



Security Council

Seventy-ninth year

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st meeting

Tuesday, 11 June 2024, 10 a.m.

New York

Provisional

President: Mr. Hyunwoo Cho (Republic of Korea)

Members:

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| Algeria | Mr. Gaouaoui |
| China | Mr. Geng Shuang |
| Ecuador | Mrs. Barba Bustos |
| France | Mrs. Dime Labille |
| Guyana | Ms. Benn |
| Japan | Mrs. Shino |
| Malta | Ms. Gatt |
| Mozambique | Mr. Fernandes |
| Russian Federation | Ms. Zabolotskaya |
| Sierra Leone | Mr. Sowa |
| Slovenia | Mr. Žbogar |
| Switzerland | Mrs. Chanda |
| United Kingdom of Great Britain and Northern Ireland . . | Mr. McIntyre |
| United States of America | Mr. Simonoff |

Agenda

International Residual Mechanism for Criminal Tribunals

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The meeting was called to order at 10.05 a.m.

Adoption of the agenda

The agenda was adopted.

International Residual Mechanism for Criminal Tribunals

The President: In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia to participate in this meeting.

On behalf of the Council, I welcome Her Excellency Ms. Maja Popović, Minister of Justice of Serbia.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite the following briefers to participate in this meeting: Judge Graciela Gatti Santana, President of the International Residual Mechanism for Criminal Tribunals; and Mr. Serge Brammertz, Chief Prosecutor of the International Residual Mechanism for Criminal Tribunals.

The Security Council will now begin its consideration of the item on its agenda.

I now give the floor to Judge Gatti Santana.

Judge Gatti Santana: Allow me first to congratulate you, Mr. President, on assuming the presidency of the Security Council and to express my deep gratitude for the Council's support for the International Residual Mechanism for Criminal Tribunals. It is a privilege to address the Council on behalf of the Mechanism, which stands proudly on the legacy of its predecessors, the International Criminal Tribunal for Rwanda (ICTR) and the International Tribunal for the Former Yugoslavia.

This year marks *Kwibuka 30* — the thirtieth commemoration of the 1994 genocide against the Tutsi in Rwanda. That solemn act of remembrance not only brings focus to the 100 days of horror that beset Rwanda, but also reveals that genocide is not spontaneous and that the seeds of ethnic division that grew into genocidal violence had been sown long before. Just as the preconditions for genocide and other atrocity crimes are numerous and grow in force over time, the justice cycle needed in order to confront the resulting violence and atrocities is also long and requires sustained support. Those lessons will resonate anew, as next year marks the thirtieth anniversary of the genocide in Srebrenica.

The Security Council took a leading role in initiating justice for Rwanda and the former Yugoslavia through its establishment of dedicated international criminal tribunals in response to the atrocities committed there. With the Security Council's enduring support, those ad hoc tribunals interpreted and gave concrete effect to the Convention on the Prevention and Punishment of the Crime of Genocide and international humanitarian law. They held accountable those most responsible for the genocides, war crimes and crimes against humanity committed in Rwanda and the former Yugoslavia, through trials and appeals adhering to the highest standards of fairness.

Justice, however, is not a process that concludes with the issuance of a final judgment. That fact is well known to everyone gathered in this Chamber. The Council had the foresight to create the Mechanism to continue the mandates of the ad hoc tribunals and, importantly, to complete the residual functions that necessarily follow the end of a trial and appeal proceedings. While those efforts do not garner the same attention as important verdicts, they are no less important. In fact, concluding the justice cycle with the same diligence, humanity and fairness ensures the credibility of the judicial process set in motion by the Security Council. It is key to the deterrence that is so foundational to that collective exercise of accountability.

I am proud to share that, as presented in our fifth review report, the past biennium featured a significant milestone for the Mechanism — active proceedings in the final core crimes cases have ended, and the Mechanism has completed its transition to becoming a truly residual institution. Moreover, as discussed in the Mechanism's May progress report, another function has now concluded, with the Mechanism's Prosecutor confirming that all fugitives indicted by the ICTR have been accounted for. We are steadily advancing on the path to completion.

Following the most recent biennial review of the progress of its work, the Mechanism committed itself to implementing the Council's request in resolution 2637 (2022) to provide clear and focused projections of completion timelines for all Mechanism activities and options regarding the transfer of its remaining activities. The initial priorities of my presidency were drawn from that instruction. Once the Mechanism's core crimes cases concluded, I focused on delivering to the Council a framework document that would guide the Mechanism's future planning for its other

mandated residual activities. That priority has now been realized, following my transmission of the framework of operations to complete functions in April. That detailed document reflects scenario-based workforce planning, incorporates the inputs of key stakeholders and provides a range of options and recommendations concerning the potential transfer of the Mechanism's functions. The Mechanism appreciates the careful consideration given to the framework by the Council's Informal Working Group on International Tribunals and its collaborative approach to finding the most appropriate and just way to conclude the Mechanism's work. The framework is a dynamic document, and the Mechanism will monitor developments and adapt its plans in line with the Informal Working Group's guidance and future circumstances.

In addition to that achievement, the Office of Internal Oversight Services (OIOS) has positively evaluated the relevance, effectiveness and coherence of the Mechanism's residual activities over the past biennium. The Mechanism welcomes OIOS's concrete recommendations for further improvement and is already taking steps to implement them. As an institution established to ensure accountability, the Mechanism is cognizant that it too must remain accountable to the Security Council's vision, as outlined in resolution 1966 (2010), that it

“should be a small, temporary and efficient structure, whose functions and size will diminish over time, with a small number of staff commensurate with its reduced functions”.

In adherence to that vision, the Mechanism's budgetary requirements have fallen by more than 25 per cent over the past two years. In September 2024, our organizational footprint will be further reduced by the closure of the Kigali field office. By December, the Mechanism will have eliminated just under half of all posts compared to our staffing figures two years earlier. In the meantime, we continue to streamline our work, including by refining our processes for the supervision of the enforcement of sentences and external relations. We have also continued to outsource numerous administrative functions to other permanent United Nations entities capable of absorbing them. Moreover, in February the Judges of the Mechanism removed a resource-intensive declassification procedure from the rules of procedure and evidence because it was not essential to the provision of access to confidential material and could not be concluded within a reasonable time frame and resources.

In its new, truly residual phase, the Mechanism still has important work to do and needs sufficient resources to do it. The breadth of this work is substantial and unprecedented among international and internationalized tribunals. The Mechanism has inherited the continuing responsibilities that follow from indicting more than 250 individuals. The resulting cases received evidence from more than 6,800 witnesses, approximately 3,200 of whom were subject to protective measures, and generated records that already stretch more than 4 km and are projected to reach 9 km. In that context, the Mechanism remains mandated to supervise the enforcement of sentences, with 41 convicted persons currently serving their sentences in 12 States and another seven persons under its jurisdiction. In the near term, it is expected that the work related to that function will increase as more prisoners reach the threshold for consideration for early release. Sufficient support during that phase will be critical. However, that work will wind down, and the Mechanism will adapt its resource requirements accordingly, while nevertheless ensuring that the conditions of imprisonment adhere to international standards.

The Mechanism also remains tasked with managing, preserving and facilitating access to the archives of the ad hoc Tribunals and the Mechanism. That function is closely connected with one of my key priorities, which is consolidating the rich legacy of those courts, which can serve as a powerful resource for combating denial and revisionism. In connection to that responsibility, the Mechanism continues to receive and adjudicate requests for access to confidential evidence maintained in the archives and for the variation of witness protective measures. Article 28 of our statute mandates the Mechanism to respond to requests for assistance from national authorities. With proper judicial oversight, that task allows us to share critical information with domestic courts that continue the work of accountability at local levels, and it has a multiplying effect on the justice cycle. In its recent evaluation, OIOS focused on that activity, and in view of the positive feedback from Member States and other stakeholders, concluded that the Mechanism effectively supported investigations and judicial proceedings in a range of jurisdictions.

Under article 24 of the statute, the Mechanism is additionally invested with the competence to review a conviction should new facts emerge demonstrating that a verdict could be unsafe. In the case concerning

Gérard Ntakirutimana, which is now before the Appeals Chamber, fresh information has been presented indicating that a witness may have provided false evidence that was critical to some of Mr. Ntakirutimana's convictions. The Appeals Chamber has therefore authorized narrowly tailored review proceedings to determine whether a miscarriage of justice might have occurred. The right to request review under our statute, which flows from rights guaranteed by the International Covenant on Civil and Political Rights, is fundamental. There are no limits on such applications, and although such requests have rarely been granted, the potential exercise of that function must remain available in order to protect fundamental rights and ensure the integrity of our judgments and legacy.

In addition, the Mechanism continues to offer support to protected victims and witnesses who were indispensable to the international judicial process. Relatedly, the Mechanism retains jurisdiction over conduct that interferes with its administration of justice and over false testimony given before it or the ad hoc Tribunals. Nevertheless, the Mechanism is mindful of the statutory obligation to consider the transfer of such cases to national jurisdictions before proceeding to trial. That is evident from the recently referred *Šešelj et al.* contempt case and the pending consideration by a single judge of whether to refer the *François Ngirabatware* contempt case. The Mechanism's continued jurisdiction over those offences provides a deterrent effect to interfering with justice and is an important part of protecting witnesses and the integrity of the judicial process.

As always, our ability to render justice is dependent on the cooperation of States. In that regard, the role of cooperation, as set out in the statute, is twofold. It consists of an obligation for the Mechanism to assist national jurisdictions by responding to requests for assistance, but also includes a duty for States to cooperate with the Mechanism in the investigation and prosecution of persons charged with crimes under its jurisdiction. The Prosecutor's recent announcement that the final ICTR fugitives have all been accounted for speaks to the success of those efforts. On the other hand, Serbia's continued refusal to cooperate in the contempt case concerning Petar Jojić and Vjerica Radeta constitutes a persistent obstacle to the Mechanism's discharge of its mandated functions, as for the better part of a decade it has hampered our ability to try the accused.

However, as noted previously, the justice cycle does not end with the delivery of a judgment. Functions related to the enforcement of sentences, set in motion following the pronouncement of a final judgment, form an integral part of that cycle. In order to fulfil that aspect of its mandate, the Mechanism still requires States' full and sustained cooperation. The Mechanism is fully aware of the efforts undertaken by a number of States in the area and sincerely appreciates their ongoing cooperation. Nevertheless, enforcement States have yet to be designated for a handful of convicted persons or for the provisional release of Félicien Kabuga. In that respect, the role of every member of the Council is essential.

Regrettably, the situation of the acquitted or released persons relocated to the Niger is at an impasse and is a sad reminder that obstacles persist in the area of cooperation. I renew my call for Member States to intervene so that a durable solution can be found as soon as possible. The Mechanism continues to do its utmost, but that dilemma can be resolved only through a joint effort with the international community. Sustained support from States and other stakeholders is essential to guaranteeing the efficient functioning of the justice process. Without it, the credibility of international justice as a whole is in jeopardy. The Mechanism must not, and cannot, carry that burden alone.

In closing, I want to say that the Mechanism, with the Council's continued support, will deliver on the promise made in this very Chamber that impunity will not prevail, but will be addressed through a durable judicial process committed to humanity and fairness. The work of the Mechanism and its predecessors has contributed to justice on two continents, produced an extensive body of international jurisprudence and created an important reservoir of lessons learned for future courts. The monumental task of safeguarding that legacy remains. It is a responsibility with ongoing significance for victims and witnesses, convicted persons, States that rely on our cooperation, and for the preservation of history and memory.

Having now transitioned to our purely residual functions, we have reduced our size and streamlined our operations, but we remain determined to conclude the final stages of the mandate the Council has entrusted to us. The Mechanism exists as the embodiment of the Council's commitment to justice and stands ready to continue that pursuit to its conclusion.

The President: I thank Judge Gatti Santana for her briefing.

I now give the floor to Mr. Brammertz.

Mr. Brammertz: I thank the members of the Security Council for the opportunity to brief them again today. Details about our work have been presented in both the review report and the progress report. Today I would like to highlight the issues that are most relevant to the Council's ongoing review.

Recognizing the Council's expectations for the International Residual Mechanism for Criminal Tribunals to effectively complete its functions, I can report that my Office has concluded its important mandate of accounting for all fugitives indicted by the International Criminal Tribunal for Rwanda (ICTR). On 15 May, we announced that we had confirmed the deaths of the last two fugitives, Ryandikayo and Sikubwabo. Our tracking team's investigations determined that in 1994 both fled Rwanda to what was then Zaire. They resided in Kashusha camp, together with many other perpetrators of the genocide, until late 1996. Sikubwabo then fled through the Democratic Republic of the Congo, the Republic of the Congo and the Central African Republic before arriving in Chad, where he died in 1998. Ryandikayo made his way to the Republic of the Congo, where he was recruited to join the Forces démocratiques de libération du Rwanda, and then to Kinshasa, where he died in 1998.

This residual function has been brought to a successful completion thanks to the expertise and dedication of my tracking team. When taking office as the Mechanism Prosecutor, I informed the Council about our intention to make the greatest possible effort to locate all the remaining ICTR fugitives. As I explained, that meant taking a more proactive approach and adopting new methodologies. It also required recruiting the right staff with the right skills. I noted that we had a window of opportunity to demonstrate a track record of success, but that this function could not continue forever. I am satisfied that over the past several years, our team has delivered on that goal and accounted for all eight outstanding ICTR fugitives. We arrested two fugitives — Félicien Kabuga in Paris in May 2020, and Fulgence Kayishema in Paarl, South Africa, in May 2023. One year after his arrest, Kayishema remains in South Africa, but we trust that he will finally be transferred to our custody in the coming period. We further confirmed the deaths of

another six accused. This means that all 253 persons indicted by the ICTR and the International Tribunal for the Former Yugoslavia (ICTY) for war crimes, crimes against humanity and genocide have now been accounted for. For the United Nations and the Security Council, that is an important demonstration of the international community's determination to secure justice for atrocity crimes. However, while all ICTR fugitives are accounted for, more justice is still needed.

That brings me to my Office's work assisting national authorities continuing the accountability process for crimes committed in Rwanda and the former Yugoslavia, which will be the main point of my statement today. Consistent with the completion strategies, the mandate that the Council entrusted to us in article 28, paragraph 3, of the statute of the Mechanism is clear — we shall respond to requests for assistance from national partners in the investigation, prosecution and trial of crimes under our jurisdiction. As I have regularly briefed members, Member States are very much in need of our assistance, as demonstrated by the number and complexity of requests that they submit. In the past two years alone, we received 629 requests for assistance. In responding to those requests, we provided support to a total of 219 national case files.

In relation to Rwanda, we assisted 10 different Member States. We handed over 5,000 documents, facilitated the participation of 69 witnesses in national proceedings, provided investigative plans and shared information on the whereabouts of fugitives in a number of countries. In relation to the former Yugoslavia, we provided support to seven Member States and four international organizations. We handed over more than 17,000 documents and prepared investigative dossiers, crime base reports and analytical reports. But in addition to the statistics in our reports, today I would like to provide the Council with a more tangible picture of that work.

On average, every single day, one new request for assistance is submitted to my Office. Each asks for something very different. It may be a request to search our 11 million pages of evidence for a suspect, victim or witness. It could be a request for an investigative dossier or analysis of a particular crime or perpetrator group, or partners may be asking us to use our developed expertise to help them resolve particularly challenging issues in their investigations and prosecutions. The request could also be for more strategic support, such as to promote stronger international cooperation or

provide investigative and operational support for locating fugitives. That variety reflects the practical reality of what our national colleagues need when they have to meet their own responsibilities.

Our key partners are, of course, Rwanda and the countries of the former Yugoslavia. But we have also met with prosecutors from African countries such as Eswatini, Mozambique and South Africa, as well as from Belgium, Canada, France, the United Kingdom, the United States and elsewhere. Our national colleagues know that there are persons who committed genocide living in their countries with impunity, some in plain sight. And they know that every single case is about victims and survivors who are still waiting for justice to be done. Every day we therefore respond to a wide range of requests for support from Member States. And our evidence collection and expertise make the difference in their ability to achieve justice in domestic courts.

This is also the work that was evaluated by the Office of Internal Oversight Services (OIOS) in its most recent report to the Council. I am satisfied that OIOS concluded that during the review period my Office prioritized its support to Member States and successfully delivered on its mandate. As OIOS noted, we took steps to proactively engage with countries to meet their needs. It was important that in conducting its evaluation, OIOS spoke with our national partners. Their comments confirm what I have reported to members for many years now. As OIOS reported, the overwhelming majority of national partners agreed that the assistance received had contributed to facilitating investigations and judicial proceedings in their jurisdictions. They noted that the Office of the Prosecutor shares evidence that would not otherwise be available to national judiciary actors, including by making much of it available to them online. They further explained that my Office shares experience in prosecuting complex cases and confirmed the effectiveness of having national jurisdictions learn from concrete cases processed by the ad hoc Tribunals and the Mechanism.

Finally, OIOS further found that the Office of the Prosecutor played an active role in facilitating regional cooperation between prosecutors, including advocacy for cooperation, requests for mutual legal assistance and the transfer of cases between jurisdictions. That is definitely important work that should continue in the years to come. Member States also commended the

Office's contributions to national war-crime strategies, ultimately leading to transitional justice. In sum, the results reported by my Office, the statements of Member States and the evaluation by OIOS all confirm that my Office's work, pursuant to our article 28, paragraph 3, mandate, is highly valued and has significant impact.

That confirmation is important, given the work our national partners still need to do. As I mentioned before, while the ICTR and ICTY indicted 253 persons, it was always well known that there were thousands more perpetrators who had to be brought to justice. Under the completion strategy endorsed by the Council, that work is now the responsibility of Member States in their national courts. But while Member States have already achieved significant results over the years, more accountability is still urgently needed. The Rwandan authorities are still seeking to bring to justice more than 1,000 fugitive genocides. Likewise, prosecutors in the former Yugoslavia still have thousands of suspected war criminals to investigate and prosecute. Domestic authorities in third-party Member States, particularly in Europe and North America, are also prosecuting such cases under "no safe haven" policies.

Continuing that work is essential — for the victims and survivors, of course, and for Member States that have made accountability a priority at the national level in order to secure the rule of law and promote reconciliation. Ultimately, that work fulfils the Council's vision for combating impunity for those responsible for serious violations of international humanitarian law, first through the ICTR and ICTY and now in domestic courts around the world. For those efforts to succeed, support from my Office is vital, as Member States and OIOS have said. My Office stands ready to work with the Council to develop options for how that support will continue. But what is most critical is that it does continue.

By way of conclusion, my Office has now successfully completed two of its three primary residual functions. Last year we finalized the remaining trials and appeals transferred from the ICTY and ICTR. Last month we successfully accounted for the last ICTR fugitives, bringing that work to a close as well. My Office is satisfied that we delivered on those important mandates, consistent with the Council's vision for the Mechanism as a temporary institution whose functions diminish over time. Yet while the process of ensuring international accountability for the crimes in Rwanda and the former Yugoslavia has now been concluded,

national prosecutors are continuing our work in their courts. And in that regard, the completion strategies can be successful only if the support provided by my Office to Member States continues. Today we are providing more support with more impact than ever before. That is a positive sign and confirmation that the justice process is on the right path. My Office remains grateful for the Council's continued support in all of our efforts.

The President: I thank Mr. Brammertz for his briefing.

I shall now give the floor to those members of the Council who wish to make statements.

Mr. Sowa (Sierra Leone): I thank Judge Graciela Gatti Santana, President of the International Residual Mechanism for Criminal Tribunals, and Mr. Serge Brammertz, Chief Prosecutor of the Mechanism, for briefing the Council as part of the fifth review of the progress of the Mechanism's work.

As Chair of the Informal Working Group on International Tribunals, I would like to take this opportunity to thank my predecessor, His Excellency Ambassador Michel Xavier Biang of Gabon, for his commendable work as Chair. I also want to thank the Working Group's current members, who have applied themselves assiduously to the review task entrusted to the Working Group, in reaching agreement on the presidential statement adopted on 4 March 2024 (S/PRST/2024/1).

I welcome the participation of the representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia in this meeting.

A fundamental requirement for the maintenance of peace and security is ensuring that those responsible for serious crimes of international concern are held accountable. Sierra Leone, by virtue of its own successful transitional justice history, achieved through partnership with the United Nations generally and the Security Council in particular, and now as an elected member of the Council, can attest to the transformative power of international justice delivered through independent and impartial criminal tribunals such as the International Residual Mechanism for Criminal Tribunals, and in our case, the Special Court for Sierra Leone. We are therefore committed to supporting the Mechanism in discharging its important mandate.

We are particularly grateful as a country for the support that the Mechanism provides to the Residual Special Court of Sierra Leone. In our commitment to safeguarding the integrity of the Residual Special Court and the legacy of the Special Court for Sierra Leone, we are of the firm view that a merger of the activities of the Mechanism and the Residual Special Court is neither practicable nor desirable. However, we continue to look for cooperation between the two mechanisms that can provide opportunities for the exchange of best practices and further advance operational efficiencies.

We commend the Mechanism for the excellent work it completed over the review period from 2022 to 2024, during which it concluded the trials of all core crimes and its work in tracking fugitives. We thank the States that cooperated with the Mechanism and rendered the assistance it needed to achieve its important mandate. We also applaud the Mechanism's efforts to eliminate the duplication of functions among its entities, resulting in a further optimization of its resources. That aligns with the vision outlined in resolution 1966 (2010) of the Mechanism as a

“small, temporary and efficient structure, whose functions and size will diminish over time, with a small number of staff commensurate with its reduced functions”.

With the conclusion of its key tasks, the Mechanism has now entered a truly residual stage. Its functions now include the monitoring of cases referred to national courts, the protection of victims and witnesses, contempt and false testimony proceedings, review proceedings, *non bis in idem*, the supervision of the enforcement of sentences and the provision of assistance to national jurisdictions. There are many variables that will affect the future direction and fulfilment of those functions, and we are committed to undertaking a constructive assessment of projections based on possible scenarios.

We appreciate the fact that uncertainties may arise from the Mechanism's work, given its heavy reliance on the goodwill and political will of Member States. Owing to a lack of enforcement States, the Mechanism has had to keep convicted persons in the detention centre in The Hague, which was not intended for that purpose. Similarly, the Mechanism continues to face challenges in getting States to accept and keep released and acquitted persons. It should continue to work with States, together with the States of origin of those persons, in order to explore solutions that can

enable released and acquitted persons to be resettled in accordance with applicable international legal standards and those persons' rights.

The Working Group has similarly had to grapple with those same ambiguities in assessing the work and possible future of the Mechanism. However, even as the Working Group continues to deliberate on the structure, form and tasks that will shape the residual phase, what remains certain is that the Council's continued support to the Mechanism is critical to ensuring that it can conclude its mandate to deliver justice for victims in a timely manner and uphold the Council's commitment to the rule of law.

Ms. Benn (Guyana): I thank the President of the Mechanism, Judge Gatti Santana and Chief Prosecutor Brammertz for their briefings, and I welcome the participation of the representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia in today's meeting.

Guyana supports the work of the International Residual Mechanism for Criminal Tribunals in its fight against impunity and in upholding the rule of law. We commend the progress it has made so far, particularly regarding the conclusion of the core crime cases and the successful tracking of all fugitives. As noted earlier, the Mechanism is now truly in its residual phase, approximately 31 years after the establishment of the ad hoc Tribunals. Steadfast efforts were required for that notable achievement, and Guyana commends the Judges, the Prosecutor and the officers of the Mechanism for their tireless work over those three decades. Though it has reached a further point of transition, the Mechanism still has an important role in ensuring accountability and justice for the crimes committed in the former Yugoslavia and Rwanda. While its functions and size must gradually diminish in accordance with resolution 1966 (2010), that must therefore be carefully managed to ensure the smooth and appropriate transfer of the remaining responsibilities. In that regard, we underscore the need to guarantee the protection of witnesses and survivors.

Guyana takes note of the comprehensive draft framework document submitted by the Mechanism to the Informal Working Group on International Tribunals, providing scenarios and projections for the completion of the Mechanism's functions. In particular, we note the proposals for the treatment of the archives and the transfer of the functions of the Mechanism. Guyana

believes that the Council will need an updated report of the Secretary-General on the administrative and budgetary considerations relating to the management of the archives in order to aid its discussions on the matter. A report containing recommendations for the transfer of functions from the Mechanism would also be helpful.

I would like to stress the importance of ensuring that all States cooperate with the Mechanism and support its work. Guyana is concerned about the fact that the issue of ensuring the relocation of the acquitted and released persons from Arusha to the Niger in December 2021 remains unresolved, and we note the efforts of the Mechanism to find a just solution to the problem. We urge States to cooperate and render all necessary assistance to the Mechanism in accordance with their obligations under resolution 2637 (2022). Guyana commends the efforts of the Mechanism to respond to requests for assistance from national jurisdictions, enabling them to advance the cause of justice and hold perpetrators to account.

In conclusion, Guyana reaffirms its full support for the work of the Mechanism and its efforts to combat impunity and achieve justice for the victims of the atrocities committed in the former Yugoslavia and Rwanda.

Mrs. Dime Labille (France) (*spoke in French*): I thank the President of the International Residual Mechanism for Criminal Tribunals, Ms. Graciela Gatti Santana, and the Chief Prosecutor, Mr. Serge Brammertz, for their briefings.

France reiterates its commitment to combating impunity and preserving the legacy of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, which are tasked with prosecuting the perpetrators of international crimes. We offer our full support to the Mechanism, which must be able to count on such support from the Security Council and all Member States. There are two cases that mark the conclusion of the Mechanism's judicial phase.

First, regarding Rwanda, on 29 February the Trial Chamber denied Félicien Kabuga's request to order a State to receive him on its territory as a provisionally released accused. While the Trial Chamber continues to monitor the evolution of Mr. Kabuga's health pending the identification of a State volunteering to accept his provisional release, we encourage the Mechanism to find a way to respond to the victims' quest for justice.

Secondly, with regard to the former Yugoslavia, the handing down on 31 May 2023 of the appeal judgment in the *Stanišić and Simatović* case marked a crucial point in the Mechanism's judicial activity. For the victims, it represents a victory of justice over impunity.

While there are no longer any fugitives indicted for core crimes by the two Tribunals, France supports the Mechanism's transition to truly residual functions. There are important decisions to be made on several issues, including key functions such as assisting national courts, protecting victims and witnesses, managing archives, monitoring the execution of sentences and remembrance work. In that regard, we welcome the efforts to streamline the activities of the Mechanism and its cooperation with the review of its working methods by the Office of Internal Oversight Services, and the Mechanism's presentation of a framework of operations for completing its functions, a living document that specifies the completion dates envisaged for each of the functions.

We also welcomed the arrest more than a year ago of Fulgence Kayishema, thanks to collaboration between the Office of the Prosecutor and the authorities of South Africa and other countries. As we have said, his arrest is an example of efficient and effective international cooperation in the fight against impunity. We call for his swift transfer to Rwanda via Arusha, where he can be tried. In that regard, France reiterates its commitment to States' cooperation with the Mechanism, in accordance with their international obligations, and to supporting its activities to bring justice to victims and promote reconciliation. We regret that some partners are still refusing to do so, despite the multiple appeals from the President and Prosecutor of the Mechanism, as well as those of Member States that have been relayed to the Council. On the last point, we note with concern that the Mechanism continues to face difficulties with the resettlement of both acquitted persons and convicted persons who have served their sentences. It will be important to ensure that they are successfully resettled.

Remembrance work is essential to reconciliation. Nevertheless, we remain concerned about denials of crimes as well as about hate speech and the glorification of genocides and war criminals convicted by the international Tribunals after impartial and independent proceedings.

I should not conclude without thanking Sierra Leone for its excellent work in the Council's Informal Working Group.

Mr. McIntyre (United Kingdom): I would like to thank President Gatti Santana and Prosecutor Brammertz for their most recent assessment and progress report and for their briefings to the Security Council today. I also welcome the representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia to today's meeting.

Let me begin today by acknowledging the important milestones that were reached during this reporting period. The most recent report confirms that all core crimes proceedings have now been completed. In addition, all the remaining fugitives in core-crime cases have now been accounted for. We agree with President Gatti Santana that this therefore represents a historic moment for the International Residual Mechanism for Criminal Tribunals. Its achievements so far are a concrete demonstration of what the international community can achieve when we work together to attain accountability. With that important phase of the work completed, it is right that the Mechanism and the Council focus on the future. As we heard from the principals today, there is still important work to be done, including assisting national authorities and performing ongoing judicial activities. We also welcome the important and necessary steps that the Mechanism has taken to streamline its remaining activities and ensure efficiency. We are confident that it will continue to focus on that area in future.

We remain concerned about the fact that despite this progress, obstacles remain. In particular, we call on Serbia to arrest and transfer Petar Jojić and Vjerica Radeta to the Mechanism following years of requests. Moreover, in recent months, we have seen an increase in ethno-national tensions in the Western Balkans, including the denial of international crimes by some senior political figures. The denial of such crimes, particularly by those in positions of power, holds the region back from building the safe, stable and inclusive societies that its people deserve.

Finally, the United Kingdom is proud of the role it continues to play in supporting the Mechanism, including through the enforcement of sentences and other forms of assistance. We take those responsibilities very seriously, including by cooperating closely with both the Mechanism and the International Committee of the

Red Cross to ensure compliance with all international standards. That assistance reflects our steadfast commitment to delivering justice to all affected by atrocity crimes in Rwanda and the former Yugoslavia.

Mrs. Barba Bustos (Ecuador) (*spoke in Spanish*): I thank President Gatti Santana and Prosecutor Brammertz for their briefings, and I welcome the representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia to today's meeting.

In the context of the recent commemoration of the thirtieth anniversary of the genocide in Rwanda, the International Residual Mechanism for Criminal Tribunals is a reminder of what the international community can achieve in the fight against impunity when there is a lasting and sustained commitment. The reporting period has been significant for the Mechanism, which has functioned as a fully residual body for the first time since its establishment. The conclusion of all judicial proceedings, as well as the announcement made by the Prosecutor in May regarding the confirmation of the deaths of the last two fugitives indicted by the International Criminal Tribunal for Rwanda — which my delegation commends — marks the Mechanism's definitive transition towards its residual phase.

As a result, and looking ahead, the Mechanism should focus on planning for the gradual drawdown of its operations, in compliance with the provisions of resolution 1966 (2010). In that regard, my delegation appreciates the presentation of the framework of operations to complete its functions, which sets out the expected dates for the completion of activities and options for the transfer of functions to a suitable entity. Ecuador considers that this document, together with the assessment by the Office of Internal Oversight Services, provides useful input for the Security Council to assess the Mechanism's progress and future trajectory. In its new form, the Mechanism is facing the challenge of fulfilling its residual functions, which include judicial tasks related to the protection of witnesses, the enforcement of judgments and potential contempt cases. The ongoing cooperation of Member States will remain indispensable in tackling those challenges.

Ecuador considers the consolidation of the legacy of the Mechanism and the ad hoc Tribunals extremely important. In that regard, we support actions to disseminate judgments and case files and the standing assistance that the Mechanism provides to national jurisdictions. Ensuring that the Mechanism's legacy is

disseminated is one of the most powerful tools it has to counter historical revisionism and the glorification of war criminals, narratives that constitute the last redoubt of genocidal ideology. It is also necessary to ensure the preservation of and access to the Mechanism's archives.

In conclusion, I reiterate my country's support for the Mechanism and our firm intention to participate constructively in the negotiations leading to the renewal of its mandate.

Mrs. Shino (Japan): I thank President Gatti Santana and Chief Prosecutor Brammertz for their informative reports and briefings.

Japan is committed to promoting the rule of law, including the fight against impunity and the pursuit of transitional justice, and we therefore support the role of the International Residual Mechanism for Criminal Tribunals. We urge all States to cooperate with the Mechanism.

We welcome the fact that the Mechanism has shown remarkable progress. Not only did it conclude all its core-crime cases last year, in May of this year it also succeeded in accounting for all the fugitives indicted by the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia. That would not have been possible without the tenacity and expertise of the fugitive tracking team. We would like to express our respect for their dedication and achievement. We also recognize that the excellent cooperation of the States involved played an important role in achieving that outcome. Our sincere gratitude goes to them as well.

With that progress in the areas of investigation and prosecution, we welcome the fact that the Mechanism is now transitioning from being an operational court to a truly residual institution. While we acknowledge that it will continue to play an indispensable role, including in assisting national jurisdictions, its activities and size should narrow over time, commensurate with the reduction in its functions. In that regard, we appreciate the Mechanism's leadership in achieving the completion of its residual functions as soon as possible and exploring potential options for transferring its remaining activities.

The framework document for the Mechanism's completion of its function, which President Gatti Santana presented to the Council in April, has given us a clearer understanding of its future activities,

their expected duration and the possibility and difficulties of transferring its functions. We also commend President Santana's internal restructuring initiative, which combines both a reduction in posts and the streamlining of workflows in order to optimize resources and efficiencies.

Let me reiterate Japan's continued interest in and unwavering support for the Mechanism's activities. We are committed to promoting the rule of law together with fellow Member States and international judicial institutions, including the Mechanism.

Mr. Simonoff (United States of America): I thank President Gatti Santana and Prosecutor Brammertz very much for today's briefing on the ongoing work of the International Residual Mechanism for Criminal Tribunals to advance accountability for atrocities committed in Rwanda and the former Yugoslavia.

We are grateful to President Gatti Santana for her leadership of an important institution. The Mechanism continues to support the delivery of justice and ensure that some of the gravest crimes of the previous century are not forgotten. Just last month, the Office of the Prosecutor's fugitive tracking team announced that it had confirmed the deaths of Ryandikayo and Charles Sikubwabo, who were the final fugitives at large. The International Criminal Tribunal for Rwanda (ICTR) had charged Ryandikayo and Sikubwabo with genocide and crimes against humanity for attacking various places of refuge, including churches and hospitals, and killing civilians taking shelter there. Together, those attacks resulted in the murder of thousands of Tutsis. With the closure of those cases, no Rwandan fugitives remain at large. That is a remarkable achievement, and we hope that it will bring some peace to Rwandan victims and survivors and their families. We congratulate the Mechanism on all its work to bring justice for Rwandans.

We also express our appreciation to the Mechanism's tracking team and to the South African authorities for arresting Fulgence Kayishema in May of 2023 after he had evaded arrest for more than 20 years, and we take note of the Mechanism's ongoing efforts with respect to Félicien Kabuga, who the Appeals Chamber ruled was not competent to stand trial last June. We appreciate the Mechanism's work in monitoring his health. We applaud Mr. Brammertz's work to respond to national authorities' requests for assistance to advance justice in their own systems. As the Prosecutor has noted, national authorities must bear the primary responsibility for

providing justice to victims. The Prosecutor's efforts have empowered national authorities to seek justice and then to see it through. With respect to the former Yugoslavia, we are grateful for the decades of work by the judges, attorneys, defence counsel and other court staff of the International Tribunal for the Former Yugoslavia (ICTY) and the Mechanism, and their immense contributions to advancing the rule of law and the fight against impunity in the former Yugoslavia.

The Mechanism has played an indispensable role in fulfilling the legacy of the ICTY and the ICTR. We appreciate the Mechanism's efforts to help counter denials of genocide and enhance cooperation with the States affected more broadly. We also take note of the Mechanism's ongoing work to preserve and provide access to both its own extensive physical and digital records and those of the ICTY and the ICTR, while also ensuring the protection of confidential information in those records. We remain committed to supporting those efforts.

Now that the Mechanism has fully entered its residual phase, we appreciate President Gatti Santana's expressed priorities, including her ongoing efforts to refine and adjust a framework of operations for the Mechanism to complete its important work. We also take note of her collaborative efforts with Registrar Tambaou to streamline operations and minimize redundancies in areas where both are involved, such as the supervision of the enforcement of sentences and the management of external relations. Moreover, we welcome the efforts by President Gatti Santana, Mr. Brammertz and Mr. Tambaou to reduce the Mechanism's organizational footprint, including by closing the Kigali field office this August. We look forward to further discussions regarding the Mechanism's framework of operations to complete its functions, and we acknowledge its thoughtful analysis regarding that crucial phase of its work.

As President Gatti Santana's report notes, one of the Mechanism's most important functions going forward will involve supervising the enforcement of the sentences handed down by the ad hoc Tribunals and the Mechanism. We note that 12 countries serve as enforcement States holding the people who have been convicted. The Mechanism's successful operation will continue to depend on close cooperation with those and other States in order to ensure not only that criminals serve out their sentences but that those who have obstructed justice face their day in

court. We additionally look forward to a constructive conclusion to the fifth review and to the Security Council's subsequent appointment of a prosecutor, followed by the Secretary-General's appointment of a president, registrar and judges. We thank Sierra Leone for its leadership of the Informal Working Group on International Tribunals.

It is important to note one worrying aspect of Prosecutor Brammertz's report, which is the continuing denial of crimes and refusal to accept established facts that we have seen in relation to the events in both Rwanda and the former Yugoslavia. We echo the Prosecutor's call to all officials and public figures to keep the victims and the suffering of civilians front and centre. We fully agree with the Prosecutor that leadership in favour of reconciliation and peacebuilding is urgently needed in the former Yugoslavia.

In closing, we acknowledge and honour the bravery and resilience of the victims and survivors and their loved ones as they continue to fight for official acknowledgement of atrocities committed in their communities. We recognize the courage of the thousands of witnesses who have participated in trials before the ad hoc Tribunals, the Mechanism and other courts. Without them, justice could not be done. The United States will continue to press for justice as the foundation for peace and stability in their communities.

Mr. Žbogar (Slovenia): I would like to thank President Gatti Santana of the International Residual Mechanism for Criminal Tribunals and Prosecutor Brammertz for their detailed progress reports submitted to the Council and their informative briefings today. I welcome Ms. Popović, Minister of Justice of Serbia, and the representatives of Bosnia and Herzegovina, Croatia and Rwanda to this meeting.

Slovenia strongly supports the work of the Mechanism, established as the successor to the International Criminal Tribunal for Rwanda (ICTR) and the International Tribunal for the Former Yugoslavia (ICTY) and intended to be a small, temporary and efficient structure. That is an important goal and one that all the principals have implemented very successfully. However, we would like to emphasize that for Slovenia, the Mechanism's most important result is its contribution and lasting legacy in fighting impunity and ensuring accountability for the most atrocious international crimes.

We welcome the strong progress made by the Mechanism during the review period. We note that there are no more active trials or appeals in core-crime cases before the Mechanism. We also welcome the completion of another residual function, the tracking of core-crime fugitives. We welcome the framework of operations document on the completion of the Mechanism's functions, prepared by its principals. It is an important and comprehensive document that will help guide the Council when it is time to decide on the final completion of the Mechanism and the possible transfer of its remaining residual functions in due course.

The Mechanism has consistently demonstrated its commitment and determination to plan adequately for the future. Thirty years after the establishment of both ad hoc Tribunals, it is now a truly residual institution. However, that does not mean its work is done. There are several residual functions that remain important in the pursuit of justice. They include supervising the enforcement of sentences, responding to national requests for assistance, ensuring the continued protection of victims and witnesses, monitoring cases referred to national jurisdictions and managing the archives of the Mechanism and its predecessor Tribunals.

In our view, the preservation, management and accessibility of the archives are one of the Mechanism's most important residual functions, which will need further consideration. Archives have lasting value and it is vital to manage them efficiently in order to ensure accountability before the courts. Criminal proceedings require an accessible system where all the evidence and documents are properly stored and managed by qualified staff. In that regard, we see merit in having additional input from the Secretary-General and the Mechanism on the issue in the future. We believe that a centralized system for managing the archives of all tribunals and mechanisms established under the United Nations umbrella would be the most appropriate and efficient way forward.

We note that there are still thousands of cases open before national courts regarding suspected perpetrators of war crimes, crimes against humanity and genocide to be investigated and prosecuted. The Mechanism's support and assistance to the national jurisdictions prosecuting international crimes committed in Rwanda and the former Yugoslavia therefore need to remain a priority, even after the completion of the Mechanism. We look forward to having additional input from the

Secretary-General and the Mechanism's principals in that regard. The completion and fulfilment of the Mechanism's mandate also depend on cooperation with Member States. We urge all States to comply with their obligations under international law and to cooperate fully with the Mechanism.

Respect for the Charter of the United Nations and international law, as well as trust among the members of the Security Council, has eroded significantly since the time when the Council established first the ICTR and the ICTY and then the Mechanism. Sadly, it seems almost impossible today to imagine the Council being able to unite around such a goal. That may be a topic for another discussion, but today we should recognize, value and appreciate the work of the Tribunals and the Mechanism in implementing the mandates that the Council entrusted to them. While the Mechanism's function will diminish over time, its legacy and the legacy of its predecessors, the two Tribunals, most definitely will not. It remains crucial to fighting denials of genocide and the glorification of war criminals, and for reaffirming that the perpetrators of the most heinous international crimes will not go unpunished, however long it takes. That legacy is fuelling optimism that the international order based on the Charter of the United Nations, international law and justice will always prevail.

Mrs. Chanda (Switzerland) (*spoke in French*): I would like to thank President Gatti Santana and Prosecutor Brammertz for their reports and informative briefings. I would also like to welcome the participation of the representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia in this meeting.

This year we commemorate the thirtieth anniversary of the genocide in Rwanda and the twenty-ninth anniversary of the genocide in Srebrenica. Today all the cases relating to the main crimes have been concluded and, since 15 May of this year, all the fugitives indicted by the two Tribunals have been accounted for. I would like to make three observations in the light of those milestones.

First, we would like to reaffirm our support for the Mechanism and commend the efforts to implement its mandate. The significant progress made over the past six months shows the determination of the Prosecutor, the President and the judges to bring the perpetrators of international crimes to justice and combat impunity. We are pleased to note that while there are no longer

any living fugitives from the International Criminal Tribunal for Rwanda, the Mechanism continues to play an important role in combating impunity, preventing future crimes and promoting peace.

Secondly, the Mechanism's future deserves our full attention. Having entered its purely residual phase, the Mechanism continues to perform core functions such as monitoring the implementation of sentences, assisting national authorities and preserving archives. We have taken note of the framework of operations for completing its functions. We support the reviews undertaken to optimize resources and strengthen the Mechanism's effectiveness in order to realize the vision of a small, efficient and temporary entity. We would like to highlight the importance of preserving the legacy of the ad hoc Tribunals and the Mechanism. We welcome the Mechanism's efforts to help the communities affected, particularly younger generations, to better understand the facts of the crimes committed and recognize their suffering. In that context, the denialist and revisionist tendencies and the glorification of criminals that have been repeatedly reported to us are deeply concerning.

Thirdly, combating international crimes effectively requires sustained and strengthened cooperation. The Mechanism must be able to count on strong support from the Security Council and all Member States. We call on all States to redouble their efforts to strengthen their cooperation with the Mechanism, in particular to arrest and hand over suspects. We also encourage States to strengthen their regional cooperation frameworks on criminal matters. Lastly, we regret that the situation of the people who have been resettled in the Niger for more than two years — one of whom recently died — has still not been resolved, despite the Mechanism's considerable efforts in that regard.

Switzerland reaffirms its commitment to international criminal justice, to the fight against impunity and to justice for all victims and survivors of atrocities. There is no doubt about the Mechanism's important contribution to transitional justice and consequently to the promotion of lasting peace, and it deserves our full support.

Ms. Zabolotskaya (Russian Federation) (*spoke in Russian*): We would like to thank the President and Chief Prosecutor of the International Residual Mechanism for Criminal Tribunals (IRMCT) for their briefings.

We studied closely the fifth review and the most recent progress report on the activities of the Mechanism. They are lengthy documents, but they

fail to answer the key question regarding the ultimate, reasonable time frame for closing down the IRMCT and/or transferring all its functions. Instead, the documents contain vague references to the year 2052, which cannot be considered reasonable as per the underpinning resolution, resolution 1966 (2010).

We would like to underscore several facts in that regard. The Residual Mechanism currently employs 301 people and has an annual budget of more than \$65 million. For comparison, the budget of the International Court of Justice, the main judicial organ of the United Nations, is half that. In their lifetime, the IRMCT and the Tribunals that preceded it have spent \$5 billion. Today we heard how many people have been indicted by the Tribunal and the Mechanism. We did a rough calculation, and it turns out that every indictment cost the international community \$20 million.

Here are some more facts. When a completion strategy for the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda was presented, it was argued that without the implementation of a completion strategy, the Tribunals would continue to exist until 2015. It is already 2024. Subsequently, the 2009 report of the Secretary-General (S/2009/258), which was requested by the Security Council in the context of transforming the international criminal tribunals into a residual mechanism, included an approximate date of 2030 for the closure of the IRMCT. Even then, allocating 21 years to complete the residual functions seemed unreasonable and excessive. The same can be said now. However, it is already 2024, as we know, and the idea of closing down by 2030 has been conveniently dismissed. The year 2052 is now being discussed. Surely, if that logic persists, in 2050 there will be discussions of 2070 and so on ad infinitum.

The IRMCT should have closed down long ago. The key trials have been completed, and there are no fugitives from justice. However, the Mechanism continues to justify its existence through secondary tasks that can be handled by existing United Nations entities and national jurisdictions, such as contempt cases, archive management and technical assistance. We would like to emphasize that none of that really requires the presence of the Residual Mechanism, especially in its current form. There are specialized units and departments within the United Nations system that stand ready to assist interested States upon request. Given what has been said following the fifth review of

the activities of the IRMCT, we see no reason at all to agree to the renewal of its mandate. What would be the point of doing so? Would it be for us to hear once again, in 2026, two years from now, a set of traditional excuses, vague forecasts and obviously unacceptable scenarios for the transfer of its functions?

Nevertheless, we are prepared to extend — on an exceptional basis — the mandate of the Mechanism only to help us to take stock of its work and take note of its completion. To that end, the Mechanism's leadership should immediately begin to implement the most realistic scenario for the winding down of its activities, namely, preparations for the transfer of the remaining functions to States' national bodies and, where necessary, to United Nations entities. We believe that the Security Council should issue direct instructions to that effect. That was the path followed by the Nuremberg and Tokyo Tribunals, which for us remain examples of delivering objective, unbiased, professional and swift justice for the most serious crimes in human history.

Some members of the Council have raised the issue of the so-called information centres. In that context, we would like to say that the establishment and maintenance of such centres is not a matter for the Security Council or the IRMCT. They are initiatives of individual States, so it is up to them to decide on the future of such centres. At the same time, calls to preserve the legacy of the Mechanism and in particular its predecessor, the ICTY, are completely absurd. Russia's position regarding the dubious trace that their activities have left in the region is well known. Moreover, we would like to recall that even the Nuremberg Tribunal does not have special custodians of its legacy. For some reason, those delegations that are so concerned about the glorification of criminals do not express the same concern when it comes to those sentenced by the Nuremberg Tribunal.

We firmly believe that there is a simple solution to the issue of the Mechanism's documentation — the Council should hand it over to the United Nations. The United Nations keeps vast archives and has the necessary specialization to deal with the issue. Moreover, if the countries that were involved in the conflicts wish to receive such documentation, it should be handed over to them immediately, because it is important for those countries and not just for the international community. We have proposed that language to that effect be added to the draft resolution. We call for it to be supported.

There were proposals to again address the Mechanism and the Secretary-General on this issue. However, this issue has been under discussion since 2009. We have repeatedly reached out to both the Secretary-General and the Mechanism itself. All options are on the table. The IRMCT Prosecutor continues to complain to the Security Council that decisions of the ICTY and IRMCT are not recognized by all countries in, for example, the Balkan region. Several delegations have also mentioned that issue today. In our view, the root cause of that situation is quite obvious. The Tribunal tailored its decisions to fit a certain political narrative, placing all responsibility for the events in the region on the Serbs. The ICTY disregarded anything that did not fit that narrative. The perpetrators of the massacres against the Serbs were never punished. Incidentally, the same can be said of the representatives of the NATO countries that carried out the military aggression against Yugoslavia. We would like to recall that 14,000 bombs were dropped during that attack. There were numerous civilian casualties and evidence of war crimes. However, the ICTY decided that it had no legal basis and, for that matter, no right to hold anyone accountable. For some reason... For some reason, the Tribunal was interested only in the Serbs. Serbs accounted for 80 per cent of those convicted, and the cumulative length of their prison sentences exceeded 1,000 years. The representatives of other warring parties whose cases came before the ICTY either received significantly more lenient sentences or were acquitted outright. In general, the fact that the prosecution of persons who were fully under the jurisdiction of the ICTY is now being handled by a third-party entity, the European Union's Kosovo Specialist Chambers, is very indicative of the quality and objectivity of the Tribunal's so-called justice.

Also, for example, the results of the General Assembly vote on resolution 78/282 on the events in Srebrenica speak volumes. Its sponsors presumed that since their product was based on the ICTY's judgments, its provisions could not be questioned. In fact, however, more than half of the membership of the United Nations did not support that initiative. The initiative itself, based on those judgments, resulted in an escalation of tensions in the Balkans, which further bears out the fact that the ICTY has completely failed in its task of promoting sustainable inter-ethnic peace.

More than 30 years after the ICTY's establishment, the page of its odious so-called legacy has yet to be turned. The wheels of justice of its successor in the

Mechanism continue to crush human lives — now through a failure to comply with the function to supervise the enforcement of sentences.

For example, the former head of Republika Srpska, Radovan Karadžić, is currently imprisoned in the United Kingdom. His rights are being grossly violated. For example, the most recent disciplinary measure was taken against him because, during a telephone call, a child's cry was heard on the interlocutor's end. By the judgment of the leadership of the penitentiary institution, that child was not on the approved contact list, hence the punishment. Moreover, owing to the fact that media outlets published, without his consent, correspondence he sent to a relative, he was subjected to additional disciplinary measures. What measures were those? He was stripped of a mattress and a pillow, and presently, he can be visited only by a priest.

Furthermore, Serbian General Ratko Mladić is at death's door in the United Nations detention facility in The Hague. Seven medical experts concluded that he should be transferred to Serbia to continue serving his sentence in his country. Mr. Mladić's illness and the fact that he is bedridden require the constant presence of well-trained staff and assistance in his native language. His condition is so critical that he may not survive transfer to a country other than his home country.

However, contrary to the requirements of humanity, on 10 May the President of the Mechanism rejected the application of Mladić's lawyers for early release on humanitarian grounds or permission to serve the remainder of his sentence in Serbia. What is the purpose of that decision? Let us recall that, according to the Mechanism's document of 15 May 2020, any medical reports are taken into account when making decisions in such cases. In that connection, we cannot fathom why the opinions of seven doctors were not taken into account.

We support Mr. Mladić's lawyers and family members in their fight for his right to life and medical assistance. Once again, we stress that the Mechanism's approach to Mladić stands in stark contrast to its approach in the case of Mr. Kabuga. There, the Mechanism took into account the circumstances related to the defendant's health, freezing the proceedings and consenting to consider his release from custody on medical grounds. We see blatant double standards here.

We call for a decision to finally be taken to transfer Mr. Mladić to Serbia to serve out the remainder of his sentence. That would be in compliance with the

circumstances of the Serbian General's trial, namely, his advanced age and the fact that the trial against him has gone on for an unjustifiably long time, during which three judges have been disqualified. The accused has suffered repeated violations of his basic rights under human rights treaties, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), the relevant Security Council resolutions and the Mechanism's Rules of Procedure and Evidence. They were all violated in his trial. We underscore that in the event of negative developments with regard to Mr. Mladić, responsibility will lie fully with the Mechanism.

The Mechanism's failure to comply fully with its supervisory function vis-à-vis sentence enforcement can be clearly seen in its most recent report to the Security Council. The Mechanism does not deal with that function directly, but instead has been relying on reports from national penitentiary institutions. Furthermore, we have received reports that the monitoring of respect for the rights of convicted persons is being done by the International Committee of the Red Cross and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

That raises a number of questions. Why, then, is the Mechanism itself necessary? Furthermore, during the consideration of the previous report (see S/PV.9502), my delegation drew attention to the multiple violations of Mr. Karadžić's rights in the British prison. It would have been logical to suppose that the Mechanism would send those organizations involved in monitoring to visit the person whose plight was noted by a Security Council member. However, it has come to our attention that the aforementioned organizations, like the Mechanism itself, has no concern whatsoever about his prison conditions.

In that connection, we firmly believe that the time has come to decide on the handover of all persons serving out sentences to their States of citizenship to serve out the remainder of their sentences. We believe that national jurisdictions are in a position to resolve issues related to violations of their rights and degrading treatment. The Mechanism is unable to cope with that. We prepared the relevant proposals for a Council draft resolution, and we count on the support of Council members. We believe that the option we have proposed will help to take into account such factors as the health, age and linguistic, cultural and religious specificities

and needs of convicted persons, as well as their inability to communicate with loved ones due to their distance from their families, their lack of social ties and their emotional problems. Moreover, that will help to reduce the cost of the Mechanism. Most importantly, it will resolve the problem of the longest-living residual function, on the basis of which the Mechanism's activities are envisaged to continue until 2052. Transferring the function will resolve that problem.

We reiterate our call for the Mechanism to immediately prepare for the transfer of all its residual functions, namely, adjudicating contempt of court cases, providing assistance to national jurisdictions, ensuring victim and witness protection and supervising the enforcement of sentences, to national competent authorities and, where necessary, to United Nations entities. That can be done in an orderly and timely manner, or, alternatively, we can find ourselves in the same situation as that of Iraq and the United Nations Investigative Team to Promote Accountability for Crimes Committed by Da'esh/Islamic State in Iraq and the Levant, which is now hastily drawing down. The leadership of the Residual Mechanism has a choice here.

In conclusion, we would like to draw attention to the unacceptable situation that unfolded yesterday with regard to the Informal Working Group on International Tribunals. Serbia and Rwanda requested to attend a meeting of the Informal Working Group, but a number of delegations blocked their participation. Why that was done is completely unclear. Serbia and Rwanda are not States that could merely present the Informal Working Group with some theoretical considerations, but rather countries in the region and even likely successors to the Mechanism that will assume some of its functions. We heard from Council members that those requests for participation were received at a late juncture. However, we wish to draw attention to the fact that we have a number of non-members of the Council taking part in our meeting today. A request from one of them came in only one hour before the beginning of our meeting. Nevertheless, we were pleased to grant all requests.

We expect and formally request the Chair of the Informal Working Group on International Tribunals to convene a special meeting where we can hear from the affected States, with the participation of the principals of the Residual Mechanism, so that we can engage in a practical discussion of the issue of the transfer of the IRMCT's functions.

Ms. Gatt (Malta): I would like to thank President Gatti Santana and Prosecutor Brammertz for their briefings on the ongoing work of the International Residual Mechanism for Criminal Tribunals.

We welcome the attention to carrying out future-planning activities and to moving forward with the transition. In that regard, the fifth review report and the framework of operations to complete functions have been essential tools in the review of the Mechanism this year.

We note the Chambers' progress in moving to the effective conclusion of its final trial and appeal proceedings in core crimes cases, and the Prosecutor's announcement that all fugitives have been accounted for. We recognize, however, the need for the Mechanism to continue its work on the enforcement of sentences, protection of witnesses and monitoring of cases. Those are essential tasks and provide the communities and victims of atrocity crimes the sustained justice they deserve. We want to assure the President of our full support in the continuation of those important functions.

The Office of the Prosecutor's focus on assisting national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda, as well as building national prosecutorial capacities, is commendable. In doing so, the Office continues to play a critical role in facilitating the rule of law and accountability globally. The Office has built and developed expertise in the prosecution of atrocity crimes, which should continue to benefit national courts, even beyond the scope of the Mechanism. We support efforts to explore options in that regard.

Malta also looks forward to further study regarding administrative and budgetary aspects in relation to the archives of the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism, in a way that preserves confidentiality while ensuring their accessibility.

We join the Mechanism in thanking and commending the enforcement States referred to in the report. We are cognizant of the Mechanism's continued challenges in the area of enforcement and call on States that can do so to take on enforcement responsibilities.

Malta recognizes the challenges that the Mechanism faces when it comes to the cooperation of Member States, in particular with regard to the *Jojić and Radeta* case. We call on States to assist the Mechanism also

with regard to the unresolved predicament of the acquitted and released persons who were relocated to the Niger.

The Mechanism and its predecessors have made significant steps in establishing the facts and providing the historical record of atrocity crimes committed in Rwanda and the former Yugoslavia. In that context, we thank the President for advancing, where feasible, the Mechanism's facilitation of the establishment of information centres in line with resolution 1966 (2010). Disseminating information is important not only for the legacy of the ad hoc Tribunals and the Mechanism but also because it serves as a pivotal tool in countering genocide denial and associated divisive phenomena.

Finally, we would like to thank Sierra Leone for its role as Chair of the Informal Working Group on International Tribunals.

Mr. Gaouaoui (Algeria) (*spoke in Arabic*): At the outset, we would like to thank the President of the International Residual Mechanism for Criminal Tribunals, Judge Graciela Gatti Santana, as well as Chief Prosecutor, Mr. Serge Brammertz, for their briefings on the activities of the Residual Mechanism. We welcome the representatives of Rwanda, Croatia, Serbia and Bosnia and Herzegovina to this meeting. We would also like to take this opportunity to thank Sierra Leone for its tireless work as Chair of the Informal Working Group on International Tribunals and the Office of Legal Affairs for its efforts in coordinating the work of the Council and the Residual Mechanism.

With regard to what we have heard today, we would like to highlight the following five points.

First, we appreciate the progress made in the work of the temporary Residual Mechanism since its establishment on 22 December 2010, particularly during the period covered in the most recent report, to gradually reduce its remaining functions and size and transition towards an actual residual mechanism. We note with satisfaction the completion of all cases and proceedings related to the core crimes referred to the Mechanism by the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, as well as the completion of the tracking of all indicted fugitives. We welcome the efforts made to eliminate the duplication of functions among the Mechanism's organs, which has led to the rationalization of expenditure.

Secondly, as cases conclude and judicial functions draw to a close, the Mechanism should reduce its expenditure and seek to optimize the use of available financial resources, focusing only on the referral of pending secondary cases to national jurisdictions and activities related to document preservation and archives management.

Thirdly, we recognize the magnitude of the challenges before the Mechanism in that context, such as reducing the number of staff, supervising the enforcement of sentences and judgments, ensuring the protection of victims and witnesses and preserving documents and managing the archives. However, we call on the Mechanism, through the relevant judges, the Office of the Prosecutor and the Registry, to accelerate the pace of completing the residual functions in its future planning in accordance with clear, specific and reasonable timelines in line with the temporary nature of the Mechanism, which was intended to be a small, temporary and efficient body, whose functions and size would diminish over time, as required by the relevant Security Council resolutions and the statute of the Mechanism.

Fourthly, effective and practical cooperation between the Mechanism and the States concerned in enforcing sanctions is essential for the fulfilment of its mandate and the success of its work. That objective can be achieved only by strengthening engagement with all parties concerned, promoting mutual trust and taking into account the legitimate concerns of all parties in order to facilitate appropriate solutions and address impunity. Cooperation is also required for the preservation of the archives and facilitating the establishment of information and documentation centres.

Fifthly, despite the complementary role that international mechanisms can play in achieving international justice when national judicial institutions are unable or unwilling to consider and adjudicate serious crimes themselves, we affirm that, in principle, it is the primary responsibility of States to hold accountable those who perpetrate crimes on their territories, because it is, above all, their duty to provide justice to their citizens.

In conclusion, Algeria stresses that the establishment of justice and the rule of law, based on the principles and purposes of the Charter of the United Nations, is an essential element in providing accountability for the most serious crimes under international law, combating

impunity and achieving stability and reconciliation at the national level in a manner that promotes international peace and security.

Mr. Geng Shuang (China) (*spoke in Chinese*): China thanks President Gatti Santana and Prosecutor Brammertz for their briefings.

During the reporting period, the Residual Mechanism steadily proceeded with its work and completed court activities in all core crimes cases. There are no more core crimes trials or appeal proceedings under way or to be held. That marks important progress in the international community's fight against impunity and the realization of justice.

With regard to the next steps of the Mechanism, I would like to make four points.

First, the Mechanism should from now on focus on supervising the enforcement of sentences and providing assistance to national trial activities. With that, we suggest that the Mechanism further clarify the roles and responsibilities of its offices, strengthen internal coordination, optimize resource allocation and continue to reduce its functions and size.

Secondly, the Mechanism's remaining functions are no longer related to the trial proceedings of major cases. It should transfer its functions of supervising sentence enforcement and hearing contempt cases, among others, to countries that are willing and able to do that. We suggest that the Mechanism engage and interact with interested States with a view to completing the transfers at an early date.

Thirdly, the Mechanism should continue to strengthen communication with the relevant parties and accommodate all legitimate concerns to find appropriate solutions for information-sharing and the resettlement of acquitted and released persons, among other issues, and to join hands in combating impunity.

Fourthly, the Security Council will adopt a draft resolution to renew the Mechanism's mandate later this month. The Mechanism should conduct its future work in accordance with that document and implement the recommendations made by the Council's Informal Working Group on International Tribunals and the Office of Internal Oversight Services.

In conclusion, I would like to take this opportunity to thank Sierra Leone, as Chair of the Informal Working Group on International Tribunals, and the Office of Legal

Affairs for their efforts in coordinating the work of the Council and the Mechanism.

Mr. Fernandes (Mozambique): I thank Judge Graciela Gatti Santana and Prosecutor Serge Brammertz for their insightful briefings and for their updates on the work of the International Residual Mechanism for Criminal Tribunals (IRMCT). We welcome the presence of Her Excellency the Minister of Justice of Serbia, Ms. Maja Popović, and the representatives of Rwanda, Croatia and Bosnia and Herzegovina in this meeting.

Mozambique considers this debate to be of the utmost importance, as it allows the Security Council to make informed decisions about the functioning and future of the IRMCT. We commend the Mechanism's diligent efforts in implementing resolution 1966 (2010), reinforcing the Council's determination on combating impunity for perpetrators of war crimes, crimes against humanity, genocide and violations of international law, including international humanitarian law. We particularly commend the Mechanism for finally assuming its fully residual functions, as originally envisioned by resolutions 1966 (2010) and 2637 (2022), when it was established. The people of Rwanda and the former Yugoslavia endured immense suffering for decades. It is our collective responsibility to honour the victims and survivors by holding accountable those responsible for the atrocities committed against them. Accountability for the international crimes committed in Rwanda and the former Yugoslavia does not end with the enacting of sentences. The enforcement and the review of sentences are also crucial components of accountability efforts and must be carried out in accordance with international standards.

Victims and witnesses must be at the heart of our efforts to promote justice for the heinous crimes committed in Rwanda and the former Yugoslavia. In that context, we take note of the protective measures being undertaken by the Mechanism, including cooperation with the relevant States in which protected witnesses have been resettled. Cooperation between the Mechanism and States is fundamental for the Mechanism to properly undertake its functions, particularly in the areas of supervision, enforcement of sentences and relocation of acquitted and released persons. To that end, we call on States to cooperate with the Mechanism, in accordance with Security Council resolutions and the Mechanism's statute. We recognize the challenges that the IRMCT faces in fulfilling its mandate, in particular regarding the enforcement of

sentences. We commend the President's efforts in that regard and encourage the Mechanism to persevere in its pursuit of justice for the victims of ethnic cleansing, genocide and crimes against humanity committed in Rwanda and the former Yugoslavia. There must be no impunity for egregious violations of international law. The residual functions are as crucial as the ad hoc functions of the Tribunals that preceded the IRMCT. For victims and survivors, there is no differentiation, as all they seek is justice.

The President: I shall now make a statement in my capacity as the representative of the Republic of Korea.

I thank President Gatti Santana and Chief Prosecutor Brammertz for their thoughtful briefings on the way forward. I also welcome Ms. Popović, the Minister of Justice of Serbia, and the representatives of Rwanda, Bosnia and Herzegovina and Croatia.

With the establishment of the International Criminal Tribunals for the former Yugoslavia and Rwanda, the Security Council sent a strong signal that it would not overlook the heinous crimes committed. Some 30 years later, however, we are once again witnessing disturbing revisionism, including the denial of past atrocities, which makes the relevance of the International Residual Mechanism for Criminal Tribunals (IRMCT) in ensuring transitional justice more critical than ever.

I would like to underline three points in that regard.

First, the Republic of Korea welcomes the IRMCT's successful conclusion of all core crimes cases and the tracking of fugitives. Although the Mechanism was initially conceived as a residual entity, its early completion of core cases despite limited resources was a meaningful achievement. We believe that that reflects the Mechanism's unwavering commitment to delivering justice for some of the gravest crimes of the past century, including genocide, and we look forward to it maintaining that industrious spirit in its residual phase.

Secondly, the Mechanism should retain its authority as the guardian of justice for the heinous crimes committed in the former Yugoslavia and Rwanda until all convicts complete their sentences. While the Mechanism has finished its core trials, we must remember that justice has not yet been fully achieved. More than 40 convicts, the most senior leaders responsible for crimes against humanity in the two regions, are still serving their sentences. As the saying goes, justice must not only be done, but it must also be seen to be done. That is

how the international community can ensure that there is no place for appeasement or impunity in response to heinous crimes.

Thirdly, Korea commends the Mechanism's work to transform into a more efficient organization, in accordance with the changes in its workload. Its framework document clearly lays out its vision for continuing the residual functions and existing transfer options as a means to enhance meaningful efficiency. While efficiency matters in the wind-down process, we must ensure that the Mechanism can maintain its role in delivering accountability in the region, which encompasses functions such as assistance to national jurisdictions. In that context, we take note of the analysis in the framework document, which shows why many of its functions cannot be transferred to national authorities, and we support the Mechanism's work in upholding that principle.

In conclusion, Korea stresses that, whether cases are tried by international tribunals or referred to national jurisdictions, the Mechanism bears the ultimate responsibility for ensuring that justice is served in every single one.

I resume my functions as President of the Council.

I now give the floor to the representative of Serbia.

Ms. Popović (Serbia): Thank you, Mr. President, for the opportunity to address the Security Council on behalf of Republic of Serbia regarding the six-month report on the work of the International Residual Mechanism for Criminal Tribunals.

In 2010, the Mechanism was established by resolution 1966 (2010), the intention being that it would last for four years. Today, in 2024, with a gross disregard for all deadlines set by the Security Council, the Mechanism has submitted a report stating that only from 2032 onwards is it likely to see a greatly reduced workload. All core crimes proceedings before The Hague branch of the Mechanism have concluded. Therefore, we expect The Hague branch to be dissolved as soon as possible. Specifically, the Mechanism is expected to act as a judicial institution, not as a political actor taking on a role not intended for it by the Security Council.

The Republic of Serbia welcomes the Mechanism's decision to refer the case of *Prosecutor vs. Vojislav Šešelj* to Serbia for trial and guarantees that judicial proceedings will be conducted with all guarantees of

the proper administration of justice. For reasons that we have repeatedly stated before the Security Council, we once again insist that the Mechanism refer the case of *Prosecutor vs. Petar Jojić and Vjerica Radeta* to Serbia, and we maintain that Serbia's actions regarding that matter do not constitute a breach of the international obligations of the Republic of Serbia, as claimed by the President of the Mechanism, but rather an effort to act in accordance with resolution 1966 (2010). The Mechanism's decision to overturn the decision to transfer that case to the Republic of Serbia is based on unsupported findings that are known to both the Security Council and the Mechanism.

We still have no knowledge that the Mechanism is taking any measures regarding the conduct of its representatives, who subjected the potential witness to verbal attacks and intimidation in order to pressure him to become a potential witness in the *Jojić and Radeta* case, which will be prosecuted before the Mechanism. We once again emphasize the readiness of the Republic of Serbia to undertake the prosecution in that and similar cases. We call on the Mechanism to reconsider its decision to withhold the referral of the *Jojić and Radeta* case to the judicial authorities of the Republic of Serbia, in accordance with the available evidence, which we included in the previous presentation by the Republic of Serbia before the Security Council.

Although the Republic of Serbia has numerous and serious objections to the work of the Mechanism and the policy of the Chief Prosecutor of the Mechanism, we guarantee that all judicial proceedings will be conducted in compliance with the requirements for the proper administration of criminal justice. We provide strong guarantees to the Security Council and the Mechanism. The judiciary of the Republic of Serbia has the appropriate legal and institutional framework, as well as a rich experience that enables it to undertake this case and conduct it in a manner that upholds the rule of law and ensures the respect and full protection of the rights of the accused, victims and witnesses. We express concern that the Mechanism insists on conducting the contempt of court proceedings in The Hague instead of in Belgrade. That will not only entail a significant increase in cost, but will surely lead to new political tensions and create a negative perception of the Mechanism, which despite having completed its mandate, seeks to exert further political pressure on the Republic of Serbia.

Although numerous witnesses of the prosecution can be accused of abusing their position as witnesses or providing false testimony, that has, unfortunately, not resulted in the initiation of any contempt of court proceedings. We believe that it is important to emphasize that the Mechanism was established by the Security Council for the purpose of prosecuting persons responsible for gross violations of international humanitarian law committed on the territory of the former Yugoslavia. However, after more than 30 years of work, the Mechanism focuses all its activities on the alleged illegal behaviour of minor significance, although it was not established to deal with such matters.

After the adoption of the General Assembly resolution entitled “International Day of Reflection and Commemoration of the 1995 Genocide in Srebrenica” (General Assembly resolution 78/282), to which the Republic of Serbia strongly objected and on which it clearly articulated its position, including in its statement to the General Assembly, officials of the Mechanism, including the President, the Prosecutor and the Registrar issued a joint statement stating that the judicial findings made in numerous cases

“have both advanced international criminal law and helped to establish an irrefutable historical record. We observe in this regard that the resolution acknowledges the contributions made by the International Tribunal for the Former Yugoslavia (ICTY) and the Mechanism in fighting impunity and ensuring accountability for genocide, crimes against humanity and war crimes, as well as their role, and that of the International Court of Justice, in determining that the acts committed in Srebrenica constituted acts of genocide”.

Given that the resolution was adopted with less than a two-thirds majority of the States Members of the United Nations and that significant numbers of Member States either voted against or abstained, the outcome of the vote clearly indicates, if nothing else, doubt about the credibility and political role of the International Tribunal for the Former Yugoslavia and the Mechanism.

Although the draft resolution was presented to the General Assembly contrary to Article 12 of the Charter of the United Nations, since the General Assembly cannot deliberate or make recommendations on matters that fall under the competence of Security Council, the Mechanism, among other things, contributed to further

destabilizing the situation in the former Yugoslavia and prolonging a situation that the Security Council qualifies as a threat to international peace and security.

The consolidation seems to imply a denial of the crimes committed against the Serbian people in Bosnia and Herzegovina, Croatia, Kosovo and Metohija, and the consolidation of its legacy allows the glorification of war crimes ignored by the ICTY and the Mechanism, as well as the war criminals who have not been prosecuted. One of their legacies is strong political support for denying crimes against Serbs, and not only against Serbs, but also in the territories of the former Yugoslavia.

The passive stance and the denial of Serbian victims has contributed to strengthening the policy of denial of crimes against Serbian civilian populations that are no longer present in many areas of the former Yugoslavia, thus providing strong support for a politics of historical revisionism and the glorification of war criminals. The main focus of the prosecution is counting where graffiti is found on murals, while in Serbia, victims that the prosecution hardly addressed remain neglected. Meanwhile, the offenders — with the silent support of the prosecution — are glorified.

The Prosecutor’s policy has led to the perpetrators of the crimes against Serbs not being prosecuted or being acquitted. Just as an example, Operation Bljesak, which resulted in the expulsion of almost the entire Serbian population from a large part of present-day Croatia, which was allegedly under United Nations protection at the time in 1995, did not result in any judicial proceedings, while the acquittal verdict for Ante Gotovina and others encouraged the denial of crimes committed in the territory of Croatia, in the largest expulsion of a civilian population after the Second World War in Operation Storm. The acquittal verdict for Naser Orić for monstrous crimes in Srebrenica and the bordering area and the acquittal verdict for Ramush Haradinaj for monstrous crimes against Serbs in Kosovo and Metohija have strengthened historical revisionism and the policy of impunity.

The prosecution does not seem to be concerned about the naming of numerous objects, streets and squares after those responsible for war crimes and crimes against humanity of genocidal proportions against Serbs. The crimes and perpetrators that the Mechanism has not prosecuted are subject to glorification — something that escapes the attention

of the Mechanism's prosecution and that strongly encourages impunity for crimes committed against Serbian civilian populations and historical revisionism consisting of denying the existence of such crimes, primarily in the territories of Croatia, Bosnia and Herzegovina and Kosovo and Metohija from which they were literally ethnically cleansed.

The policy of the Chief Prosecutor and the Mechanism, by neglecting Serbia and not only the Serbian victims, has contributed to the establishment of a culture of impunity and the glorification of war crimes and thereby provided support to a political agenda that obstructs the establishment of lasting peace and reconciliation. In that way, they have prolonged the situation, as stated in the recent Security Council resolution: "the situation in the region of the former Yugoslavia continues to constitute a threat to international peace and security" (resolution 2706 (2023)).

Regarding the complaints of the Office of the Prosecutor of the Mechanism about the denial of crimes and the glorification of convicted individuals, we must once again clearly state the position of the Republic of Serbia. Serbia has concluded numerous proceedings in which strict penalties were imposed for crimes committed in the territory of the former Yugoslavia, primarily against its own citizens or compatriots. A large number of proceedings and investigations are ongoing, as well as intensive regional cooperation. Serbia cannot be accused of a policy of denying crimes or glorifying them. We must emphasize that the efforts of the Office of the Prosecutor to preserve the legacy of the ICTY and the Mechanism should take into account the need to establish the real truth about the crimes committed and an objective legal qualification of the nature of the conflict in the former Yugoslavia. The ICTY has provided justification for a policy of impunity, thus encouraging a policy of denial of crimes in Bosnia and Herzegovina, Croatia, Kosovo and Metohija.

One of the functions of the President of the Mechanism is to decide on requests for a pardon or commutation of sentences in accordance with article 26 of the Mechanism's statute. The former President of the Mechanism, Judge Agius, fundamentally changed the decade-long practice of the ICTY and the Mechanism by fulfilling the role of the Prosecutor. The significant tightening of conditions for early release and establishing parole has been the subject of strong criticism. The stricter conditions for early release and parole are the result of efforts by the Office of the

Prosecutor, which should have an extremely limited role in the decision-making process. The reason for changing the criteria for early release seems to be solely aimed at prolonging the duration of the Mechanism. We assure the Council that the conditions for early release or parole, for which Serbia provides guarantees, will be fully respected.

On this occasion, we reiterate our request and express Serbia's readiness to execute the prison sentences imposed by the ICTY and the Mechanism within the territory of the Republic of Serbia under the supervision of the Mechanism. Since the prosecution of war crimes is now exclusively within the jurisdiction of national judiciaries, we see no reason why at least some of the convicts should not serve their prison sentences in the Republic of Serbia, under the supervision and full authority of the Mechanism regarding, among other things, early release and parole. That would reduce costs, easing the situation for the families of convicts and create conditions for their rehabilitation.

Before I finish, allow me to once again draw attention to what the Office of the Prosecutor repeatedly states in its report regarding the legal framework for cooperation between Serbia and Croatia in war crime proceedings, citing as one of the reasons for poor cooperation the stagnation in bilateral negotiations on an agreement for trying war crimes. The interruption of those negotiations is not, and cannot be, an obstacle to achieving regional cooperation. The Office of the Prosecutor simply copies the same text from report to report without providing justification for its position and ignores the existence of an adequate legal framework based not only on fairly harmonized national legislation in Serbia and Croatia, but also on the European Convention on Extradition and the European Convention on Mutual Assistance in Criminal Matters.

Serbia insists on ensuring adequate conditions for the serving of prison sentences imposed by judgments of the ICTY and the Mechanism in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners. We were informed of the denial of adequate health care to a detainee of the United Nations Detention Unit, General Ratko Mladić, who at an advanced stage of illness is being denied proper medical treatment. We appeal to the Mechanism to take all necessary measures to enable an appropriate level of health care or, if it is unable to provide it, to facilitate the transfer of the accused to the Republic of Serbia, which will provide the proper medical treatment. As

previously emphasized, the Republic of Serbia will insist that all of its citizens who have been convicted before the ICTY and the Mechanism serve their prison sentences in their own country, as the conditions in which our citizens serve their prison sentences are inhumane. Owing to the neglectful attitude of prison authorities towards them, their lives are often in danger. They are not provided with adequate medical care, are denied the right to visitation with family members and do not have enough time in fresh air. All of those are basic human rights guaranteed by numerous international documents — rights that are denied to our citizens in developed Western European countries.

Additionally, I consider the long-standing decision-making or negative decisions on requests for the parole of convicted individuals who are Serbian citizens to be unacceptable for Serbia, as the failure to act on those requests or their rejection essentially amounts to a death sentence considering their age and health status, often the result of less than adequate medical care.

To close, I would like to add that we will in the future maintain good professional representation and cooperation with my colleague, the Prosecutor, and with our colleagues, the judges and President of the Mechanism, and we will do anything to cooperate with them and to fulfil Serbia's obligations.

The President: I now give the floor to the representative of Rwanda.

Mr. Kayinamura (Rwanda): Mr. President, before I proceed, allow me to congratulate you and your delegation for assuming the presidency of the Security Council. We wish you the very best in your remaining time as President. I would like to join others, first and foremost, in thanking the President of the International Residual Mechanism for Criminal Tribunals, Judge Gatti Santana, and Chief Prosecutor Serge Brammertz for their detailed briefings. As always, we commend their work. I also want to thank members of the Council for their comments and useful inputs as relates to the subject matter of the Residual Mechanism.

Allow us to welcome the Mechanism's continued focus on trials and appeals and providing assistance to national jurisdictions, particularly in our country, Rwanda. We commend the Mechanism and the Office of the Prosecutor for its continuing good cooperation and continued engagement with the Government of Rwanda on matters relating to the cases concerning Rwanda.

Rwanda commends the Office of the Prosecutor on the conclusion of all tracking that was already in the pipeline — they have all now been accounted for. We would have wanted that work to have ended when all the fugitives were still alive and brought before the court.

While the court will come to an end, Rwanda wishes to see continued collaborative work to transfer the expertise, tools and knowledge that the Mechanism has acquired over a long period of time, especially the Office of the Prosecutor, so that it can assist national courts and national jurisdiction in seeking out the remaining fugitives who were indicted by the Republic of Rwanda — the more than 1,000 indictees are still at large. In that regard, Rwanda, through the Office of the Prosecutor of Rwanda, requested the Office of the Prosecutor in The Hague to provide assistance to find solutions to that ongoing challenge, including by supporting national efforts to locate, investigate and prosecute all Rwandan nationals who are still at large, particularly in connection with the criminal responsibility of those persons who committed genocide in Rwanda and in several countries to which we have sent indictments.

The Residual Mechanism mandate will one day come to an end. We must reflect on its achievements and address the challenges. During its transition from an operational court to a truly residual mechanism, Rwanda observes the following aspects that are important for the Mechanism's future.

First and certainly the most important request that we put to the Council is the relocation of Mechanism's archives to Rwanda. The three decades since the 1994 genocide against the Tutsi have seen the birth of a new generation in Rwanda, also known as the post-genocide generation. The Mechanism, or the International Criminal Tribunal for Rwanda (ICTR) in our case, holds archives that represent an immense historical legacy of great importance to us Rwandans. Decades of testimonies, records and evidence exist in those archives, and it is important that their custodial management is carried out by Rwanda, on Rwandan soil, with the promise of accessibility to and the confidentiality of all archives. The Rwandan Government will contribute the resources needed for the archive facility.

Secondly, Rwanda would like to highlight the trend of genocide denial that continues to undermine the judicial process of extraditing genocide fugitives. In recent years, fugitives and their networks have

collaborated with certain Western media outlets to distort the realities of their participation in the 1994 genocide against the Tutsi. Not only does that weaken the gravity of the crimes and the decisions of the Court, but it also contributes to the ongoing abuse of asylum-seeking processes by those fugitives who continue to provide false or misleading information concerning their role during the 1994 genocide in Rwanda to acquire refugee status. Those efforts to use refugee status for impunity have created a platform for genocide denial that continues to affect victims, genocide survivors, the post-genocide generation and, most important, our collective healing. That is unacceptable and should be condemned by the Council.

Lastly, Rwanda takes note of the issues of the enforcement of sentences and the relocation of acquitted and released persons. First, regarding the issue of the enforcement of sentences, Rwanda stresses that it should not be a burden on the international community. Rwanda has already received several extradited fugitives, who were tried and continue to serve their sentences in Rwanda, with all rights guaranteed. The court and several other countries have already referred several cases to Rwanda. In that regard, we call for the Council to consider Rwanda when it comes to the enforcement of sentences. Secondly, regarding the issue of acquitted or released individuals residing in the Niger, described by the report as a humanitarian crisis, Rwanda wishes to remind the Council that, in all meetings with the court's principals, past and present, the Government of Rwanda has consistently emphasized that those Rwandans are welcome to return to their home country. That stance aligns with the nation's approach to the thousands of former perpetrators who have completed their sentences and now coexist peacefully with their fellow survivors, in Rwanda's case. Rwanda's commitment to reintegration and reconciliation underscores its dedication to resolving the crisis.

We hope that some of the thoughts that we have shared today will play a significant role in future discussions on the Mechanism.

The President: I now give the floor to the representative of Bosnia and Herzegovina.

Ms. Đurbuzović (Bosnia and Herzegovina): I thank the President of the Mechanism, Judge Graciela Gatti Santana, and the Chief Prosecutor, Mr. Serge Brammertz, for their briefings and assessments related

to the work of the International Residual Mechanism for Criminal Tribunals and the progress made from November 2023 to May 2024.

It is worth noting that the Mechanism marked a historic milestone in the pursuit of justice for the 1994 genocide against the Tutsi in Rwanda. As noted in the Prosecutor's report, on 15 May, his Office had successfully accounted for every individual indicted by the International Criminal Tribunal for Rwanda (ICTR). With the final two fugitives confirmed deceased, no core crimes fugitives indicted by either the ICTR or the International Tribunal for the Former Yugoslavia (ICTY) are now at large. The Mechanism also made solid progress in its other residual functions, including supervising and enforcing sentences, providing assistance to national jurisdictions and monitoring cases referred to national jurisdictions. We extend our support and trust to the leadership of the Mechanism to execute its mandate and priorities in line with the framework of operations to complete its functions.

In particular, we commend the leadership of the Mechanism for its focus on consolidating and maintaining the legacy of the ad hoc Tribunals and the Mechanism. Therefore, part of my statement will focus precisely on that, against the backdrop of the recently adopted resolution on the Srebrenica genocide (General Assembly resolution 78/282). In that regard, we thank the principals of the Mechanism for their statement acknowledging the adoption of the Srebrenica resolution. Establishing 11 July as an International Day of Reflection and Commemoration of the 1995 Genocide in Srebrenica would not have been possible without the contributions and role of the ICTY and the Mechanism in fighting impunity and ensuring accountability for genocide, crimes against humanity and war crimes, as well as those of the International Court of Justice in determining that the acts committed in Srebrenica constituted acts of genocide.

Those verdicts, together with the landmark verdict convicting two high-ranking Serbian State security officials, Simatović and Stanišić, and proving without a doubt that Serbia played a role in the wars in Bosnia and Herzegovina and Croatia will forever remain written as a fact of the Balkans' tragic historical chapter. The designation of 11 July as an International Day is but a small token of recognition of the suffering that the survivors and their families continue to endure. In establishing that day, we reiterated our commitment to justice and truth and acknowledged the human dignity

of the victims and the survivors of the genocide of Srebrenica, as they continue, on a daily basis, to be subjected to rampant and ruthless genocide denial, historical revisionism and the threat of renewed violence. The culture of remembering the victims of the genocide in Srebrenica — or any genocide for that matter — is not and must not be a culture of denial, but rather a culture of memory, so that the genocide is never repeated.

We are therefore deeply touched by the concerns of the Russian Federation and Serbia about the state of health of and the alleged human rights violations against Ratko Mladić and Radovan Karadžić. Such concern would be somewhat understandable if it were directly proportional to the concern about and respect for their numerous victims. They will certainly have an opportunity to demonstrate such concern one month from now, when we mark 11 July as the International Day of Reflection and Commemoration of the 1995 Genocide in Srebrenica.

Therefore, it remains vital not only to consolidate the legacy of the ICTY and the ICTR but also to uphold it. That is true not only in terms of pioneering jurisprudence and advancing international criminal justice or assisting national jurisdictions in continuing the important work initiated by the ad hoc Tribunals and the Mechanism, but also in ensuring broad access to the rich archives and jurisprudence of all three institutions. The successful preservation of audio, video and written records surpasses the mere physical existence of testimonies and evidence of the crimes committed. They preserve a story of human suffering, hours and hours of unimaginable pain committed to paper or tape, voices from the grave echoing their warning for future generations. As they gave their all to the judicial proceedings in the past, their educational value for the future will be permanent.

Allow me to illustrate one such educational initiative: the Information Programme for Affected Communities, organized by the Mechanism together with the European Union, which works to improve knowledge and understanding among the citizens and communities in the countries of the former Yugoslavia, about facts established by the ICTY and the Mechanism regarding the crimes committed in the 1990s. In that way, the Programme aims to contribute to the processes of transitional justice and strengthening of the rule of law in the Western Balkans region. Most recently, an online presentation was delivered on 24 May to 20 high

school students from across Europe as part of a seminar entitled “Seeking justice: from Nuremberg to The Hague”. We thus welcome the President’s dedication to advancing, where feasible, the Mechanism’s facilitation of the establishment of information centres, in line with resolution 1966 (2010). Providing increased access to public judicial records and disseminating information in that manner not only raises public awareness of the important work of the ad hoc Tribunals but, most importantly, such endeavours play a vital role in preserving and disseminating invaluable historical and legal understandings that assist in combating genocide denial, historical revisionism and the glorification of convicted war criminals.

National prosecutions remain essential to achieving greater justice for the victims of war crimes, crimes against humanity and genocide committed in the former Yugoslavia and Rwanda. The effective prosecution of those crimes is fundamental to building and sustaining the rule of law, establishing the truth of what occurred and promoting reconciliation in the affected countries. The volume and complexity of requests for assistance received and the wide range of authorities submitting requests for assistance clearly demonstrate both the large number of cases that remain to be processed and the fact that continued assistance from the Office of the Prosecutor is vital for greater accountability.

The cooperation of Bosnia and Herzegovina with the Residual Mechanism has been stable and complete. To that effect, operational discussions with the Office of the Prosecutor, such as the discussion that took place in April with the Prosecutor’s Office of Bosnia and Herzegovina concerning their ongoing investigations in priority cases, remain vital in maintaining the momentum and focus on the continued prosecutions. We will continue that close collaboration to implement the national war crimes strategy, advance investigations and prosecutions, and clear the existing backlog, which consists of 249 cases against 2,621 persons.

Accountability for the crimes now depends fully on the national judiciaries in the countries of the former Yugoslavia, and effective and open regional cooperation among prosecution offices is crucial. In daily practice, the Court of Bosnia and Herzegovina noticed a problem with the channels of communication with regional prosecutions through the Ministries of Justice of the States in the region. Furthermore, the unavailability of the suspect/accused person not only undermines the general efficiency of our courts in carrying out

that heavy responsibility, but also propagates impunity and hinders the reconciliation process in the region. Consequently, there is a significant backlog of more than 116 investigations in Bosnia and Herzegovina that concern 345 suspects known to reside outside Bosnia and Herzegovina, primarily in Serbia and Croatia.

Let me mention a few examples: the enforcement of Novak Đukić's conviction entered by the Court of Bosnia and Herzegovina is still unresolved. After his escape to the Republic of Serbia, the Court of Bosnia and Herzegovina requested the judicial authorities of Serbia to recognize and enforce the final judgment in that case, but the Serbian judicial authorities never acted on the verdict. Similarly, there are the cases of Mirko Vrućinić and Milomir Savčić. The latter, who had been standing trial for his involvement in the Srebrenica genocide, fled to Serbia, where he remains free. That not only damages the fragile process of rebuilding trust and open and future-oriented relations between our countries, but also perpetuates narratives that go against every civilized norm and principle of humanity, justice and the rule of law. If one adds into the mix the fact that cities throughout Serbia remain covered with murals of Ratko Mladić — more than 300 have now been counted, most of them in Belgrade — it calls into question Serbia's commitment to war crimes justice, the rule of law and regional judicial cooperation.

For our part, we are committed to investigating, prosecuting and punishing all persons responsible for war crimes, regardless of the offender's nationality, ethnicity, religion or political or other affiliation. The revised national war crimes strategy contains measures to overcome the remaining challenges that hinder the efficient processing of these cases. It will contribute to the realization of justice for the victims of war crimes and support the country on its path towards reconciliation and lasting peace.

We will maintain our support for the Mechanism in completing its work, alongside our equal determination to deliver much-deserved truth and justice for crimes committed in Bosnia and Herzegovina.

The President: I now give the floor to the representative of Croatia.

Mr. Šimonović (Croatia): I would like to thank the President of the Mechanism, Judge Gatti Santana, and Prosecutor Brammertz for their reports and today's briefings.

Croatia would like to reaffirm its support for the ongoing work of the Mechanism in fulfilling its remaining operations, now acting as the truly residual body that the Security Council envisioned. Croatia strongly supports the Mechanism's efforts to preserve the legacy of the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia (ICTY) and to finalize the work of the Mechanism. We find those efforts crucial for catalysing the much-needed collective endeavour of regional stakeholders to counter revisionism, genocide denial and the glorification of war criminals, as well as to promote reconciliation. For that purpose, Croatia supports the potential establishment of an ICTY information centre in Zagreb.

Regrettably, we need to reiterate that, even in these exceptionally challenging times, as we face serious and blatant violations of international law around the world, it is devastating to witness the ongoing denial of factual findings and the disrespect for the legal qualifications of the Tribunals and the Mechanism. The glorification of war criminals and the denial of crimes committed, including the genocide in Srebrenica, are unacceptable. They increase the suffering of the victims, hamper reconciliation and destabilize the region. They also confuse, deliberately misdirect and embitter future generations.

Although international judicial and human rights bodies have established some other cases of genocide after the Second World War, the Srebrenica genocide is the only case established by the International Court of Justice, one of the main organs of the United Nations, which is responsible for adopting legally binding decisions on State responsibility. It established that the army of Republika Srpska committed genocide in Srebrenica and that Serbia did not fulfil its obligation to prevent it or to punish its perpetrators, specifically General Ratko Mladić. Denial of the genocide in Srebrenica is the impediment to truth and reconciliation in the region and constitutes disrespect of its victims and of the United Nations itself.

We regret that the President of the Mechanism was once again compelled to raise with the Security Council Serbia's failure to arrest and transfer to The Hague Petar Jojić and Vjerica Radeta, who were accused of having threatened, intimidated offered bribes and otherwise interfered with two witnesses in the case against Vojislav Šešelj. Those are serious crimes, in conjunction with which national obligations

under Chapter VII of the Charter of the United Nations were not fulfilled. Impunity for contempt of the Mechanism, and especially disrespect for and violation of the security of witnesses, only encourages further occurrences of contempt of the Mechanism. In that regard, we have to point to yet another contempt case, namely, the case against Vojislav Šešelj and four other defendants, for disclosing a large volume of confidential ICTY information, including information on the identities of dozens of protected witnesses. We hope that the authorities in Serbia will manage to justify the Mechanism's referral of this case to Serbia.

Croatia remains fully committed to complying with its obligations under the Security Council resolution, namely to constructive, transparent, non-politicized and evidence-based judicial cooperation with other neighboring countries in matters related to war crimes. To this end, we need to reiterate that meaningful and productive cooperation is not a one-way process and that, alongside transparency and openness, good practices and international legal standards must be applied.

We are compelled to raise again the issue of insufficient cooperation by Serbia in the tracing of missing persons and mortal remains. Determining the whereabouts of 1,797 missing Croatian citizens is our long-standing priority. Regrettably, we need to stress that the lack of political will in Serbia to share information and enable access to archives remains the greatest obstacle to progress in resolving those cases.

To that end, we reiterate that establishing the fate of the missing persons, as well as finding mortal remains and their proper burial, are essential for closure and reconciliation. In addition to its call for improved bilateral cooperation, Croatia urges the Mechanism to prioritize its support for tracing missing persons and mortal remains during its remaining short mandate.

We reiterate that Croatia is still waiting for Serbia's response to our invitation to the fourth and final round of negotiations for a bilateral agreement on processing war crimes. We are convinced that the provisions of such a bilateral agreement would prevent the further misuse of the instrument of mutual legal assistance and help to finally end the harmful practice of initiating politically motivated processes that do not comply with international legal standards.

The Serbian representative referred to Croatian Operation Bljesak during the conflict in the former Yugoslavia. It was an operation in full accordance with international law, liberating the territory of Croatia illegally occupied by Serbia, as confirmed by resolutions of the General Assembly and Security Council and judgments of the International Court of Justice and the ICTY.

In closing, let me reaffirm our strong support for the important work of the Mechanism and the successful completion of its residual operations.

The meeting rose at 12.35 p.m.