizenship remains unresolved. The present dilemma constitutes a humanitarian crisis that profoundly affects their rights.”

The qualification of “humanitarian crisis” in reference to nine free men living comfortably in villas paid for by the international community, in a residential area of the touristic town of Arusha — with cleaning, cooking, communication and all accommodation services, with freedom of movement and visits — is abusive.

Rwanda wishes to remind the Council that, in all meetings with the principals of the Court, the Government has consistently made it clear that the nine Rwandans acquitted and released by the Court are free to go back and live in Rwanda, should they wish to do so. If they decide to do so, they will certainly not be the first Rwandans to return to Rwanda and live side by side with all other Rwandans in the enjoyment of their full rights. This has been the case for hundreds of thousands of Rwandans, former refugees, combatants and former genocide convicts who today

live peacefully side by side with genocide survivors, a testament to the success of Rwanda's unity and reconciliation.

That decision to return to Rwanda, however, is theirs to make. If, on the other hand, they wish to live in other countries, that also is their full right, and they should apply for asylum in their country of choice, as is the case for every asylum seeker. What we find highly questionable is why those nine free persons, who are today free men and have no ongoing proceedings with the court, should continue to be the burden of the international community.

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