



# Security Council

Sixty-ninth year

Provisional

## 7332<sup>nd</sup> meeting

Wednesday, 10 December 2014, 10 a.m.

New York

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*President:* Mr. Mangaral ..... (Chad)

*Members:*

Argentina .....	Mr. Oyarzábal
Australia .....	Ms. King
Chile .....	Mr. Barros Melet
China .....	Mr. Li Yongsheng
France .....	Mr. Stehelin
Jordan .....	Mr. Hmoud
Lithuania .....	Ms. Murmokaitė
Luxembourg .....	Ms. Lucas
Nigeria .....	Mrs. Ogwu
Republic of Korea .....	Mr. Oh Joon
Russian Federation .....	Mr. Zagaynov
Rwanda .....	Mr. Gasana
United Kingdom of Great Britain and Northern Ireland ...	Ms. Mulvein
United States of America .....	Mr. Pressman

## Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994

Report of the International Criminal Tribunal for Rwanda (S/2014/546)

Report of the International Tribunal for the Former Yugoslavia (S/2014/556)

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14-68221 (E)



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Letter dated 19 November 2014 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2014/826)

Letter dated 19 November 2014 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council (S/2014/827)

Letter dated 19 November 2014 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council (S/2014/829)

*The meeting was called to order at 10.10 a.m.*

**Adoption of the agenda**

*The agenda was adopted.*

**International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991**

**International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994**

**Report of the International Criminal Tribunal for Rwanda (S/2014/546)**

**Report of the International Tribunal for the Former Yugoslavia (S/2014/556)**

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**Letter dated 19 November 2014 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council (S/2014/829)**

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

In accordance with rule 39 of the Council's provisional rules of procedure, I invite the following briefers to participate in this meeting: Judge Theodor

Meron, President of the International Criminal Tribunal for the Former Yugoslavia and President of the International Residual Mechanism for Criminal Tribunals; Judge Vagn Joensen, President of the International Criminal Tribunal for Rwanda; Mr. Serge Brammertz, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia; and Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda and Prosecutor of the International Residual Mechanism for Criminal Tribunals.

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

I wish to draw the attention of Council members to documents S/2014/546 and S/2014/556, respectively containing the report of the International Criminal Tribunal for Rwanda and the report of the International Tribunal for the Former Yugoslavia.

I wish to draw the attention of members to documents S/2014/827 and S/2014/829, respectively containing a letter dated 19 November 2014 from the President of the International Tribunal for the Former Yugoslavia and a letter dated 19 November 2014, from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council.

I also wish to draw the attention of Council members to document S/2014/826, which contains a letter dated 19 November 2014 from the President of the International Residual Mechanism for International Criminal Tribunals, addressed to the President of the security Council.

I now give the floor to Judge Meron.

**Judge Meron:** It is an honour to once again appear before the Council in two capacities — as President of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and as President of the International Residual Mechanism for Criminal Tribunals. I hope that my remarks today will serve to elucidate certain key points set forth in the recent reports submitted on behalf of these two institutions.

However, before I turn to these points, I should like to congratulate Ambassador Cherif of Chad on his country's assumption of the presidency of the Security Council. I also wish to express again my appreciation for the efforts of the Informal Working Group on International Tribunals, and particularly to Chile for

its leadership of the Group. I continue to be extremely grateful for the extensive support that the Office of Legal Affairs and the Legal Counsel provide to the ICTY and the Mechanism.

I will first turn to the ICTY. I am pleased to report that the Tribunal continues to make progress in completing its last trials and appeals. Indeed, we have already delivered two appeal judgements in 2014, and expect to deliver another — in the large, multi-accused *Popović et al.* case — by the end of January 2015. Accordingly, we enter 2015 with only four trials and five appeal cases remaining. By the end of next year, only two cases — specifically, one trial and one appeal — should remain outstanding.

As our November report (S/2014/827, annex I) makes plain, and as Council members have been aware for several years, despite the significant progress we have made in finishing cases the Tribunal will not be able to complete all of its judicial work by the end of this month. Numerous unforeseen and sometimes challenging circumstances — including the late arrests of the last ICTY indictees, the disqualification of a judge, the health conditions of a number of our accused, and the size and complexity of certain multi-accused cases — have prevented us from meeting the Security Council's target date for the completion of our judicial work by the end of 2014.

Although the majority of our remaining cases are progressing in line with previous forecasts, our November report also explains that certain trial and appeal judgements will be later than forecast by the Tribunal in May. The fact that such delays occur is disappointing to me and my fellow judges. Importantly, however, these recent changes to our judgement schedule are not expected to impact the anticipated date of the Tribunal's closure in 2017.

I would further note, as I have before, that the judicial process is inherently dynamic and mutable; it is a process that takes place against a background of great legal and logistical complexity, and may be affected by any matter of unforeseen developments, such as the discovery of mass graves with possible forensic significance. In this context, forecasts for the completion of the Tribunal's judicial work are inevitably subject to revision. I can assure the Council that the Judges and staff of the Tribunal nevertheless remain focused on doing all they can to avoid or reduce delays. The Tribunal also remains fully committed to transparency; when we know about changes to

forecasts for a case schedule, we always communicate that information in our reports.

There are two specific issues to which I wish to draw the attention of the Council. The first involves the health condition of several of our detainees, which has impacted two of our trials and which is a matter of great concern to the Tribunal and to me personally. As detailed in the November report, the trial of Mr. Goran Hadžić has been temporarily adjourned since 20 October for reasons relating to Mr. Hadžić's health. In addition, the trial of Mr. Ratko Mladić has been reduced to four sitting-days per week, following medical advice. At this time, the Hadžić Chamber does not believe the adjournment will impact on the scheduled judgement delivery date. By contrast, the changes in the sitting schedule of the Mladić Chamber, along with the recent decision to reopen the Prosecution case, mean that the judgement in that trial is delayed until March 2017 or later. Finally, Mr. Vojislav Šešelj — whose trial was delayed by the disqualification of a judge in 2013 — has been granted provisional release by the Trial Chamber considering his case, a course of action the Chamber deemed appropriate in light of developments concerning Mr. Šešelj's health.

Due to the age of our detainees, health-related issues are an unavoidable concern and raise humanitarian questions. Although the Tribunal makes every effort to ensure appropriate medical care, developments related to the health of detainees can sometimes fall outside our control and, as I am sure the Council understands, can cause delays to the Tribunal's work.

The second matter I would like to address is staff recruitment and retention. This issue, which is discussed in my November report, also has the potential to adversely affect our judgement delivery schedule. As the members of the Council are aware, the Tribunal is significantly reducing in size over this budget biennium, and by the end of next year is expected to have drastically cut its staffing levels. This downsizing is inevitable, but also gives rise to challenges when it comes to maintaining appropriate staffing levels. Despite staff members' dedication to their cases and duties, many of them are searching for other employment, and where offers cannot be deferred they are leaving the Tribunal, depriving us of valuable institutional and case-specific knowledge. Unable to deploy the most effective staff retention strategies, such as the incentive bonuses unfortunately rejected by the General Assembly, the Tribunal is attempting to retain

and, where necessary, replace staff members in the most efficient manner possible. The three principals of the Tribunal are most grateful to the Office for Human Resources Management for measures taken to support the Tribunal in this respect.

By design, my reports to the Council on the Tribunal focus almost exclusively on procedural issues and requests for assistance in completing our work. I very much hope, however, that the nature of these briefings will not lead any of us to forget the bigger picture and the tremendously significant role that the ICTY has played, and continues to play, both in setting global standards for international criminal law and justice and in helping to strengthen the rule of law at the local level. Indeed, just last month I travelled for several days in Bosnia and Herzegovina, meeting with representatives of diverse communities there and paying my respects at sites where terrible crimes had been found to have taken place. Our discussions underscored that the ICTY has made, and continues to make, an invaluable contribution to the restoration of the rule of law in the former Yugoslavia.

Given the importance of the Tribunal's work, I would urge the Council to approve the full extensions of judges' terms requested in my letters of 1 October and 25 November. The precedents set by the Tribunal and by its accounting for all of the 161 individuals it has indicted have been instrumental in inaugurating a new era of accountability. It is essential that the international community continue to support us in this endeavour. One of the best ways to do that is by granting the extensions needed to complete our few remaining cases.

I will now turn to the Mechanism. In creating the Mechanism, the Security Council not only tasked the new institution with a responsibility for certain essential functions of the International Criminal Tribunal for Rwanda (ICTR) and the ICTY. The Council also, in essence, challenged the Mechanism to serve as an example of best practices and to learn from the experience of other international tribunals in order to operate in the most lean and efficient manner possible, while respecting relevant procedural safeguards. I am pleased to confirm that, by almost any measure, the Mechanism is meeting all of these important aims.

The Mechanism continues to make steady progress in carrying out its judicial work. Later this month, in fact next week, in line with previous forecasts, I will be

travelling to Arusha to deliver the Mechanism's very first appeal judgement. Mechanism judges in Arusha and The Hague have also been busy deciding a wide variety of motions, involving issues such as variations to confidentiality protections and cooperation with national jurisdictions.

The Mechanism stands ready to adjudicate any appeals from the four trials ongoing at the ICTY. At the same time, different sections of the Mechanism are preparing rosters to allow rapid staff recruitment, and are undertaking other measures to ensure readiness in case any of the three remaining ICTR fugitive indictees whose cases have not been referred to Rwanda are arrested.

As set forth in my written report, responsibility for a wide variety of functions — including witness protection, the enforcement of sentences, the monitoring of referred cases and the preservation of archives — has been transferred or is being transferred to the Mechanism. Concurrently, the Mechanism is increasingly assuming direct responsibility for administrative functions, such as human resources.

The Mechanism continues to engage with Rwanda and the States of the former Yugoslavia, as well as with our host States — Tanzania and the Netherlands. A host State agreement has already been signed with Tanzania, while a text with the Netherlands has been initialled. In Arusha, we are moving towards commencing construction of the new premises authorized by the General Assembly, and we are continuing discussions with the Netherlands concerning the future facility of the Mechanism. Relying on outside funding, we are also launching limited programmes aimed at knowledge-sharing with Tanzanian law schools and members of the Tanzanian judiciary.

Two key challenges continue to face the Mechanism. The first is the outstanding arrest warrants for the remaining ICTR indictees who have yet to be apprehended, including three who are expected to be tried by the Mechanism. It is imperative that these fugitives be apprehended. Just as the accounting for all ICTY indictees struck an important blow against impunity, so too a full accounting of ICTR indictees will provide confirmation of the international community's commitment to justice and accountability. Accordingly, I urge the Council to renew its call to all Member States to cooperate with efforts to arrest the remaining fugitives indicted by the ICTR.

A second challenge facing the Mechanism is posed by the persons acquitted by the ICTR and the release of individuals who have completed sentences imposed by the ICTR. The Mechanism will assume responsibility for all such individuals released in Tanzania, on 1 January 2015, having already assumed other relocation-related functions. I consider the question of resettlement to be a crucial matter of humanitarian concern for the international community. These individuals, having been exonerated or served the sentences imposed by the ICTR, deserve the opportunity to be resettled and to rebuild their lives. The total number of the acquitted and released individuals is very small; just a few States stepping forward to give them shelter could address the problem.

These challenges to the Mechanism are real. They should not, however, obscure the real progress achieved in launching both branches of the Mechanism and smoothly transitioning responsibilities according to the timelines mandated by the Security Council. The principals and staff of the Mechanism and of the ICTR and the ICTY should be applauded for their efforts in making all of this possible.

Despite the challenges that both the ICTY and the Mechanism face, which I have highlighted in my briefing today, the world is unquestionably a better place because of them. That is not simply because of their adjudication of specific cases, but also because of the long shadow international courts cast, promoting more lawful behaviour by States and individuals. With the support and encouragement of the States Members of the United Nations, the ICTY, the Mechanism and other international tribunals have served, and continue to serve, as the concrete manifestation of a commitment to ending impunity and as a testament to the international community's dedication to creating a world where the rule of law is supreme.

**The President** (*spoke in French*): I thank Judge Meron for his briefing.

I now give the floor to Judge Joensen.

**Judge Joensen**: I would like to begin by extending my congratulations to the representative of Chad, which is presiding over the Security Council in December, as well as the representatives of Angola, Malaysia, New Zealand, Spain and Venezuela on their nations' election to the Security Council for the term beginning in January 2015. I wish them all the best for a successful tour of duty.

I would also like to express the gratitude of the entire Tribunal to the representatives of Argentina, Australia, Luxembourg, the Republic of Korea and Rwanda for their nations' service to the Security Council as they near the completion of their terms, and thank all of the Governments represented on the Council for the support they have provided as we near the completion of our mandate and the closure of the Tribunal.

Please allow me this opportunity to also commend and renew my sincere appreciation to the Legal Counsel, Mr. Miguel de Serpa Soares; the Assistant Secretary-General for Legal Affairs, Mr. Stephen Mathias; and the staff of the Office of the Legal Counsel for their continued efforts to act as a liaison between the Tribunal and the Security Council and for all of the support they have provided to the International Criminal Tribunal for Rwanda (ICTR) in organizing its twentieth-anniversary commemoration event here in New York, which will take place later today.

It remains an immense honour for me to provide the members of the Security Council with an update on the progress made towards the completion of our mandate, especially as we mark the twentieth anniversary of the establishment of the ICTR by the Council. In that regard, I am happy to report that the Appeals Chamber rendered one judgement in the Bizimungu appeal in June and three additional judgements concerning four persons in September in the Karemera & Ngirumpatse, Nizeyimana and Nzabonimana cases. As of today, appellate proceedings have now been concluded with respect to 55 persons.

That means that the ICTR Appeals Chamber has now completed all of its work with the exception of one case, the Nyiramasuhuko et al. or "Butare" case concerning six persons. Last week the Presiding Judge in that case, Judge Pocar, informed the parties that the appeals were scheduled to be heard in April 2015. As previously reported, the scope and complexity of the appeals in the Butare case, combined with the continued departures of experienced staff and the need to rule on voluminous pre-appeal litigation prior to the oral hearings, has led to the scheduling of those hearings later than previously planned. Nonetheless, the projection that the appeal judgement will not be delivered before August 2015 remains unchanged. I commend the judges and staff working on the Butare appeal for the tremendous work they are doing to complete this very large, complex appeal.

In the light of the current projected timeline for the completion of the Butare appeal, and considering the current Judges' involvement in cases before the International Tribunal for the Former Yugoslavia (ICTY), I have recently submitted a request to the Secretary-General for the extension of the terms of office of the ICTR judges. These extensions take into account the most recent projections in all of the cases and, as such, I have requested extensions until July or December 2015, or until the completion of the cases to which each individual judge is assigned, if sooner.

President Meron has simultaneously made a request for the extension of the terms of office of several ICTY judges in line with the same projections. It is my sincere hope that we will have Member States' support for these extensions, as they are crucial to the ability of both Tribunals to complete their remaining work, and, for the ICTR, to our ability to continue towards closure in 2015, in line with current projections.

Considering the significant work that the Appeals Chamber has completed since my previous report and considering their commitment to finalizing our sole remaining appeals case without delay, I feel that it is important for me and for the Council to acknowledge and commend all of the Judges and staff of the Tribunal in The Hague and in Arusha, who work under extremely tight deadlines to ensure that we meet our completion strategy goals. I would also like to particularly thank and commend President Meron for his leadership of the ICTR Appeals Chamber, as well as Prosecutor Jallow and Registrar Majola for their leadership of the other organs of the Tribunal, all of which have been instrumental to our completion strategy.

As I have done in the past, I would now like to briefly update the Council on the progress being made with respect to the issue of reparations for the victims of the 1994 genocide against the Tutsi in Rwanda, during which Hutu and others who opposed the genocide were also killed. I am pleased to announce that the International Organization for Migration (IOM) has completed and submitted a draft assessment study to the Government of Rwanda. The assessment study identifies options for reparations for victims and survivors and describes in concrete and operational terms how those options can be developed and implemented in Rwanda as well as how these programmes may be funded. The final report of the study should be issued in the coming months; once it is issued it will be transmitted to the relevant stakeholders, and follow-up activities will be planned.

I would like to take this opportunity to once again thank the Government of Finland for its generous contribution, without which the assessment study would not have been able to be conducted, and to commend the Government of Rwanda and the IOM for their efforts to ensure that this project continues to move forward.

I now return to the very troubling issue of relocating the acquitted and convicted released persons still residing in Arusha. I am pleased to inform the Council today that there have been some developments since the last time I briefed members on this issue. There has been a decrease in the number of acquitted persons from nine to eight, resulting from the acceptance of the relocation request that the Registrar had submitted to the Kingdom of Belgium in July 2014 on behalf of General Augustin Ndindiliyimana. On 10 September 2014, the Kingdom of Belgium informed the ICTR that General Ndindiliyimana's application for a family reunification visa had been approved. Having satisfied certain requirements, General Ndindiliyimana ultimately left the United Republic of Tanzania in September 2014 and is now resettled in Belgium. The ICTR is grateful to the Kingdom of Belgium for that assistance.

The issue of relocation, however, remains a daunting one and has been brought to the Council's attention on numerous occasions. It is an issue that I firmly believe represents a serious challenge to the credibility of the enforcement of international criminal justice. Despite numerous Security Council resolutions calling upon Member States to assist the ICTR in relocating these individuals, apart from the support the ICTR recently received from Belgium regarding General Ndindiliyimana, for which we are extremely grateful, for a number of years all efforts made by the ICTR to relocate the remaining individuals have proved unsuccessful. The Mechanism for International Criminal Tribunals will assume responsibility for the relocation and care of the acquitted and released persons in Arusha from 1 January 2015, and, as such, we once again call for urgent assistance from the Security Council to find a sustainable solution to this issue.

I next turn to the transition to the Mechanism. I am proud to report that the Mechanism's reliance on the ICTR for administrative and other services has been significantly reduced and that it continues to assume responsibilities pursuant to Security Council resolution 1966 (2010) and in line with the transitional arrangements. The monitoring of all ICTR cases referred to national jurisdictions is fully the responsibility of

the Mechanism; however, the ICTR continues to assist the Mechanism by providing an interim monitor, as required.

With respect to the Tribunal's archives, the ICTR continues to cooperate to ensure that records are prepared in a manner that will facilitate their effective management after being transferred to the Mechanism. I am happy to report that, as of 4 December, the Tribunal had transferred to the Mechanism more than 1,100 linear metres of records, comprising more than 50 per cent of physical records anticipated for transfer. Judicial records relating to the *Butare* case have been separated for transfer following the appeal judgement, while all other records have been transferred, or are scheduled for transfer, before the Tribunal closes. Despite vast challenges presented by the volume and nature of the records and the downsizing of human resources, the Tribunal remains hopeful that the preparation and transfer of its records will be completed on time.

As I address the Council today, almost one month after the Tribunal commemorated its twentieth anniversary and one day after the anniversary of the General Assembly's signing of the Convention on the Prevention and Punishment of the Crime of Genocide, it is hard not to fully appreciate the gravity of the decision that the Council made two decades ago to establish the ICTR — a decision that, together with the establishment of the ICTY the previous year, would forever alter the landscape of international criminal law. To pay homage to those who lost their lives during those 100 dark days in 1994 and to once again remind the international community of what happens when cries for help go unanswered, the Tribunal held events to commemorate the twentieth anniversary of its creation.

On 6 and 7 November, representatives from various international and domestic courts, civil society members and academics came from across the globe to attend the International Symposium on the Legacy of the ICTR in Arusha, Tanzania, which focused on the ICTR's accomplishments and lessons learnt during its two-decade fight against impunity. During the Symposium, panels of experts in the field of international law and court administration discussed the ICTR's significant contributions to international criminal justice, as well as the outreach and capacity-building programmes that it created throughout its existence.

On 8 November, exactly 20 years after the adoption of resolution 955 (1994), which created the Tribunal, an event was held in Arusha to mark the occasion and

to launch the new ICTR website. A similar event will be held today at 1.15 p.m. in the Economic and Social Council Chamber. We look forward to welcoming Council representatives and many other guests from the international community here in New York.

It is, as always, a distinct honour to address the Council. On behalf of the Tribunal, I wish to express our gratitude for the support that the Governments represented here have shown us throughout the past two decades. As we make arrangements for closure, the continued assistance of those Governments remains crucial to our efforts to ensure that the Tribunal closes its doors with its mandate completed and its legacy secured.

**The President** (*spoke in French*): I thank Judge Joensen for his briefing.

I now give the floor to Mr. Brammertz.

**Mr. Brammertz**: I thank Council members for this opportunity to address them on the Office of the Prosecutor's progress towards the completion of our mandate.

In this reporting period, we completed our work in the trial of Radovan Karadžić, having submitted our final trial brief and presented our closing oral arguments. Over the course of the trial, more than 550 witnesses testified and over 10,000 exhibits were submitted, totaling 165,000 pages of transcripts and documentary evidence. It is an immense record of the crimes and of those responsible for them. The judgement, as has been mentioned, is expected next fall. The Office of the Prosecutor remains grateful to all victims and witnesses who participated in the trial and contributed to ensuring justice and accountability for those horrific crimes. Without their courage, that trial, like all others, would not have been possible.

There are now only two remaining courtroom trials, *Mladić* and *Hadžić*. In both, the defence is currently presenting its evidence. Appeals proceedings are ongoing in five cases. During the reporting period, the multi-accused *Prlić et al.* case was a major focus for the Appeals Division of my Office. Convicted at trial, the six accused have submitted 168 grounds of appeal, for which the Appeals Division in the Office of the Prosecutor is preparing responses, in addition to preparing the Prosecution's four grounds of appeal.

However, as events during the reporting period have demonstrated, the ultimate conclusion of trials and



appeals is beyond our control. In *Hadžić*, the Prosecution closed its case in October 2013. Unfortunately, time saved in the Prosecution case has since been lost, as the proceedings are now further delayed by newly-arisen concerns regarding Hadžić's health. The issuance of the trial judgement in the *Šešelj* case has been delayed again, as the replacement judge has indicated he will require an additional year to prepare for deliberations. The Office of the Prosecutor understands and shares the frustration of many that the trial judgement has not yet been issued, knowing that the last witness testified in July 2010 and the trial closed in March 2012.

The Trial Chamber took the initiative to provisionally release Šešelj under limited conditions. His disregard of the Tribunal's orders and insults to victim communities made it necessary for my Office to ask the Trial Chamber to revoke his provisional release. That motion is currently pending. The intensity of the reactions to Šešelj's release and his revival of rhetoric from two decades ago remind us that reconciliation remains fragile. It should encourage us to redouble our efforts to ensure accountability for serious violations of international humanitarian law and to firmly stand against all forms of revisionism.

Day-to-day cooperation between the Tribunal and the countries of the former Yugoslavia continues to meet our expectations. We thank national authorities for their cooperation and fully expect it to continue in the next reporting period. In relation to national war crimes prosecutions, however, my written report (S/2014/827, annex I) notes that further improvements are needed. Regional cooperation agreements have been signed, but have not yet been widely put into practice. Fugitives continue to avoid accountability by finding safe haven across borders. While cases continue against low-level perpetrators, there needs to be a greater focus on cases against senior- and mid-level suspects. We recognize, however, that in recent days prosecutors in Serbia and Bosnia and Herzegovina successfully carried out a joint cross-border arrest operation in preparation for prosecutions in both States. That is a very positive development that demonstrates how much more can be achieved through effective cooperation. We urge prosecutorial authorities in the region to build on that important success.

During the reporting period, I undertook two missions to Bosnia and Herzegovina to discuss national war crimes prosecutions with the Chief Prosecutor and other officials. Five so-called category II cases

remain unresolved. Cases continue to be broken up into individual indictments, and some of the previous undertakings to correct these issues remain unfulfilled. More generally, the Steering Board of the National War Crimes Strategy and the State-level judiciary reported their concerns that the work of the Prosecutor's Office is not moving in a positive direction. They fear that quality is being sacrificed to increase the quantity of indictments. They also believe that far more indictments should charge crimes against humanity. Nonetheless, while the list of challenges is long, good management and leadership in the Prosecutor's Office can put matters back on the right track to build upon past achievements.

We will continue to support accountability efforts in Bosnia and Herzegovina and other States in the former Yugoslavia through the transfer of information and evidence to national prosecutors, as the Security Council has directed. Our liaison prosecutors project remains an important component of our support and serves as a precedent for cooperation between international and national prosecutors.

During my missions to the region the many victims I met with reminded us that prosecutions are not the only issue that deserves attention. Reparations for victims of the conflict have not yet been fully and fairly addressed. While the discovery of the mass grave in Tomašica last year was an important success in the search for missing persons, many families throughout the region still do not know the fate of their loved ones. Efforts to search for missing persons must be maintained and intensified.

At this time last year, I reported that the relationship of trust between the Tribunal and the public was under strain. Unfortunately, among victims and the Tribunal's supporters many do not believe that the situation has improved. They point to cases that have been delayed time and again. Many express their view that not enough information is provided to explain what they see as controversial decisions. Critical reflection is still needed at the Tribunal. And, as in national courts around the world, at international tribunals there should be no tension between judicial independence and efficient case management.

The Tribunal's legacy, however, should not be measured by the past few years alone. There have been many important achievements in ensuring accountability for crimes committed during the conflicts in the former Yugoslavia. As members

know, we are currently prosecuting some of the most important cases in the Tribunal's history. In just a few years, the Tribunal will complete all its outstanding work and close its doors. Only then can its legacy be fully assessed.

In conclusion, finalizing our work in accordance with the completion strategy continues to be the primary objective of my Office. We remain fully focused on completing our remaining work as efficiently as possible, and we will continue to implement our downsizing in line with the completion of trials and appeals, while supporting our staff as they transition to new careers.

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

I now give the floor to Mr. Jallow.

**Mr. Jallow:** I would like to join President Meron and President Joensen in congratulating you, Sir, on your assumption of the presidency of the Security Council and to wish you all the best in that respect. I am also pleased to report once again to the Council on the work of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda (ICTR) and the International Residual Mechanism for Criminal Tribunals over the past six months.

The current report (S/2014/546) follows on the heels of a series of events organized by the ICTR in commemoration of the twentieth anniversary of its establishment. In that context, my Office hosted the 7th Colloquium Of International Prosecutors on 4 and 5 November, with the participation of the prosecutors from the various international and hybrid courts and tribunals and prosecutors from some 20 national jurisdictions, as well as representatives of regional courts, academic institutions and civil society organizations. With the imminent closure of the ad hoc tribunals, the theme of the Colloquium — “Local Prosecution of International Crimes, Challenges and Prospects” — was not fortuitous; it was dictated by the transition before which international criminal justice stands today. It was part of the efforts of the international prosecutors to share lessons and good practices of the past two decades with national prosecutors and to create a forum for consultation between prosecutors dealing with genocide, crimes against humanity and war crimes at the national level. The theme of the Colloquium recognized the transition from primacy to the principle of complementarity. A

point also underscored by the representative of the Secretary-General at the commemoration event, the Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, Mr. Miguel de Serpa Soares, in his closing statement at the Colloquium.

We detect today an increased willingness of local jurisdictions to prosecute international crimes. That is a welcome development, as progress in the struggle against impunity requires a very strong partnership between international and local justice mechanisms. At the same time, we need to be conscious of the magnitude of the challenges that task represents for local jurisdictions. The experience of the ICTR Office of the Prosecutor in working closely with Rwanda to create the necessary enabling environment for the eventually successful transfer of cases to Rwanda for trial illustrates both the challenges that countries face as they pick up the baton in this fight, and possible solutions that national jurisdiction can adopt.

While my Office continues to engage national authorities, particularly in East Africa and the wider Great Lakes region, in the sharing of good practices and lessons learned in a variety of areas, we have to contend with the challenges of limited resources and manpower as the ICTR, on the one hand, continues to downsize and, on the other, in the face of the much smaller resource base of the Mechanism of the Office of the Prosecutor. The international community must therefore continue to play a leading role in ensuring that national jurisdictions have the requisite human and material resources to engage in those challenging tasks, and that States and international organizations support national efforts in the acquisition of the skills, training and expertise and the creation of the legal and political framework necessary to enable local jurisdictions to discharge their responsibility.

The prosecutors and other participants at the Colloquium unanimously adopted a resolution emphasizing the importance of accountability for international crimes to enhancing justice, peace, security and the well-being of the world. The resolution also outlines the role that States, individually and collectively, as well as the international community as a whole, can play to give concrete effect to the primary responsibility of States.

Regarding the work of the Office of the Prosecutor of the ICTR, I am happy to report that much of the workload has been concluded in the past six months. As

the President indicated, the Appeals Chamber delivered final judgements in several cases: the *Bizimungu* case, concerning the former Chief of Staff of the Rwandan Army; the *Karemera and Ngirumpatse* case, concerning the former President and Vice-President respectively of the ruling political party in Rwanda at the time, the National Revolutionary Movement for Development; the *Nzabonimana* case, concerning a former Minister of Youth; and the *Nizeyimana* case, concerning a former captain in the Rwandan Army. Their convictions for genocide, war crimes and crimes against humanity — including mass rape —, were affirmed on appeal. The judgement in the case of *Karemera and Ngirumpatse*, as in the *Akayesu* case, today stands as a major jurisprudential landmark in ensuring accountability for sexual and gender-based violence in situations of conflict. We seize the opportunity to commend both the Trial Chambers and the Appeals Chamber of the ICTR for reaching those important decisions.

The *Butare* case, the only ICTR case still outstanding on appeal, with six accused, has now been rescheduled for hearing. Consequently, the ICTR Appeals Division has concluded a staff retention exercise and has now identified an appropriate level of staff to be retained beyond 31 December to see the *Butare* appeal through to its end. The retained staff will remain engaged in that case and will also continue to assist the Mechanism. The rest of the staff of the Office of the Prosecutor of the ICTR, representing some 46 per cent of the total office staff strength, have now been given notices of separation from the ICTR, effective 31 December. I take this opportunity to thank all the separating staff for their service to the Office of the Prosecutor, the ICTR and, indeed, the cause of justice and accountability.

In the months ahead of closure, the Office of the Prosecutor of the ICTR will focus on the *Butare* case, the archiving of the remaining records and the completion of its legacy and best practices projects, including the writing of the genocide narrative, documenting the experience in the referral of cases to national jurisdictions, and preparing the final report of the Office of the Prosecutor.

Turning now to the Mechanism, I am pleased to report that it continues to take over functions from the Office of the Prosecutor of both the ICTR and the ICTY, as mandated by its statute, with a full complement of staff now at both the Arusha and The Hague branches.

Recently, in addition to the Special Assistant to the Prosecutor, a P-4 investigator has also been recruited for the Kigali sub-office of the Arusha branch as part of the tracking team, in order to intensify efforts to track fugitives, including the three earmarked for trial by the Mechanism. Work on the case files of the three fugitives continues in order to ensure trial readiness in the event of an arrest.

A vigorous diplomatic and outreach initiative is also being pursued by the Mechanism, in collaboration with INTERPOL, the Rwandan National Public Prosecution Authority and the United States War Crimes Rewards Program under the State Department's Office for Global Criminal Justice. In July, together with those other organizations, we launched in Kigali a renewed campaign to track those fugitives, with the aim of disseminating information about them, encouraging broader public reporting of their activities and movements, and offering incentives for their arrest.

The arrest and trial of these fugitives remains the greatest challenge and utmost priority for the Mechanism and the global community alike. In that regard, we very much welcome the recent statement of support by the Council on the occasion of the ICTR's twentieth anniversary commemoration calling on all States to cooperate in the arrest of the fugitives.

The hearing in the *Ngirabatware* case, as the President indicated, has been concluded and we expect the judgement in the course of this month.

Due to delays in the rendering of the ICTY trial judgement in the *Vojislav Šešelj* case, further recruitment for that particular trial team has been put on hold in the Office of the Prosecutor at The Hague branch. But we will commence next year to fill ad hoc posts to handle potential appeals in the case of Radovan Karadžić, and possibly that of Goran Hadžić.

In September of this year, I visited Bosnia and Herzegovina, Croatia and Serbia, where I held meetings with senior State officials, representatives of international organizations, diplomats and prosecutors to discuss the transition of functions from the ICTY to the Mechanism, as well as cooperation between the States concerned and the Mechanism. In that regard, I signed memorandums of understanding with the War Crimes Prosecutor and the Chief Prosecutors in all three States setting out the framework for continued mutual assistance and cooperation with them. I concluded my visit to Bosnia and Herzegovina by paying my respects

to Bosnian Muslim, Croat and Serb victims of the war at three memorial sites.

My Office will continue to be actively engaged with the countries in the former Yugoslavia to assist them to meet the international community's expectations to prosecute the numerous persons at all levels who are responsible for the crimes committed in those territories. Last week, I participated in a meeting of prosecutors from the three countries at Palić, Serbia, hosted by the War Crimes Prosecutor of Serbia, which aimed at finding ways of intensifying regional cooperation among their offices and other parties. I am greatly encouraged by the level of cooperation among the region's prosecutors. I congratulate the Chief Prosecutor of Bosnia and Herzegovina and the War Crimes Prosecutor of Serbia for their recent successful joint operation that resulted in the arrest of 14 persons for war crimes based partly on information provided by the Mechanism Office of the Prosecutor. I urge the international community to continue to strongly support the efforts of the prosecutors.

The Mechanism continues to attend to its other responsibilities, such as the servicing of requests for assistance, the archiving of evidence and records, the monitoring of the cases transferred to national jurisdictions, the promulgation of policies and guidelines for the effective and efficient discharge of our mandate, and the transition of functions to the Mechanism. During the period under review, my Office in the Mechanism serviced a total of 178 requests for assistance — a very considerable increase in the workload of the Office — from 13 countries and international organizations, and made 17 submissions before the Chamber in relation to variation of witness protective measures for the purpose of national proceedings. I also continue to receive regular reports from the monitors of the cases transferred to Rwanda and France, which continue to be managed satisfactorily in the respective national jurisdictions.

Finally, I wish to thank the members of the Council, the Secretary-General and the Secretariat for their constant support to the ICTR throughout its 20 years of existence. They have done a great deal to bring justice, peace and reconciliation to the people of Rwanda.

**The President** (*spoke in French*): I thank Mr. Jallow for his briefing.

I shall now give the floor to the members of the Council.

**Mr. Barros Melet** (Chile) (*spoke in Spanish*): My delegation wishes to thank the Presidents and the Prosecutors of the International Criminal Tribunals for the Former Yugoslavia and for Rwanda, and the Residual Mechanism, for their comprehensive briefings to the Council on the implementation of the completion strategy of the two ad hoc Tribunals for the period from May to November 2014. We are honoured to have them present here today.

Their reports reveal that, despite the overall difficulties created by the lack of personnel resulting from the closure process, both Tribunals have made significant progress. It is instructive to note that one of the four outstanding cases before the International Tribunal for the Former Yugoslavia, the *Karadžić* case, one of the pending cases, is now at the sentencing state, arguments having concluded in October, while there remains only one appeal before the International Criminal Tribunal for Rwanda, in the *Butare* case. In turn, the Residual Mechanism has clearly worked intensively, with the appeal decision currently pending. This will also mark a milestone in the judicial work of the Mechanism.

As Chair of the Informal Working Group on International Tribunals, I wish to reiterate my country's commitment to supporting the work of the Tribunals and the Mechanism. We believe that collaboration in their completion strategies is one of the most direct ways in which the Council can contribute to international justice.

In that regard, in recent months we have conducted a constructive dialogue with the Office for Human Resources Management of the Secretariat in seeking legal-administrative formulas to provide concrete solutions to the challenges presented by the closure process for the staffing of the Tribunals in The Hague and Arusha, which has a direct impact on their functioning.

We note the concerns regarding the situation of those persons in Tanzania requiring relocation, and we urge a dignified solution to be found for them swiftly, with due consideration given to the humanitarian implications of their situation.

We have also begun informal consultations on extending the mandates of the judges and prosecutors in both Tribunals following the requests from their respective Presidents and from the Secretary-General himself.

We are aware of the challenges that task implies. We trust that the Council will be able to reach agreement on the issues, thus meeting the responsibilities it assumed a little over two decades ago and giving due consideration to the international rule of law and justice.

My delegation hopes that this process of accountability can be completed and serve as a clear message from the international community that it will not allow for crimes against humanity to go unpunished.

Finally, my delegation reiterates its congratulations to the International Tribunal for Rwanda on the recently celebrated twentieth anniversary of its establishment.

**Ms. Murmokaitė** (Lithuania): I would like to start by thanking Judges Meron and Joensen and Prosecutors Brammertz and Jallow for their informative briefings, and to commend their continuous commitment, and that of their staff, to the important missions being carried out by both Tribunals and the Residual Mechanism.

Last month, the International Criminal Tribunal for Rwanda (ICTR) marked its twentieth anniversary. The Court stands as a reminder of the massive human tragedy of the people of Rwanda and of the failure of the international community to protect. At the same time, it is also a symbol of our common determination to uphold and actively pursue accountability for those responsible for the most serious crimes.

Through its jurisprudence, the ICTR has contributed significantly, and continues to do so, to international criminal law, especially through its verdicts in relation to genocide and on sexual crimes. The ICTR and the International Tribunal for the Former Yugoslavia (ICTY) continue to champion respect for the rule of law and contribute to the painful but necessary process of reconciliation leading to sustainable peace. As creations of the Security Council, they are also part of the legacy of the Council itself.

The reports that were presented this morning clearly indicate that both Tribunals are moving steadily towards the completion of their mandates. We welcome the steps that they have taken to effectively conclude the cases still under consideration, while referring the outstanding tasks to the Residual Mechanism. The ICTR has made tangible progress over the last reporting period, as it has completed appellate proceedings with respect to five more individuals. Today, only one appeals case remains before the Tribunal concludes its judicial activities. We acknowledge the challenges that ICTY has been facing in meeting the deadlines

of the remaining four trial and five appellate cases, including the recently discovered mass graves. In that regard, we take note of the updated projections from both Presidents and encourage them to continue taking all necessary measures in order to keep the delays at a minimum.

Accountability for war crimes and crimes against humanity depends both on the timely completion of the remaining proceedings by the Tribunals and the Residual Mechanism and on the success of national prosecutions. In that regard, we share the concern expressed by Prosecutor Brammertz regarding the slow processing of war crimes, in particular cases of sexual violence, by national institutions in the countries that emerged out of the former Yugoslavia. While recognizing that it is up to the national authorities to complete the outstanding caseload, we welcome the efforts of the Office of the Prosecutor in that regard, including through the transfer of expertise and information so as to build the necessary national capacities.

The support and cooperation of the international community continues to be essential in achieving some of the most critical tasks of both the Tribunals and the Residual Mechanism. In that regard, we note the efforts described by Prosecutor Jallow regarding the pending arrest and surrender of the remaining nine fugitives indicted by the ICTR, and we emphasize the need to strengthen international cooperation to that effect. We also note the slow progress reported with regard to the relocation of individuals who have been acquitted or who have served their sentences imposed by the ICTR. We encourage all States in a position to do so to respond positively to the Tribunals' relocation requests, the example of Belgium being the most recent example to follow.

We note that the Residual Mechanism, working closely with both Tribunals, has gradually assumed many of its core functions, including with regard to the enforcement of sentences, the protection of victims and witnesses, and the management of archives. In particular, the increase in the judicial proceedings in the Residual Mechanism and the manner in which it has been handling that workload provides us with confidence in its preparedness to continue the Tribunals' functions.

We stress that the smooth transition of the functions of Tribunals to the International Residual Mechanism also lies in the hands of the Security Council, as it has to decide on further extensions of the mandates of the

judges and prosecutors. In that regard, we should like to use this opportunity to thank Chile, the Chair of the Informal Working Group on International Tribunals, for its leadership in guiding the consultations on that matter. We recognize that closure dates depend on the completion of ongoing proceedings, while fully respecting the standards of due process and fairness.

Finally, while the ICTY and the ICTR have dealt with some of the most horrendous crimes in modern history, they are certainly not the only bodies to have done so. Mass atrocities continue to be committed in other parts of the world with impunity. The creation of the International Criminal Court (ICC) as a permanent body has provided a realistic prospect of ending impunity for the most serious crimes of international concern where justice could not or would not be ensured otherwise. We therefore stress once again the importance of ensuring that the Council fulfils its responsibilities in putting an end to impunity and ensuring justice and accountability. In that regard, support for the ICC is essential in order to make sure that it can deliver on the expectations of the numerous victims of such crimes, for whom this body may be the only recourse to justice.

**Mr. Oh Joon** (Republic of Korea): At the outset, I should like to thank President Meron, President Joensen, Prosecutor Brammertz and Prosecutor Jallow for their briefings.

The year 2014 is a symbolic milestone for the International Tribunals in that their mandates to fight against impunity could be completed as called for in resolution 1966 (2010). Almost all of the pending cases of the International Criminal Tribunal for Rwanda (ICTR) and the International Tribunal for the Former Yugoslavia (ICTY), as well as the Tribunals themselves, are close to the finish line. We note and wish to compliment the hard work of the judges, staff members, prosecutors and defence lawyers during their respective reporting periods. However, it is expected that the completion of the case work of the Tribunals will be delayed. One ICTR case and several ICTY cases are still pending and will not be finished before 2017. While the Tribunals were not able to completely finish up all the mandates scheduled to end in 2014, such important mandates cannot be left unfinished.

The Republic of Korea therefore believes that the extension of the mandates of the judges and prosecutors of the Tribunals is necessary in order for them to complete their work. However, as it is true that the mandates are

expected to run over the deadline, we would like to ask the Tribunals to redouble their efforts to finish their work according to their respective completion strategies. If the reason for delay is because of the inefficiency or backlog of procedural problems for the Tribunals, significant additional efforts or special solutions should be sought. At this juncture, we have to remember that resolution 1966 (2010) represents a promise not only to the Security Council but also to the victims, witnesses and the larger international community. We hope that the Tribunals with their extended terms will lay a solid foundation for the international community to close the impunity gap for future generations.

Lastly, my delegation stresses the importance of the continuous efforts to disseminate the legacy of the Tribunals. We recommend that the rich activities of the Tribunals and the International Residual Mechanism for Criminal Tribunals serve to bring the work of the Tribunals closer to international and regional communities.

**Mr. Stehelin** (France) (*spoke in French*): I would like to thank President Meron, President Joensen and Prosecutors Jallow and Brammertz for their briefings. France reiterates its thanks to all the staff of the Tribunals for their work to carry out the procedures to a successful end. We note the importance of the mobilization of all parties to respect the calendar defined by the Council, with reference to both trials and appeals before the International Criminal Tribunal for Rwanda (ICTR) and the International Tribunal for the Former Yugoslavia (ICTY). The ICTY and the ICTR branches of the Residual Mechanism have begun the transition, so that the work of justice can continue and come to a conclusion.

France attaches particular importance to ensuring, as part of the completion strategy, that the Tribunals should continue to render justice while fully respecting procedural guarantees. While there are many reasons for the delays relative to the deadlines in resolution 1966 (2010), the delays mean that we must redouble our attention on the effectiveness of the work and the use of the resources allocated. Bearing in mind that double requirement, France can support the extension of the mandates of the judges and prosecutors beyond 31 December 2014.

This debate is an opportunity for the Council to welcome the significant work carried out by the Tribunals aimed at combating impunity and promoting reconciliation and for us to identify the work that now

rests with the States to carry out, so that the work of justice accomplished can be recorded for history. In 2013, we marked the twentieth anniversary of the adoption of resolution 827 (1993), establishing the International Tribunal for the Former Yugoslavia. In 20 years, as part of the resolute action undertaken by the European Union, regional political dialogue has made significant progress. Through its judgements, its decisive weight with regard to cooperation and criminal assistance between the various States' prosecution authorities aimed at prosecuting criminals, and through its effectiveness in dealing with 166 people who have had arrest warrants issued for them and were arrested and tried, the International Tribunal for the Former Yugoslavia has served as a guarantee for the right to the truth, for the fight against impunity and for a legacy that has played a central role in regional developments. From now on, it will be up to the States concerned to continue to build up the rule of law, which is what will ensure the independence of judicial power. Because of that, trying so-called mid-level criminals must remain a national priority supported by sustained regional cooperation and involvement.

Concerning the ICTR, 2014 witnessed the celebration of the Tribunal's twentieth anniversary. The ceremonies provided an opportunity to recall the importance of the work of the ICTR, which has positioned justice at the heart of national reconciliation and reconstruction. France will continue to support the Tribunal and the International Residual Mechanism on issues that have been raised this morning, particularly the arrest of the remaining nine fugitives on whom the Tribunal has issued warrants. France recalls the obligation of all States to cooperate with the Tribunal and the Mechanism in that regard. I would also like to point out that the two cases referred by the ICTR to French jurisdictions, those of Mr. Bucyibaruta and Mr. Munyeshyaka, have been addressed with all the necessary diligence and rigour. Finally, France, which recently hosted two persons, would like to emphasize the importance of relocating those persons acquitted by the ICTR or who have served their time.

The International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda constitute a major phase of the fight against impunity. As they implement their completion strategies for their work, it is appropriate now to appreciate their juridical legacy as much as their efforts on behalf of justice, and which should now be kept alive, from

the point of view of memory as well as the academic record. That has also demanded continued vigilance in protecting witnesses and focusing on the rights of victims. At the Assembly of the States Parties to the International Criminal Court, which is in session right now, the general debate will be an opportunity for those 122 States parties to recall their support for the fight against impunity and for pursuing the demands of justice.

In conclusion, I would like to thank the Ambassador of Chile, Chair of the Informal Working Group on International Tribunals, and his entire team, particularly for their efforts on the issue of settling the question of the management of the completion strategy. I would also like to thank the representatives of the International Tribunals and the Office of Legal Affairs of the Secretariat for their work in implementing the transition provided for in resolutions 1966 (2010) and 2130 (2013).

**Mr. Gasana** (Rwanda): I would like to thank Judge Theodor Meron, President of the International Tribunal for the Former Yugoslavia (ICTY) and of the International Residual Mechanism for Criminal Tribunals, Judge Vagn Joensen, President of the International Criminal Tribunal for Rwanda (ICTR), Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda and of the International Residual Mechanism for Criminal Tribunals and Mr. Serge Brammertz, Prosecutor of the International Tribunal for the Former Yugoslavia.

This year, 2014, marks a double twentieth anniversary as we commemorate the genocide against the Tutsi in April and the creation of the ICTR in November. As we look back, we acknowledge the important role played by the ICTR in the fight against impunity for genocide and other mass atrocities. The Tribunal has produced a substantial body of jurisprudence, including definitions of the crime of genocide, crimes against humanity and war crimes, as well as of forms of responsibility, such as superior responsibility. In that regard, the ICTR Trial Chamber, through its Akayesu judgement, established that genocide occurred in Rwanda against the Tutsi as a group. In the same case, the Tribunal also ruled that acts of rape and sexual violence constitute a crime against justice if committed with the intent to destroy a targeted group. Since defence lawyers in Arusha had, I am sorry to say, a bad habit of using genocide denial as a defence argument, in 2006 the ICTR Appeals Chamber issued a judicial notice deciding that the

genocide against the Tutsi in Rwanda occurred as a fact of common knowledge.

Nonetheless, despite that clear and constant jurisprudence, the Security Council and even the Tribunal itself were reluctant to specify — in resolutions, reports or other documents — that genocide was committed against the Tutsi, opting for a general formulation of Rwandan genocide. I would like to recall that resolution 2150 (2014) of 16 April reminded us that genocide was committed against the Tutsi and that during that genocide, Hutu and others who opposed it were also killed. In that regard, we note with satisfaction that for the first time, the ICTR uses in its latest report (S/2014/546) the language of resolution 2150 (2014). As Rwandans, we believe that the use of such terminology, which names the targeted group, is of paramount importance, since it contributes to the fight against genocide deniers, who misuse the term “Rwandan genocide” in an attempt to confuse the world as to who were the targets of that genocide.

As the ICTR winds down, we note that 93 individuals have been indicted for genocide; these are mainly masterminds and national and local leaders who had been out of the reach of Rwandan justice, as they were international fugitives. We welcome the recent condemnation of Matthieu Ngirumpatse and Édouard Karemera, the President and Vice-President respectively of the Mouvement révolutionnaire national pour le développement, the former presidential party that planned and executed the genocide. We regret, however, that a number of other masterminds of the genocide, including senior military leaders, cabinet ministers and heads of local Governments, were acquitted despite substantive evidence against them. We also regret the ICTR’s delays in its completion strategy, as demonstrated by endless proceedings in the Butare case. We strongly urge the Tribunal to ensure that the case is completed as soon as possible.

Concerning the monitoring of cases referred to national courts, we know that the cases of Wenceslas Munyeshyaka and Laurent Bucyibaruta, referred to French courts in 2007, are once again said to be in an investigative phase, without any significant progress. We are extremely concerned about these repeated delays of proceedings in cases referred by the ICTR to France, in accordance with article 11 bis of the Tribunal’s rules of procedure and evidence. In comparison, I would like to point out that the two cases referred to Rwanda in 2012 and 2013, which are also under ICTR monitoring,

are far ahead in their proceedings, despite the fact that their referrals occurred five and six years after the cases referred to France. Since justice delayed is justice denied, I call on the French authorities to ensure that the remaining investigations are expedited.

In addition, Rwanda is still concerned about the fact that nine ICTR fugitives remain at large, include the top-priority three — Félicien Kabuga, Protais Mpiranya and Augustin Bizimana. In that regard, I would like to recognize something that Prosecutor Jallow mentioned earlier, the launching in Kigali on 24 July of an international fugitives initiative, together with the Office of Global Criminal Justice of the United States Department of State and INTERPOL. The Prosecutor General of Rwanda wishes to see that initiative followed by tangible results. For that to happen, we reiterate our call on United Nations Member States, especially those of our region, to collaborate in arresting all remaining genocide fugitives pursuant to resolution 2150 (2014).

In relation to outreach programmes, we note that while the Arusha-based information centre of the ICTR was visited by 437 visitors, the Kigali-based information centre was visited by 42,000 visitors and that ICTR mini-information centres attracted 23,000 visitors, including high-level United Nations and Government officials, academics, civil society and non-governmental organizations representatives, and the general public. That justifies our request, supported by all five States of the East African Community — Tanzania, Uganda, Kenya, Burundi and Rwanda — that ICTR archives be transferred to Rwanda after the completion of the International Residual Mechanism’s proceedings. We are hopeful that the handover of the management of the Umusanzu Information and Documentation Centre to the Government of Rwanda, along with 10 additional provincial centres, will be an important step in the handover of all ICTR archives.

Next year will mark the twentieth commemoration of another genocide — the genocide of Bosniacs in Srebrenica, as established in 2004 by the ICTY. We commend the ICTY, which has arrested all of the indicted fugitives and concluded proceedings against 141 of the 161 indicted individuals, for its achievements. We note that the ICTY will not be able to complete its work by 31 December and we urge it, as we did the ICTR, to expedite its proceedings. We take this opportunity to express deep concern over the persistent scourge of denial of the genocide in Srebrenica, including by State officials, which is an additional and unnecessary



pain imposed on the survivors. We therefore call on all leaders in the region to own their history and work towards a genuine reconciliation and healing.

As we commemorate, for the twentieth time, the genocides in Rwanda and in Srebrenica, we wish to commend the ICTY, ICTR and the Residual Mechanism for their continued efforts to ensure justice and accountability for the most serious crimes. We urge the Residual Mechanism and the international community to ensure that the remaining ICTR fugitives are apprehended and brought to justice, and the ICTR and the ICTY to complete their remaining cases. Of course, we hope that the French authorities will expedite their proceedings in the seven-year investigations of the two cases referred by the ICTR.

**Ms. King** (Australia): I would like to thank Presidents Meron and Joensen and Prosecutors Brammertz and Jallow for their comprehensive briefings. We commend the Tribunals for the progress made in relation to their respective mandates over the past six months. As we mark the twentieth anniversary of the International Criminal Tribunal for Rwanda (ICTR), those reports serve to highlight the contribution that all three entities continue to make to international criminal justice. We agree with Judge Joensen that they have forever altered the landscape of international criminal law and that their contribution is not limited to the ongoing development of international criminal law, but extends to the provision of assistance and support to victims and witnesses and to capacity-building and legacy preservation. Australia also commends both Tribunals on their efforts to complete their work expeditiously, while ensuring that trials and appeals are conducted in a manner consistent with fair trial standards.

As the reports highlight, there is one remaining appeal before the ICTR and four trials and five appeals before the International Tribunal for the Former Yugoslavia (ICTY). It is in all of our interests that the work of the Tribunals not continue indefinitely, but it is equally important that provision be made for the successful completion of their case work. Australia's view is that the terms of office of the Tribunals' judges and prosecutors should therefore be extended until the completion of their cases.

The successful completion of the Tribunals' work will, however, require much more than just the extension of the judges' terms. First, it is critical that all stakeholders work together to ensure that the nine

remaining ICTR fugitives are apprehended. Member States must cooperate with the International Residual Mechanism for Criminal Tribunals, which is not only tracking the three fugitives over which it has jurisdiction, but also providing assistance in tracking the other six individuals whose cases have been transferred to Rwanda. To that end, we welcome the launch of the international fugitives initiative in Kigali on 24 July by the ICTR Prosecutor, the Office of Global Criminal Justice of the United States Department of State, INTERPOL and the Prosecutor General of Rwanda.

Secondly, we must work together to find solutions to address the plight of the eight persons acquitted by the ICTR and the three persons released by the Tribunal who need to be relocated from Arusha. While we welcome the recent resettlement in Belgium of one individual, as is now well known the 11 individuals who remain in Tanzania are effectively stuck in a legal limbo without identity documents, proper immigration status or the means to survive independent of the Tribunal. The work of the Tribunals does not end with the delivery of a final appeals judgement. The ongoing welfare of victims and witnesses, as well as accused and sentenced persons, is an integral part of the Tribunals' mandate. The Council, through its Informal Working Group on International Tribunals, must provide the support the ICTR and Residual Mechanism need to find a satisfactory solution to the relocation issue. We would like to take this opportunity to thank Ambassador Barros Melet and his team for Chile's leadership of the Informal Working Group.

Thirdly, we note the concerns outlined in Prosecutor Brammertz's report (S/2014/827, annex I) that there has been insufficient progress in the cases transferred to national institutions in the former Yugoslavia, particularly in Bosnia and Herzegovina. We encourage authorities in Bosnia and Herzegovina to ensure that cases transferred to its jurisdiction from the ICTY are progressed as soon as possible. The arrest on 5 December of 15 individuals said to have been involved in a 1993 massacre, following a joint investigation by Bosnian and Serb authorities, is a welcome development.

We note with concern the barriers to reconciliation outlined in Prosecutor Brammertz's report. Australia encourages officials in Serbia, Croatia and Bosnia and Herzegovina to refrain from making statements questioning or rejecting the ICTY's judgements, and calls on them to ensure that steps are taken to reject

revisionism, including the denial of the genocide in Srebrenica. Indeed, all efforts at revisionism and genocide denial must be firmly rejected, as inimical to reconciliation and accountability and deeply disrespectful to all victims.

Finally, we continue to be concerned about the negative impact that the loss of experienced staff and difficulties in recruiting new staff is having on the Tribunals' ability to meet their completion target dates. We are ready to support any human resource initiatives that will assist the Tribunals in addressing those challenges.

It is imperative that the Council extend its full support to the Tribunals and the Residual Mechanism. We agree with Judge Meron that the Tribunals have inaugurated a new era of accountability. The Council, of course, was instrumental in ushering in that era and it has a fundamental responsibility to continue to support it. If the Council is committed to ensuring that the victims and survivors of the tragedies in the former Yugoslavia and in Rwanda get the justice they deserve, and if the Council truly means what it says when it speaks of the importance of the fight against impunity for the most serious international crimes, it will continue to provide all necessary support to the Tribunals and to the Residual Mechanism so to enable them to complete their work and conclude this particular chapter in international criminal justice, which will leave a lasting and vital legacy.

**Mrs. Ogwu** (Nigeria): I thank you, Mr. President, for convening today's debate on the work of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). I join those who have taken the floor before me to thank our distinguished briefers for their succinct briefings.

We want to express our deep appreciation to the Presidents of the ICTY and the ICTR for their reports (S/2014/556 and S/2014/546), which set out in particular the progress made towards the implementation of the completion strategy of the Tribunals and the measures the Tribunals are taking to ensure a smooth transition to the International Residual Mechanism for Criminal Tribunals.

With regard to the ICTY, Nigeria notes that the Tribunal has concluded proceedings against 141 of the 161 individuals it has indicted. We commend the Tribunal's judges and staff members for their determined

focus on completing the remaining judicial proceedings as expeditiously as possible without compromising the principles of due process and fairness. We applaud the success of the ICTY and cooperating States in locating and transferring fugitives to the jurisdiction of the Tribunal. As a result, there are no outstanding fugitives from the law as far as the ICTY is concerned. That is a remarkable achievement in the fight against impunity.

We commend the ICTY for the measures it has taken to expedite its work. Of particular significance is the close monitoring of the progress of trials and appeals by the Working Group on Trials and Appeals Schedules to prevent delays to judicial proceedings. With that and other measures in place, we are confident that the ICTY will be able to work efficiently and effectively to dispose of all outstanding cases with minimum delay.

On staff recruitment and retention, the report indicates that it has become a problem that is having an adverse impact on the completion strategy of the Tribunal. That is understandable in the light of the Tribunal's ongoing downsizing. Nevertheless, it is necessary to maintain a careful balance that will allow the work of the Tribunal to go on unhindered. In that regard, we are pleased to note that the Tribunal has taken measures to improve staff retention, recruitment and promotion. It is our hope that this matter can be resolved in a timely manner through engagement with the relevant division in the United Nations Secretariat.

Nigeria takes positive note of the progress made by the ICTR in implementing its completion strategy, which has been continuously updated since 2003. It is significant that during the reporting period all outstanding appeal judgements with exception of the *Nyiramasuhuko et al. ("Butare")* case were delivered. That has allowed the ICTR to focus its efforts on the transition to the Mechanism. The near-completion of its cases demonstrates the effectiveness of the ICTR as a tool in the search for justice and accountability for perpetrators of mass atrocity crimes.

We note that the preparation and submission of archives to the Mechanism are major challenges. Nevertheless, we urge the ICTR to continue to pay attention to the process of transferring these records and archives to the Mechanism. It is also noteworthy that, on 5 November 2014, the ICTR launched its new website, which includes information on its remaining work, milestones attained and lessons learned in its pursuit of justice. We commend the initiative last September to hold a developed practices workshop

for the International Tribunals and the International Criminal Court, which indeed was the first of its kind.

Nigeria welcomes the progress reports of the President and the Prosecutor of the International Residual Mechanism for Criminal Tribunals from 16 May to 19 November 2014 (S/2014/826, annex I). We are pleased to note that the Mechanism has been receiving support from the ICTR, the ICTY, the Office of Legal Affairs of the United Nations Secretariat and States Members of the United Nations. In accordance with its mandate, the Mechanism has now assumed responsibility for many functions of the ICTY and ICTR. We call on the Mechanism to continue to work closely with the principals and staff of both Tribunals to ensure a smooth transition of the remaining functions and services. The Mechanism should also work towards the harmonization and adoption of best practices.

Nigeria commends the ICTR and the ICTY for their contributions to the development of substantive and procedural international criminal law. The Tribunals have also symbolized the firm commitment of the international community to fight against impunity and crimes against humanity.

**Mr. Oyarzábal** (Argentina) (*spoke in Spanish*): I would like to acknowledge the presence in the Security Council of Presidents Meron and Joensen and Prosecutors Jallow and Brammertz.

I take this opportunity to thank Chile and to acknowledge the way in which it has guided the work of the Informal Working Group on International Tribunals. I extend my appreciation to Ambassador Cristian Barros Melet and his team.

After two decades of activity, the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) are at the stage of completion and, in accordance with the completion strategy adopted by the Council, must complete their judicial work according to schedule and transfer cases and files to the Residual Mechanism. Argentina wants to positively recognize the progress reported with respect to the Tribunals for the former Yugoslavia and Rwanda as well as the way in which the Mechanism continues its work at its two locations.

As for the International Tribunal for the Former Yugoslavia, it should be noted that the prosecutions of almost all of the 161 individuals charged have been completed and that there are no more cases of fugitives. The Tribunal has made progress in the completion of

the cases that are pending. Of these, some will continue to the end of this year. It is therefore worth taking into account the circumstances that may affect the length of proceedings, such as the recent discovery of mass graves and the challenge or difficulty in retaining qualified personnel.

We believe that the judicial function itself is facing certain difficulties, given the complexity of the cases, the current transitional situation, and such issues as the arrest of last fugitives from the ICTY in 2011. Argentina will support the Security Council's renewal of the mandates of judges and prosecutors of both Tribunals. My country also believes that the Security Council should continue to consider, in the Informal Working Group on International Tribunals, measures to facilitate the retention of staff from both Tribunals. We recognize the active role the Chilean presidency of the Working Group is playing in this regard.

We also appreciate the information from the International Criminal Tribunal for Rwanda with respect to the implementation of its completion strategy. The Tribunal has completed substantive activities for all of the 93 accused, having completed or nearing completion the cases in the trial phase and advance appeals, leaving only the appeal of the *Nyiramasuhuko et al.* ("*Butare*") case for completion in August 2015.

We recognize that it is a priority to capture the fugitives of the International Criminal Tribunal for Rwanda. The fact that nine defendants among those indicted by the Tribunal remain fugitives is not encouraging. Of those, three are still under the jurisdiction that has been transferred to the Mechanism, which is ready to submit them to trial as soon as they are arrested. However, as Argentina already indicated, in order to arrest fugitives, both those under the jurisdiction of the Mechanism and those who have been transferred to Rwandan jurisdiction, the cooperation of all States is necessary in accordance with the obligation set out in resolution 955 (1994).

I wish to highlight the activities of both Tribunals on cooperation for training in investigative and trial skills, including on sexual and sexist gender-based violence.

With regard to the Residual Mechanism, I would like to note in particular that the branches in Arusha and The Hague are fully operational and will be fully ready to operate when both Tribunals close. Therefore, I take this opportunity to once again acknowledge the

Government of the Republic of Tanzania for supporting the Mechanism by concluding the headquarters agreement, which entered into force this year, and providing the facilities for the construction of headquarters, as well as the Netherlands support to the branch in The Hague.

The international community should continue to support the work of the Tribunals, not only in their judicial activity but also through the lives of those directly affected by the justice they render. An important element is reparations to victims. A few months ago, we were encouraged by the signing of a memorandum of understanding with the International Organization for Migration to discuss how to address the issue of reparations to victims of the genocide in Rwanda in a way that would promote positive involvement on the part of victims' and survivors' associations, civil society and the Rwandan Government. We are now pleased that International Organization for Migration has completed a study that identifies options for providing reparations to victims and survivors of the genocide in Rwanda, including for financing them. We eagerly await the final report, which will be issued in the coming months.

In addition, there is the challenge of those whose charges have been dismissed or who have completed the sentences they received from the International Criminal Tribunal for Rwanda. The Tribunal has actively sought to find a State that would host such persons and provide them with the documentation necessary for full civilian lives and the enjoyment of their rights, and Argentina welcomes those efforts. Argentina welcomes, as an important step, the readiness of the Informal Working Group on International Tribunals to continue to consider this issue in order to support these efforts. It would also be fitting for the Security Council to encourage all Member States to do the same, and for Members to commit ourselves to supporting the Tribunal in line with our ability to do so.

This year marks the twentieth anniversary of the genocide in Rwanda and of the establishment of the International Criminal Tribunal for Rwanda. We believe it is appropriate that the international community recognize the progress in the fight against impunity that that Tribunal and the ICTY represent, with important contributions in terms of doctrine to international law, including international humanitarian law, and that we also recognize the role and importance of international criminal justice.

The legacy of both ad hoc Tribunals in terms of affirming the recognition on the part of the international community that there can be no lasting peace without justice is undeniable. That legacy has taken concrete form in the establishment of a permanent international criminal tribunal — the International Criminal Court — which is today at the heart of the entire criminal justice system of the international community. This system requires commitment by all States, not just States parties, as well as on the part of the United Nations, in the same way that we are committed to the ad hoc tribunals. Argentina is pleased that both Tribunals, in particular the International Criminal Tribunal for Rwanda, have initiated joint workshops with other criminal tribunals, such as the Special Tribunal for Lebanon, the Extraordinary Chambers in the Courts of Cambodia, the Special Court for Sierra Leone and the International Criminal Court.

Finally, as this is the last time that Argentina speaks on the subject of the work of both Tribunals as a non-permanent member of the Council, I would like to again pay tribute to the judges, prosecutors and officials of the International Criminal Tribunals for Rwanda and the Former Yugoslavia for their contribution to the fight against impunity, as represented in a phrase contained in the report of the ICTR and which has haunted my country for three decades: “never again” (*S/2014/829, para. 56*).

**Mr. Pressman** (United States of America): I thank Presidents Meron and Joensen and Prosecutors Brammertz and Jallow for their reports (see *S/2014/546, S/2014/556, S/2014/826, S/2014/827 and S/2014/829*) and for their steadfast commitment to advancing global justice. As the world faces the continued horrors of mass atrocities in Syria, South Sudan, the Central African Republic and elsewhere, their critically important work reaffirms the importance of our collective efforts to bring to justice those responsible for committing atrocity crimes.

Approximately 20 years ago, the Security Council established these two historic institutions, the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). The United States has strongly supported those courts, which have served as models of fairness, impartiality and independence in the trials of more than 200 defendants accused of the worst crimes known to humankind: genocide, war crimes and crimes against humanity.

As Justice Robert Jackson said in his opening address to the Nuremberg Tribunal, such grave crimes cannot be ignored, because the world cannot bear them being repeated. These Tribunals have established the truth about atrocities committed in the former Yugoslavia and Rwanda, and by doing so have sent a message to those who might unleash similar violence and laid the foundations for lasting peace and security. We have supported these courts because they stand for justice. They represent our steadfast commitment to ensuring that those who perpetrate the world's worst crimes are held accountable; for we on the Council learned long ago that lasting peace is advanced, not undermined, by justice.

The United States commends the efforts of the Presidents and Prosecutors to efficiently transfer the remaining functions to the Mechanism for International Criminal Tribunals. We recognize that the challenges in completing the closure of the Tribunals and the utmost need to preserve the fairness of the judicial process in completing the trials and appeals.

The ICTY is continuing to focus on completing all trials and appeals, and we are pleased that final judgements in certain appeals cases are expected early next year. We continue to support the ICTY's important work in moving forward thoroughly and expeditiously to render verdicts in cases that serve the broader needs of justice while protecting the rights of the accused.

We note in particular that a judgement in the trial of Radovan Karadžić is expected next year. He stands accused as an architect of the Srebrenica massacre, the single worst crime committed on European soil since the Second World War. Individuals now have the opportunity, after many years, to testify to the horrors of what they and their loved ones experienced. They stand not just as victims, but as empowered survivors. They bear witness, and in so doing they advance both justice and peace.

We await the judgement in the trial of Vojislav Šešelj, who stands accused of crimes against humanity and violations of the laws and customs of war. Unfortunately, Šešelj's conduct following provisional release by the court on humanitarian grounds on 6 November has unearthed some of the painful divisions of the past. The United States condemns his hostile public rhetoric since his release — rhetoric that promotes a backwards-looking agenda and poses a challenge to regional reconciliation. We urge all Governments and leaders in the region to continue working towards reconciliation,

to avoid inflammatory statements and, importantly, to ensure continued cooperation with the Court. We strongly urge all parties to work to ensure that the integrity of the judicial process is both respected and protected.

Turning to the ICTR, we commend the Tribunal for completing all trials at the trial level and recognize with appreciation its continuing efforts to finish appeals in a timely manner. We are pleased to hear that the branches of the International Residual Mechanism for Criminal Tribunals in Arusha and The Hague continue to take over most prosecution and judicial responsibilities.

However, the United States is deeply concerned that nine ICTR fugitives remain at large, including three leaders alleged to have had key roles in the Rwandan genocide: Augustin Bizimana, Félicien Kabuga and Protais Mpiranya. These men have evaded justice, but they have not escaped our continued attention and our steadfast determination to see each of them face justice for the horrific crimes of which they have been accused. We will not and we cannot forget them, and we will never forget their victims. They and six other fugitives indicted by the Tribunal must be brought to justice. As the Ambassador of Rwanda noted, in Kagali in July, the United States Department of State announced an international fugitives initiative with the Prosecutor of the Residual Mechanism, the Prosecutor General of Rwanda and INTERPOL to disseminate information to the public and renewed calls for international cooperation in tracking and arresting the nine remaining fugitives. The United States continues to offer up to \$5 million in rewards for information leading to their arrest, whether they will be prosecuted in the Mechanism or in Rwandan courts.

The demand for justice and accountability by victims and survivors of mass atrocities around the world has never been stronger or louder or more important. These two institutions have brought to justice some of the worse mass murderers and criminals in the history of the world. They have made immeasurable contributions to ensuring accountability, advancing peace and reconciliation, truth and justice. They stand as powerful lessons to those perpetrating mass atrocities today. The world cannot, and we will not, forget.

**Ms. Lucas** (Luxembourg) (*spoke in French*): I thank the Presidents and Prosecutors of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for

their reports (see S/2014/546, S/2014/556, S/2014/827 and S/2014/829) and comprehensive briefings on the work of the Tribunals and strategies for concluding their work. I also thank the President and the Prosecutor of the International Residual Mechanism for Criminal Tribunals for their reports (S/2014/826, annex I and II). Finally, I want to congratulate Ambassador Barros Melet and the Chilean team for their work at the head of the Informal Working Group on International Tribunals.

The ICTY and ICTR were established by the Security Council to prosecute the most serious crimes. Guided by the principles of fairness, impartiality and independence, the Tribunals uphold respect for the rule of law, build capacity at the national level and contribute to the process of justice and reconciliation, which are essential for peace.

The ICTY has played a key role in strengthening the rule of law and promoting stability and long-term reconciliation in the Western Balkans, but its contribution goes beyond that. The ICTY jurisprudence has contributed to the development of international criminal law in areas such as individual criminal responsibility and crimes of sexual violence. The Tribunal has given a voice to victims, especially women and children.

We are aware of the heavy workload of the Tribunal and the considerable progress it has made. However, we encourage the ICTY to take all necessary measures to keep the delays to a minimum. Let there be no misunderstanding: if we want the Tribunal conclude its work as quickly as possible, nothing should limit its capacity to render justice in an independent and impartial manner. In this spirit, we support the mandate extensions requested for the judges and prosecutors of the two Tribunals. It is necessary to ensure continuity in the interest of justice and to ensure the Tribunal's effectiveness.

We note with satisfaction that Bosnia and Herzegovina, Croatia and Serbia continue to cooperate fully with the ICTY. The cooperation of States is indeed essential for the Tribunal to be able to conclude its mandate. The effectiveness of prosecutions undertaken at the national level for war crimes continues to be a key element of the legacy of the ICTY. We share the concern of Prosecutor Brammertz with regard to the slowness of war crimes prosecutions by national institutions, and we welcome the measures taken by the Office of the Prosecutor to strengthen the capacities of those institutions. I am thinking in particular of the

training project for national prosecutors carried out jointly with the European Union, and the efforts of the Mission to Bosnia and Herzegovina of the Organization for Security and Cooperation in Europe with regard to training.

The International Tribunals have played a historic role in the fight against impunity. The Security Council recognized that in resolution 2150 (2014), adopted unanimously on 16 April.

This year we commemorate the twentieth anniversary of the genocide in Rwanda and the establishment of the International Criminal Tribunal for Rwanda. On this occasion, it is good to recall that there is no lasting peace without justice. We commend the ICTR for its work aimed at bringing those most responsible for the Rwandan genocide to account. The ICTR's work has been crucial in contributing to bringing justice to the victims of the genocide. Nine accused are still at large. Like other Council members, we call on States, particularly those in which the accused are suspected to be residing, to redouble their efforts to arrest the fugitives so they can stand trial.

The issue of the resettlement of the eight people acquitted and the three people released after serving their sentences, who are still residing in Arusha, must also remain a priority.

While the two Tribunals move towards the conclusion of their work, we are well aware of the difficulty they have in retaining qualified and experienced personnel. The international community must ensure that the ICTY, the ICTR and the Mechanism have adequate human resources to carry out the mandate vested in them by the Council.

Since this is the last time that we participate as a non-permanent member of the Council in this biannual debate, we want to take this opportunity to pay sincere tribute to the work of the Tribunals and their overall contribution to the promotion and realization of justice. The implementation of the principle of accountability is a key element in maintaining international peace and security. Justice and accountability must continue to occupy a central place in the Council's work.

**Mr. Hmoud** (Jordan) (*spoke in Arabic*): We welcome Judge Theodor Meron, President of the International Tribunal for the Former Yugoslavia (ICTY) and President of the International Residual Mechanism for Criminal Tribunals; Judge Vagn Joensen, President of the International Criminal Tribunal for Rwanda (ICTR);

Mr. Serge Brammertz, Prosecutor of the ICTY; and Mr. Hassan Bubacar Jallow, Prosecutor of the ICTR and Prosecutor of the International Residual Mechanism for Criminal Tribunals. I thank them all for their important and comprehensive briefings this morning.

The creation of the Tribunals 20 years ago by the Council came in response to crimes against humanity, war crimes and genocide and was aimed at ensuring criminal justice and at preventing those responsible for those crimes from escaping punishment. The work of the Tribunals is a vital part of international law and international criminal justice in upholding the rule of law.

The Tribunals have recently made positive progress towards achieving the objectives for which they were created, as shown by the number of cases dealt with and the reduced number of cases remaining before them. Despite the difficulties and obstacles and despite the financial costs of investigations and trials, the achievement registered by the Tribunals in imposing the rule of law makes clear the appropriateness of the orientation underlying their creation and of their work, which has been so successful. The Tribunals have played a key role in the evolution of the principles of international criminal law, which form the basis of their work and that of many national tribunals in the context of their judgements and decrees. The Tribunals also improved international criminal proceedings and contributed to putting an end to impunity in the case of the most heinous crimes.

The achievement of the noble objectives for which the two Tribunals were created is based on our strong support and constructive cooperation. That is why Jordan strongly supports the Tribunals and calls for them to be provided with all the means necessary for them to conclude their work in due time, as set out by their Presidents. We reaffirm the need for a smooth transition to the International Residual Mechanism for Criminal Tribunals. In this fashion, we will be able to ensure that the remaining accused will be appropriately tried.

We reaffirm also that the closure of the Tribunals depends on the completion of the work currently under way. Today we must focus in particular on the technical and administrative aspects of the work of the Tribunals. That is why we will not comment on the content of cases or of investigations. However, we wish to reaffirm that the work of the Tribunals has in no way been an obstacle to the political processes, reconciliation or peace in

the former Yugoslavia or in Rwanda; on the contrary, the Tribunals have demonstrated that international justice and the achievement of peace, security and reconciliation go hand in hand.

We express our conviction that absolute justice cannot be achieved. The majority of the perpetrators of international crimes in the former Yugoslavia and in Rwanda will remain free, as has happened following all wars. History has shown this. However, we must not be discouraged, nor should the Council be discouraged from supporting international humanitarian law and international criminal law. We should not be discouraged from responding to the challenge of impunity.

To conclude, I would like to thank the four briefers for their achievements, and I thank them for continuing with the exceptional activities carried out by both Tribunals and the International Residual Mechanism for Criminal Tribunals. I also congratulate the Permanent Representative of Chile in his capacity as Chair of the Informal Working Group on International Tribunals.

**Mr. Li Yongsheng (China)** (*spoke in Chinese*): First of all, I should like to thank President Meron, Prosecutor Brammertz, President Joensen and Prosecutor Jallow for their respective briefings on the work of the International Tribunal for the Former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) and the Residual Mechanism.

During the reporting period, both Tribunals continued to overcome difficulties, such as those in the area of the retention of staff, and have made progress in their work, which China duly recognizes. At the same time, China takes note with concern of the fact that the timetable for implementing the completion strategy provided for in resolution 1966 (2010) can no longer be met. For the ICTY it will be postponed to 2017 and for the ICTR to 2015. China hopes that the two Tribunals will continue to enhance their efficiency while ensuring justice to avoid any further delay in their work.

The Residual Mechanism branch for the ICTR and that for the ICTY began their work in July 2012 and July 2013, respectively. We are pleased to see that the transition from the ICTR to the Residual Mechanism is close to completion and that the Residual Mechanism will soon tender its first appeal judgement. The transition of the ICTY to the Residual Mechanism is also making progress smoothly. We appreciate all of these developments. China hopes that the two Tribunals will properly arrange their work according to the requests

made in the relevant Security Council resolutions, and in particular strengthen their communication and coordination with the Residual Mechanism so as to ensure the successful completion of the transition thereto.

The cooperation of States, particularly those in the regions concerned, is crucial to the smooth functioning of the two Tribunals and the Residual Mechanism. China appreciates the cooperation provided by the relevant countries, including Serbia, Croatia, Bosnia and Herzegovina and Rwanda, to the two Tribunals and the Residual Mechanism for its work.

At the same time, we call on the countries with capacity to show political will and to provide assistance in areas such as the enforcement of judgements and the relocation of the acquitted. In that respect, China welcomes the recent agreement of Belgium to accommodate an individual acquitted by the ICTR. Moreover, among those indicted by the ICTR, nine are still at large. We hope that progress will be made towards apprehending those fugitives.

Finally, I should like to take this opportunity to thank Chile, the Chair of the Informal Working Group on International Tribunals, and the Office of Legal Affairs for their work.

**Mr. Zagaynov** (Russian Federation) (*spoke in Russian*): I, too, should like to thank the Presidents and Prosecutors of the International Tribunal for the Former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) and the Residual Mechanism for their briefings. We have taken note of the report of the leadership of the Tribunals and of the information contained therein on the the proceedings and work carried out in the context of the conclusion of their activities.

This year is not just a milestone, the year specified in resolution 1966 (2010) for the conclusion of the activities of both Tribunals. This year also marks the twentieth anniversary of the establishment of the ICTR. The Russian Federation was a co-sponsor of resolution 955 (1994), establishing the ICTR in November 1994. The Tribunal has become a key organ for international criminal justice, and has made a contribution to combating impunity for the gravest crimes under international law and to achieving national reconciliation in Rwanda.

Both the ICTY and the ICTR were established by the Security Council to undertake specific tasks, and

of course they were never intended to keep working for such an extended period of time. In the four years since the adoption of resolution 1966 (2010), we have consistently called on the Tribunals to do their utmost to conclude their work in the time frames set out by the resolution. The Council created the necessary conditions to that end. In that regard, we are very disappointed to note from the reports that the course of proceedings not only is not accelerating, but in a number of trials there are even more delays. Some have stopped altogether.

The trials in a number of cases in the ICTY have dragged on so long that indictees are reporting health problems with the passage of time; on that count, trial schedules have had to be changed or suspended indefinitely, and indictees even temporarily released, as happened in the case of Šešelj. The duration of that case long ago exceeded a decade, and in no way meets any standard of criminal justice. The reasons for the many delays are often purely administrative, such as unequal distribution of the workflow on judges, unnecessarily protracted proceedings or inaccurate evaluation of the legal complexity of cases. The ICTY is again failing to meet the deadlines established by the Security Council for the completion of its work. In these circumstances, the question arises: If the Tribunal demonstrates such disrespect for the Security Council, what kind of response can it expect to its own decisions and legacy?

As regards the ICTR, we expect the time frame for the delivery of a verdict on the remaining case on its dockets to be delayed no longer, although it is already well known that the hearing for the case scheduled for earlier this month never took place. We are compelled to note with regret that the current situation provides an unfavourable backdrop for considering the question of extending the mandates of the judges and prosecutors of the Tribunals. We trust that the appropriate solutions will be found that will encourage the Tribunals to speed up their work and at long last transfer the remaining cases to the Residual Mechanism. This is all the more important given the fact that, judging by the report of the Mechanism, its activities are gradually moving towards an active phase, and their first decision is due to be delivered soon.

In recent years, national mechanisms of the fight against impunity have been developed. An example of successful cooperation between States in that sphere was the implementation a few days ago of a joint operation undertaken by Serbian and Bosnian law



enforcement bodies to detain suspects in the killing of civilians in the Bosnian village of Štrpce in 1993. Such efforts give us reason to believe that the goals of combating impunity can effectively be achieved at the national level.

**Ms. Mulvein** (United Kingdom): I would like to begin by once again expressing the United Kingdom's continued support for the International Tribunal for the Former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) and the International Residual Mechanism for Criminal Tribunals. Their work remains vital to ensuring accountability and promoting international justice across the globe. I would like to thank the Tribunals' Presidents and Prosecutors for their reports and today's presentations, and to commend the progress they have made to date. I would also like to thank Chile for its chairmanship of the Informal Working Group.

I will begin with the ICTY. We are pleased to see that the trial of Radovan Karadžić remains on track, and we hope that the Goran Hadžić trial and the Ratko Mladić trial timetables can also be maintained. We note the position in the *Vojislav Šešelj* case. While we understand the complexities, we encourage the ICTY to take all necessary steps to ensure that his trial can recommence as soon as possible. The timely completion of all ICTY trials remains a top priority. The ICTY Prosecutor is once again concerned about the slow progress of war crime in Bosnia and Herzegovina. We share those concerns. More needs to be done to address the most complex cases, as envisaged by the National War Crimes Strategy of 2008, and for joint cases that have been broken up by the State Prosecutors' Office and thus move between State and municipality prosecutors' offices. That issue is becoming increasingly urgent, and it is vital that these cases be completed in a timely manner.

It is good to see that the Bosnian Prosecutor's Office has been provided with additional resources to help address the slow progress of those cases. That activity should be prioritized in accordance with the European Union-funded Instrument for Pre-Accession Assistance project. In order to ensure the timely disbursement of the second tranche of this project's budget, we urge the relevant authorities in Bosnia and Herzegovina to take the necessary steps to adopt the new justice sector reform strategy. We also share the Prosecutor's concern about the threats posed by barriers being raised, which may hinder regional reconciliation. We urge all parties

to ensure that those barriers do not materialize, and that the rights and feelings of victims continue to be respected. We are particularly concerned about genocide denial, which is unacceptable.

However, on a positive note, the United Kingdom welcomes the continued cooperation of Serbia, Croatia and Bosnia with the ICTY. That is vital if the ICTY is to operate effectively, complete its mandate and deliver justice for the countless victims of the wars in the former Yugoslavia. We thank those States for their continued support, and we trust that this will continue as the Tribunal moves ever closer to the completion of its mandate.

Turning to the ICTR, 2014 marks the twentieth anniversary of the Rwandan genocide, a global tragedy that has had an immeasurable influence on the international community's approach to conflict prevention, peacekeeping and international justice. Between April and July 1994, in 100 short days, 1 million people were killed, many in the most horrific manner. Rwanda's transformation since those dark days has been extraordinary. I would like to echo the comments of the Minister of State at the Foreign and Commonwealth Office, Baroness Anelay, and commend the work of the ICTR on the Tribunal's recent twentieth anniversary. The ICTY's work over the past 20 years has been instrumental in developing international law and ensuring that those most responsible for the Rwandan genocide are held accountable. We are pleased that the Tribunal has now completed its substantive trial cases.

However, it is disappointing that there has been no progress in apprehending the nine fugitives. The work of ensuring accountability cannot be completed until those individuals have been brought to justice. We encourage all States to provide their full support to Rwanda and the Mechanism so as to achieve their arrest and surrender. We also regret that the problem of relocating individuals in Arusha who have been acquitted or have completed their sentences remains unresolved. Such individuals must be able to resume their lives. We thank the ICTR and the Mechanism for their continued efforts to try to resolve that problem, and we commend Belgium for accepting one of these individuals. But more work needs to be done to find a long-term solution to that issue. In the meantime, we encourage all States to cooperate to resolve that matter as quickly as possible. We wish to assure the Tribunals of our support regarding the extension of the judges' and prosecutors' mandates. That is essential for

the work of the Tribunals if they are to complete their mandates.

To conclude on a positive note, we commend both Tribunals for the ongoing smooth transition of activities to the Mechanism. That is a priority for the United Kingdom and we hope that it will continue. We encourage both Tribunals and the Mechanism to continue to collaborate closely on that important objective. We commend the outreach, capacity-building and training activities of the Tribunals and Mechanism, which are essential for continuing the fight against impunity and ensuring that the excellent legacy of the Tribunals is used to good effect.

**The President** (*spoke in French*): I shall now make a statement in my national capacity as representative of Chad.

I thank Presidents Meron and Joensen and Prosecutors Brammetz and Jallow of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal Rwanda (ICTR) and the International Residual Mechanism for Criminal Tribunals, respectively, for their briefings. I join other members in commending the role played by both Tribunals in prosecuting international crimes committed in the former Yugoslavia and in Rwanda, and for their contribution to the fight against impunity and to the development of international law.

Since the last debate of 5 June (see S/PV.7192), progress has been made both in the implementation of the completion strategy for their work and for the establishment of the Residual Mechanism. Four accused were tried, with sixteen appeals heard at the ICTY and four at the ICTR. The completion strategy has continued to move forward thanks to the provision of administrative, technical and legal support. Meanwhile, the Mechanism has begun to take over the responsibilities of both Tribunals, providing protection to victims and witnesses, receiving transferred files and moving ahead with its judicial duties.

The Tribunals have continued to support victims, to strengthen their legacy, to build national capacity and to intensify efforts designed to raise awareness. Unfortunately, the completion of the legal process, in particular at the ICTY, will not take place before 31 December, as mandated by resolution 1996 (2010). Ten pending trials concerning the 20 individuals most recently accused are now scheduled for 2015 and 2017. The reasons adduced since our last debate, especially

the delayed arrest of the accused, technical issues, the complexity of certain matters and other unforeseen circumstances, have contributed to the postponement. The reduction of often qualified personnel as part of the completion strategy has also been a fundamental problem, which leads us to call for maintaining a significant number of such staff in order to fill the gaps left by the departure, voluntary or otherwise, of other staff members who have found more lucrative employment.

Turning to the matter of extending the terms of the judges, the members of the Council have not been able to reach consensus on the terms. We therefore encourage them to do so as quickly as possible within the framework of the draft resolutions currently under discussion, in order to permit the ICTY in particular to meet its obligations under the completion strategy within the required time frame.

To date, the ICTR has been unable to arrest any of the nine Rwandan fugitives despite the efforts of the United States and Rwandan Governments to track them. We encourage the President and the Prosecutor of the ICTR and we congratulate the Government of Rwanda as well as INTERPOL for their cooperation. We also thank the European Union and the Government of Finland for financing the work on awareness-raising and a study on reparations for victims. Like other delegations, we appeal to States to cooperate with the ICTR and with the Mechanism in order to find the fugitives who remain at large and to welcome the dozens of others who were acquitted or freed by the Tribunals.

While we deplore the delays reported by the Tribunals, we nonetheless recognize their enormous efforts, especially the 141 brought before the ICTY of 161 who were sought. We welcome that result and encourage them to persevere, with a view to concluding their work as quickly as possible with due respect for the judicial process.

I now resume my functions as President of the Council.

I give the floor to the representative of Bosnia and Herzegovina.

**Ms. Čolaković** (Bosnia and Herzegovina): I would like to thank the Presidents and the Prosecutors of both Tribunals and the International Residual Mechanism for Criminal Tribunals for their comprehensive reports

(see S/2014/546, S/2014/556, S/2014/826, S/2014/827 and S/2014/829) and respective briefings.

Bosnia and Herzegovina has supported the establishment and work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) since its inception. The legacy of the ICTY is manifested through its extensive documentation of serious violations of international humanitarian law committed on the territory of the former Yugoslavia since 1991. As such, it should serve as a constant reminder that there is no impunity for serious war crimes.

Concerning the work of the ICTY, we note that all indictees have been brought before the Tribunal, including several long-term fugitives. We are also aware of the Tribunal's heavy current workload. However, we expect the Tribunal to complete its work in the nearest possible future and to take all necessary measures to eliminate delays.

Bosnia and Herzegovina attaches high importance to regional cooperation, which we deem essential if the ICTY is to complete its mandate and deliver justice for the many victims of the conflicts in the former Yugoslavia. That remains a crucial precondition for the process of reconciliation within the country and within the region as a whole. In an effort to promote further regional cooperation with its neighbours, Bosnia and Herzegovina has signed protocols on cooperation in the prosecution of war crimes, which define the channels for conducting investigations that concern the citizens of other countries. Within the framework of those protocols, productive cooperation among the judicial institutions of the countries in the region has intensified, particularly in the areas of investigation and witness protection. On 5 December, 15 people believed to have been involved in the torture and murder of some 20 people February 1993 were arrested in Bosnia and Herzegovina and in Serbia. Those arrests were made possible thanks to cooperation between the prosecutors' offices and law enforcement officials of Bosnia and Herzegovina and Serbia. That is a clear example of regional cooperation between our two countries and sends a strong message for ending impunity for crimes committed during the war.

The cooperation of witnesses, especially victim-witnesses, is critical to successful war crimes prosecutions not only before the ICTY, but also before the courts in Bosnia and Herzegovina. Victim-witnesses often testify about very traumatic events, and during the course of their testimony they relive their trauma.

Often, the same victim-witnesses testify in different trials and against different persons accused of war crimes. Considering such complexities, we stress that all those dealing with victim-witnesses must exhibit a high degree of awareness and treat them with respect for their dignity and human rights. In that regard, we respect today's remarks and Prosecutor Brammetz's recognition of the role of witnesses in court proceedings.

Bosnia and Herzegovina continues to cooperate with the ICTY by allowing access to documents and archives in witness protection matters. Our commitment to investigating, prosecuting and appropriately punishing persons responsible for the war crimes remains unquestionable. The prosecutions of war crimes that are now the responsibility of the justice system of Bosnia and Herzegovina are a critical component of the ICTY legacy. In its fight against impunity, Bosnia and Herzegovina continues to strengthen the national justice system at all levels, while bringing those responsible for the most serious crimes to justice.

In November, the Office of the Prosecutor of Bosnia and Herzegovina had 679 recorded war crimes cases, against 5,119 persons accused of war crimes. Today, 35 prosecutors are working in the Office of the Prosecutor of Bosnia and Herzegovina on war crimes cases. This year, 42 war crimes indictments have been issued against 82 persons. We expect that by the end of the year this number will increase to 100, which is about 25 per cent of the total number of all persons accused of war crimes in Bosnia and Herzegovina in the past 10 years. The Courts of Bosnia and Herzegovina have issued 107 final judgments against 175 persons.

The National War Crimes Strategy, which was adopted in 2008, sets the uniform criteria in Bosnia and Herzegovina for assessing the complexity of war crimes cases. According to the Strategy, the most complex and highest-priority war crimes cases should be judged within seven years, and the other cases within a period of 15 years from the adoption of the Strategy. The Strategy improves consistency in judicial practices across the whole country and at all levels. It also strengthens the capacity of the judiciary and police authorities while ensuring the protection and support of victims and witnesses.

The implementation of the Strategy is a complex process with participation of numerous institutions of all authority levels in Bosnia and Herzegovina. The main causes of delays in the implementation of the Strategy occur due to delays in the transfer of less-

complex cases from the State level to the level of the entities and the Brčko district, delays in establishing a centralized database of war crimes case files, and the method of measuring the performance of prosecutors' and judges' performance. Strengthening the efficiency of the implementation of the Strategy depends on our ability to strengthen the capacity of the judicial system. In achieving this objective, we would like to welcome the European Union's support to the implementation of the Strategy's goals.

An important aspect of cooperation between Bosnia and Herzegovina and the ICTY is the search for missing persons, exhumation efforts and the exchange of information about victims. In the aftermath of the war in Bosnia and Herzegovina, the number of missing persons is estimated at 30,000. While 20,000 cases have been solved to date, 8,000 persons remain missing. The search for missing persons involves cooperation between the Government institutions of Bosnia and Herzegovina and international organizations, non-governmental organizations and the network of Red Cross and Red Crescent societies.

Finally, I would like to take this opportunity to thank the Ambassador of Chile in his role as Chair of the Informal Working Group on International Tribunals and the Office of Legal Affairs of the United Nations for their work.

**The President** (*spoke in French*): I now give the floor to the representative of Serbia.

**Mr. Milanović** (Serbia): Let me begin by welcoming the Presidents and the Prosecutors of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), two of whom are also officials of the International Residual Mechanism for Criminal Tribunals, and by thanking them for their briefings today.

At the outset, I would like to express our appreciation of the acknowledgement of the continued high level of cooperation of the Republic of Serbia with the ICTY that the President and the Prosecutor presented in their reports. As a consequence, there are no outstanding indictees at large and all of the 3,466 requests for assistance received from the Office of the Prosecutor or defence counsels for access to documents, archives and witnesses have been complied with, with only two of the most recent still pending. This has been brought about not only through the compliance of the Government of Serbia with its international obligations,

but also through its firm commitment to the principles of international humanitarian law. Let me reiterate that the Government of Serbia is committed to continuing its cooperation, with the Tribunal and the Residual Mechanism alike.

Serbia has followed with particular attention ICTY activities to implement its completion strategy and transition smoothly to the Mechanism. While the Tribunal, regrettably, will not complete all of its judicial work by the end of this year, as set forth in resolution 1966 (2010), it is in the interest of my country to see the trials against its citizens completed and have their defences presented under a fair and expeditious procedure. We hope that the remaining proceedings will be completed as planned.

Serbia welcomes the progress made in the establishment of the operational capacities of The Hague branch of the International Residual Mechanism over the past year, which is essential for the implementation of the ICTY mission in accordance with its mandate and, in particular, for enabling national judiciaries to continue to prosecute war crimes. In this context, I would like to mention once again, with particular appreciation, the visit to Belgrade of Mechanism Prosecutor Hassan Bubacar Jallow on 8 September, during which a memorandum of understanding was signed to facilitate continued cooperation in the exchange of evidence to be used in cases tried by the national judiciary of Serbia.

With the ICTY completion strategy entering its final stages, the emphasis of war crimes prosecutions has been shifting to national judiciaries, and will soon be their full responsibility. Serbia, for its part, has systematically and persistently continued to prosecute war crimes committed in the territory of the former Yugoslavia in the firm belief that the quest and respect for justice and fairness are of vital importance. The number of cases tried in domestic courts has increased considerably in the past period. The facts speak for themselves: the Serbian judiciary has so far tried 435 persons for criminal offences committed against international humanitarian law, while 78 persons are currently under investigation.

To further this task, an action plan has been conceived, in line with the European Union (EU) negotiating framework, under the chapter on judiciary and fundamental rights, and has been submitted to the European Commission. The implementation of the action plan will further contribute to enhancing the

capacity and strengthening the work of the Office of the War Crimes Prosecutor and other State bodies, in line with our obligations as a nation, society and an aspiring EU member State. Much, however, remains to be done, and we are fully aware that the task will require diligence and persistence. The assistance provided to national judicial authorities by the Office of the Prosecutor for the purpose of strengthening national capacities has been vital and will remain a high priority until the very closure of the Tribunal — as much in Serbia as in the rest of the region.

In order to make a successful contribution to regional peace and reconciliation, we believe that regional cooperation must continue to be a priority. With anything short of full cooperation by the countries on whose territories the crimes were committed, justice can hardly be served. Regional cooperation is and will be of key importance in the struggle against impunity for international criminal offences — all the more so in the time to come. Such cooperation with the war crimes prosecutors of Croatia, Bosnia and Herzegovina and Montenegro and with the European Union Rule of Law Mission in Kosovo has been constantly intensifying, with the latest example demonstrated by the successful outcome of the joint Serbian-Bosnian investigation that led to the arrest on 5 December of five suspects in Serbia and 10 in Bosnia and Herzegovina in the notorious case of the abduction and killing in 1993 of 20 people from a train near the Bosnian village of Štrpci. The 20 years of attempts to investigate this case and uncover the perpetrators of this heinous atrocity could not have succeeded without intensive cooperation within the judicial and police organs of the two countries, particularly in the past two years. Let me also point out that evidence has been exchanged in 252 cases so far. Another recent positive element on this path is the agreement on the exchange of liaison officers signed on 11 September between the War Crimes Prosecutors of Serbia and Bosnia and Herzegovina, which will facilitate bilateral cooperation on access to evidence.

Given Serbia's earlier stated efforts, as well as the aforementioned positive trends, it is imperative to keep up the momentum. It is also our right to expect all countries of the former Yugoslavia to do the same and to investigate and try the cases of war crimes in which Serbs were victims. This is their duty not only towards the victims and their own people, but towards humankind as well.

I have pointed out at previous Security Council meetings on the ICTY, and most recently in a General Assembly plenary meeting, the need to see the processes before the Tribunal completed and to have defences presented in a fair and expeditious procedure, arguing that protracted procedures that prolong detention, often indefinitely, are contrary to the recognized norms regulating the rights of the accused. In line with that, we take the case of Vojislav Šešelj as indicative, with the indicted having been held in detention without sentencing for almost 12 years following his voluntary surrender. I have underscored that this case is less than conducive to the reputation of the ICTY and that concrete measures should be taken speedily in order to unlock the legal procedural deadlock in which this case has remained. To that end, I wish to emphasize that Serbia has never made any request to the Tribunal but to complete the pending cases with full respect for the trial rights of the accused and the defence. Since then, as stated in President Meron's report (S/2014/556), on 6 November the Trial Chamber, with a decision by the majority, ordered the provisional release of Vojislav Šešelj to Serbia for an indefinite period on humanitarian grounds.

Committed to the policy of peace and stability, as well as to regional cooperation and dialogue, Serbia does not condone warmongering rhetoric no matter where it comes from. Likewise, my country cannot accept allegations of collective responsibility and guilt. Bearing in mind the path that our countries have traversed over the past two decades, from the ashes of war and devastation through the establishment of peace and the quest for reconciliation, and coming to terms with the past and particularly looking to the future and to the work that remains ahead of us, the importance of regional cooperation cannot be overstated. While much has been said about the successes achieved so far, as in any endeavour, to bear the full fruit of success one has to be forward-looking, courageous and persistent. Abusing events and occurrences for one's political ends is neither forward-looking nor courageous, and can only be said to be effective in awakening the demons of the past.

The statements made by Vojislav Šešelj after his temporary release are no different from those he made regularly in the ICTY courtroom. Besides, he has said on a number of occasions that he would not accept any restrictions on his public statements. Yet, he was released nonetheless. In deciding on the release, the

Trial Chamber certainly knew quite well the kind of statements he would make. His statements against the Government of the Republic of Serbia and its policies cannot be attributed to the Republic of Serbia, and there is no basis whatsoever to accuse my country and its Government of anything levelled against them in Mr. Šešelj's statements before or after his release. As to the impact of those statements and the political views that they advocate, the results of the past several elections offer sufficient testimony to their marginality.

Regional destabilization is not in the interest of Serbia, just as it is not in the interest of the Balkan countries or of Europe. What we all aspire to is respect for civilizational and democratic achievements, the rule of law and the economic progress and stability of the region. It is difficult to build peace and stability in the region, but it is very easy to raze it. Hate speech is, let me remind the Council, not exclusive to Serbia but, sadly and regrettably, a region-wide phenomenon.

As I stated in the previous Security Council debate six months ago (see S/PV.7192), bearing in mind that Serbia is firmly committed to cooperation with the ICTY and that 20 years have elapsed since its establishment, I would like to point out once again that my country attaches great importance to the initiative aimed at ensuring that those convicted by the Tribunal in The Hague be allowed to serve their sentences in the States that emerged in the territory of the former Yugoslavia. In that context, let me recall that, since 2009, Serbia has requested to sign such an agreement with the ICTY and sought very actively to promote the initiative all along. Its officials have written to the United Nations and the ICTY on numerous occasions, yet, regrettably, no progress has been made.

Without prejudging the outcome of this purely humanitarian request, and bearing in mind that President Meron has on a number of occasions stated in his reports and in public statements that the International Residual Mechanism is actively working to secure additional agreements to increase its enforcement capacity and that he welcomes the cooperation of States in that regard, Serbia would appreciate an opportunity to sign such an agreement. The results of its many years of cooperation with the ICTY indicate that my country takes this question very seriously and that it is ready to accept international supervision of the enforcement of sentences and provide all necessary guarantees.

I take this opportunity to reiterate the readiness of Serbia to, and its interest in, addressing the questions

of ICTY archives. We advised the Security Council of our official position on the matter in October 2008. My country is ready to participate actively in all future discussions and to continue to cooperate with the Informal Working Group on International Tribunals on this question. Also, as in the past, Serbia is ready to fulfil all obligations resulting from cooperation with the ICTY and the International Residual Mechanism.

Let me conclude by expressing once again my country's satisfaction concerning the progress made in the establishment of operational capacities of the Hague branch of the International Residual Mechanism. Its work is and will continue to be of key importance in facilitating the full establishment of justice, in particular in enabling the continued work of national judiciaries in prosecuting war crimes. The international judicial system has a key role to play in the process, and it is obligated to make a contribution through full respect for international norms and human rights principles. Let me point out once again that Serbia is committed to regional peace, stability and reconciliation.

**The President** (*spoke in French*): I give the floor to the representative of Croatia.

**Mr. Drobnyak** (Croatia): Let me start by welcoming the Presidents of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, Judges Meron and Joensen, as well as Prosecutors Brammertz and Jallow. We commend their important work and appreciate their comprehensive reports on the work of the Tribunals (S/2014/546 and S/2014/556) and the International Residual Mechanism for Criminal Tribunals in the reporting period.

There is appropriate symbolism in the date of today's Security Council meeting. Today we celebrate Human Rights Day; yesterday we commemorated the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide. The issues we are discussing now properly fit into both categories.

As the International Tribunal for the Former Yugoslavia (ICTY) prepares to bring its work to a final conclusion after more than two decades of existence, there has been an increased focus on the question of the legacy that the Tribunal leaves behind. The ad hoc Tribunals have been widely praised for playing a pioneering role in the development and implementation of international criminal law. The ICTY has produced an impressive body of jurisprudence in the field of

international humanitarian law and international criminal procedure. The Tribunal has contributed to putting an end to the culture of impunity, providing an incentive for domestic judiciaries to conduct proceedings impartially and to incorporate international legal standards. Due to the existence of the Tribunal, the voices of victims are being heard and written historical records established. That is a worthy legacy.

There is no doubt that the Tribunal's principal contribution to peace and security, regional stability and reconciliation is its establishment of undisputed facts and individual criminal responsibility and its bringing to justice the persons who are responsible for widespread and flagrant violations of international humanitarian law. The road to justice is not an easy one, but at its very end lie true peace and appeasement.

As many would say — and as in fact has been said here today — justice delayed is justice denied. In our view, a speedy trial resulting in a court decision — a conviction or acquittal — represents not only one of the most essential rights of the accused, but also an equally essential right of the victims. Protracted proceedings may weaken public trust in international justice and its proper administration. In that context, we should not forget the case of the mastermind of the terrible events in the former Yugoslavia, Slobodan Milošević, in which the proceedings lasted so long that his death thwarted the conviction he deserved. Very long trials, measured not in mere months but in too many years, are not an exception in the ICTY practice; unfortunately, they are the rule.

Vojislav Šešelj, notorious for his warmongering, was indicted in 2003 for war crimes and crimes against humanity, as well as for making inflammatory speeches and spreading hatred in the media and during public events. And the latter are precisely the activities that Šešelj is carrying out as we speak. The Tribunal's indictment of Šešelj, it is worth noting, is 33 pages long. He advocated an ideology that left thousands of deaths, horrible crimes, destruction and suffering in its wake. If the Tribunal's procedures and decisions are perceived by the general public, especially the victims, as unjust or grossly unbalanced, they could produce an effect opposite to that desired. Such negative perceptions can result from a number of factors, particularly including lengthy trials, such as in the *Vojislav Šešelj* case, notwithstanding the fact that to a great extent he contributed to it himself.

Šešelj was released for humanitarian reasons, but the current consequences of that decision are anything but humanitarian. It is difficult to understand, to say the least, why Šešelj was released with no clear conditions attached to his activities and conduct. The fact that he is abusing his temporary freedom as much as possible comes as no surprise to anyone familiar with his indictment and behaviour during the trial. The basic conditions for provisional release, as provided for in the Tribunal's rules of procedure and evidence, stipulate that an accused provisionally released must not in any way obstruct proceedings or harm by his deeds the fundamentals of international justice, for which the ICTY was established. The potential escalation of Šešelj's political activities and the danger that his hate speech might gain new advocates, as well as followers, is increasingly damaging the very foundations of peace and stability in South-East Europe. To wait more than 11 years for justice to be served is painful and difficult enough; to see the accused set free and able to continue with the inflammatory speeches and scandalous provocations for which he was on trial is beyond difficult: it is utterly unacceptable and insulting.

Owing to all of this, the President of the Republic of Croatia, Ivo Josipović, has decided to draw the attention of the Tribunal and the Security Council to the impact of the Trial Chamber's decision to allow Šešelj's temporary release. His letter has been distributed as a document of the Council and the General Assembly (S/2014/839, annex), and we hope that members have taken note of it. On 26 November 2014 the Croatian Parliament adopted a declaration on the ICTY decision on Šešelj's provisional release, expressing its deep concern. We commend Prosecutor Brammertz's recent motion that the Tribunal demand that Šešelj's temporary release be revoked, based on his well-founded opinion that the Tribunal's trust in Šešelj's conduct was without foundation. We expect the motion to be processed rapidly.

On its official Web page, the ICTY describes its role as follows:

“The Tribunal has contributed to an indisputable historical record, combating denial and helping communities come to terms with their recent history. Crimes across the region can no longer be denied.”

With Šešelj's provisional release, those noble goals have been not only ignored but also seriously compromised.

Šešelj is now mocking both the victims and international criminal justice. Through his speeches he spreads the hatred that led to the war in the former Yugoslavia. While we are not questioning the legal foundation of the Tribunal's decision, we have to say it, loud and clear, that releasing Šešelj is nothing short of cynical laughter in the faces of his countless victims. Considering Šešelj's provocative, abusive and highly dangerous behaviour, Croatia sincerely hopes that many will join us in voicing their discontent and calling for putting a definitive end to it.

In that regard, it is worth noting that in Brussels on 27 November the European Parliament adopted a resolution on the Šešelj case that strongly condemns his warmongering and deplors his provocative public activities. The resolution notes with concern that the lack of an adequate political reaction and legal response from the Serbian authorities to Šešelj's behavior undermines the victims' trust in the judicial process. At the same time, in the resolution the European Parliament encourages the ICTY to take determined action to reaffirm confidence in the Tribunal, weakened as it has been by Šešelj's appalling and inadmissible public statements. We hope the messages in this important resolution will be taken seriously by all concerned.

Some of us were present in this very Chamber more than 21 years ago when the Security Council adopted resolution 827 (1993), establishing the ICTY. Croatia has come a long way since then, becoming a member State of both the European Union and NATO and an anchor of stability and cooperation in the region. The last thing we need today, while the entire international community is facing all the new challenges of the twenty-first century, is an indicted war criminal let loose to evoke ghosts from the past, stirring up hatred and national intolerance. All those who are in a position to stop that, whether through legal action or public statements, must do their utmost. Inaction in that regard is not an acceptable option.

Croatia will continue to support both the immediate goal of the ICTY — ending impunity and prosecuting those responsible for the most serious crimes in the former Yugoslavia — as well as its more ambitious and long-term one of contributing to lasting peace in the region. We fully respect the independence of the Tribunal and its Trial and Appeal Chambers and are well aware of the challenges they face. We also agree that reconciliation and confidence-building must primarily come from within societies. However, the Tribunal does

not exist in a vacuum, and its decisions do have an impact on the ground, whether positive or negative. It would not be prudent to ignore that important fact. Clearly, the decision to provisionally release a person who has been charged with numerous war crimes committed in Bosnia and Herzegovina and in Croatia can only add to the growing distrust of international tribunals and the justice they provide, even among those who are strong proponents of international criminal law.

Finally, I would like to reiterate our full and continued support for the work of the Tribunal, despite the criticism Croatia has voiced today and on previous occasions. We will continue to cooperate fully with the Tribunal and we hope that the lessons learned will be used appropriately for improving international criminal justice and the future work of the International Criminal Court, which Croatia strongly supports.

**The President** (*spoke in French*): I now give the floor to the representative of Serbia, who has asked to make a further statement.

**Mr. Milanović** (Serbia): I am regretfully compelled to take the floor once again. This body is too precious to be abused for the conduct of a domestic electoral campaign. The conduct of Croatia related to some recent events cannot be said to have been fully conducive to building on what we have achieved thus far — not the future that we all aspire to. One needs to look no further than to the treatment of the members of the Serbian minority over the past 20 years in Croatia, and still today, and the character of the frequent incidents directed against them.

Serbia has invested significant efforts in stabilizing its delicate relations with Croatia and in resolving outstanding questions to mutual satisfaction and benefit. Numerous problems in the area of the rule of law, human rights and freedoms and the return of displaced Serbs and restitution of their property existed as Croatia marched towards European Union accession. They continue to exist today, well after its accession. Those problems could have been raised and solutions insisted upon, yet my country did not do so as it considered that open questions could be resolved in a bilateral context and that European integration by all of the countries of the region was much more important to regional stability and would have served to solve all of the questions.



**The President** (*spoke in French*): I now give the floor to the representative of Croatia, who has asked to make a further statement.

**Mr. Drobnyak** (Croatia): It is not with pleasure that I take the floor for the second time today. But I cannot let some parts of Serbia's second intervention go unanswered. To reply to some of the comments, I will use the European Parliament resolution in the *Šešelj* case. The resolution states as follows:

“whereas in his public statements Šešelj repeatedly called for the creation of ‘Greater Serbia’, publicly stating claims on neighbouring countries, including EU Member State Croatia, and inciting hatred against non-Serb people”;

“stresses that Šešelj's recent statements could have the effect of undermining the progress made in regional cooperation and reconciliation and subverting the efforts of recent years”;

“reminds the Serbian authorities of their obligations under the framework for cooperation with the ICTY and of Serbia's obligations as an EU candidate country; notes with concern that the absence of an adequate political reaction and legal response by the Serbian authorities ... [and] encourages the Serbian authorities and the democratic parties to condemn any public manifestation of hate speech or wartime rhetoric and to promote the protection of minority and cultural rights [and] asks the Serbian authorities to investigate whether Šešelj has violated Serbian law and to strengthen and fully apply the legislation outlawing hate speech, discrimination and incitement to violence”.

The European Parliament is the pivotal institution of the European Union. Its documents represent the highest authority to the European Union, of which Croatia is a member State and Serbia is a candidate for membership. The resolution perfectly encapsulates the core of the problem in the *Šešelj* case and outlines the way out.

Finally, let me conclude by saying that it is deplorable, to put it mildly, that the issue of the Serbian minority in Croatia has been opened today. The Security Council is the last place where such an issue should be debated. There is no reason at all to do so, especially during a debate on the International Tribunal for the Former Yugoslavia. I see no reason to explain or to justify the Croatian position in that regard, because in doing so I would be conferring on the matter importance it does not at all deserve.

On the other hand, Šešelj concerns an issue that must be discussed. Making any connection between the Serbian minority in Croatia and the absence of any reaction on the part of the Serbian authorities to the *Šešelj* case is not only grossly misplaced, but also demonstrates the inability of Serbia to understand the seriousness of the Šešelj problem and to deal with it. Some lessons from the past, it seems, Serbia just refuses to learn.

**The President** (*spoke in French*): There are no more names inscribed on the list of speakers. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

*The meeting rose at 1.15 p.m.*