

**Security Council**

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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**

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Residual Mechanism for Criminal Tribunals, pursuant to paragraph 16 of Security Council resolution 1966 (2010).

I would be grateful if the present letter and its annexes could be circulated to the members of the Security Council.

*(Signed)* Theodor **Meron**



## Annex I

[Original: English and French]

### **Assessment and progress report of the President of the International Residual Mechanism for Criminal Tribunals, Judge Theodor Meron, for the period from 16 May to 19 November 2014**

1. The present report, the fifth in a series, is submitted pursuant to Security Council resolution 1966 (2010) of 22 December 2010, by which the Council established the International Residual Mechanism for Criminal Tribunals and, in paragraph 16 of that resolution, requested the President and the Prosecutor of the Mechanism to submit reports every six months to the Council on the progress of the work of the Mechanism.<sup>1</sup>

#### **I. Introduction**

2. The Security Council, by its resolution 1966 (2010), established the International Residual Mechanism to carry out a number of essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, including the trial of fugitives who are among the most senior leaders suspected of being primarily responsible for crimes, after the closure of the two Tribunals.

3. The Security Council emphasized that the Mechanism should be a small, temporary and efficient structure, and determined that it shall operate for an initial period of four years, and subsequently for periods of two years, following reviews of its progress, unless the Council decides otherwise.

4. In accordance with its mandate and as set forth below, the Mechanism has assumed responsibility for many functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, including with regard to a range of judicial activities, the enforcement of sentences, the protection of victims and witnesses and the management of archives. As the Tribunals complete their work and progressively downsize their operations, the Mechanism is relying less on the support services of the two Tribunals and is in the process of establishing its own small self-standing administration. The Mechanism continues to work closely with Tribunal principals and staff to ensure a smooth transition of the remaining functions and services and the harmonization and adoption of best practices.

#### **II. Structure and organization of the Mechanism**

5. In accordance with its statute (see Security Council resolution 1966 (2010), annex 1), the Mechanism has a single set of principals, the President, the Prosecutor and the Registrar, who have responsibility over two branches, one located in Arusha and the other in The Hague. As mandated, the Mechanism commenced operations at its Arusha branch on 1 July 2012, assuming functions inherited from the International Criminal Tribunal for Rwanda. The branch in The Hague commenced operations on 1

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<sup>1</sup> Unless otherwise specified, figures discussed in the report are accurate as at 15 November 2014.

July 2013, assuming functions derived from the International Tribunal for the Former Yugoslavia.

### **Organs and principals**

6. Article 4 of the statute of the Mechanism provides that the Mechanism shall consist of three organs: (a) the Chambers; (b) the Prosecutor; and (c) the Registry, to provide administrative services for the Mechanism.

7. The President of the Mechanism is Judge Theodor Meron, the Prosecutor is Mr. Hassan Bubacar Jallow and the Registrar is Mr. John Hocking. All three principals were appointed in 2012 for terms of four years.

8. President Meron, Prosecutor Jallow and Registrar Hocking are all currently serving in two positions: President Meron and Registrar Hocking are, respectively, also the President and Registrar of the International Tribunal for the Former Yugoslavia; and Prosecutor Jallow is also the Prosecutor for the International Criminal Tribunal for Rwanda. Such double-hatting facilitated the coordinated transfer of functions from the Tribunals and is cost-effective, since each principal receives only one salary.

### **The branches**

9. The Government of the United Republic of Tanzania has been cooperating with the Mechanism in the implementation of the headquarters agreement for the Arusha branch, which entered into force on 1 April 2014 and applies to the International Criminal Tribunal for Rwanda as well. It is expected that a similar agreement will soon be concluded with the Netherlands for the branch in The Hague; until that time, the headquarters agreement of the International Tribunal for the Former Yugoslavia applies provisionally to the Mechanism.

10. The Arusha branch is currently co-located with the International Criminal Tribunal for Rwanda but preparations for the Mechanism's new permanent premises in Arusha are advancing. The project for the construction of the premises is on schedule under the overall timetable approved by the General Assembly in its resolution 67/244 B of 12 April 2013, with occupancy expected in early 2016. The architectural and engineering consultancy services firm completed the design in late August 2014 and the procurement process for selecting the construction firm that will build the facility is under way. A bidder's conference, which allowed potential vendors to visit the site, was held in Arusha on 13 October 2014. The Mechanism delivers annual progress reports to the Assembly on the construction project.

11. On 1 January 2014, the Arusha branch of the Mechanism assumed administrative responsibility for the small sub-office in Kigali previously administered by the International Criminal Tribunal for Rwanda. The sub-office is staffed by members of the Mechanism's Witness Support and Protection Unit, who provide protection and support services to witnesses, as well as by members of the Office of the Prosecutor's fugitive-tracking team.

12. The branch of the Mechanism in The Hague will be co-located with the International Tribunal for the Former Yugoslavia for the period in which they will overlap. The Mechanism has a strong preference for retaining its current premises even after the closure of the Tribunal, and discussions with Dutch authorities

regarding this issue are ongoing. In addition, a working group comprised of the three organs of the Mechanism was formed to coordinate work on this issue.

#### **Administration and staffing**

13. During the 2012-2013 biennium, administrative services, such as human resources, finance, budget, procurement, logistics, security and information technology services, were provided to the Mechanism by both Tribunals, under the coordination of the Registry of the Mechanism.

14. The Tribunals' ability to provide such support during the 2014-2015 biennium is decreasing owing to their progressive downsizing. As a result, the Tribunals and the Mechanism have agreed on the basic requirements for a small self-standing Mechanism administration, and these requirements were included in the 2014-2015 budget for the Mechanism approved by the General Assembly on 27 December 2013. The transfer of administrative functions to the Mechanism began on 1 January 2014 and will be implemented gradually over the coming biennium, in step with the downsizing of the Tribunals and with a view to ensuring efficiency, accountability and consistency.

15. During this reporting period, the Human Resources, Finance, Procurement and General Services Sections of the International Tribunal for the Former Yugoslavia performed their functions on behalf of both the Tribunal and both branches of the Mechanism. They did so supplemented by a limited number of Mechanism administration staff. With the recent arrival of administrative officers for the Mechanism's branches in The Hague and Arusha, the Mechanism gained additional capacity to prepare for an eventual self-standing Mechanism administration. The recent installation of "Vblock" servers in both branches and a virtual private network between The Hague, Arusha and Kigali will make possible full and equal access to databases, information technology systems and applications in all three locations. This action will facilitate the establishment of a common administration between both branches of the Mechanism.

16. As at 15 November 2014, 135 posts in the two branches had been filled, of which 36 were in the Office of the Prosecutor and 99 in the Registry, including a small number of staff to serve in the Mechanism's Chambers and assist with the ongoing judicial work.

17. The Mechanism's staff includes nationals of the following 47 States: Albania, Australia, Belgium, Bosnia and Herzegovina, Bulgaria, Burundi, Cameroon, Canada, China, Colombia, Croatia, Cyprus, the Democratic Republic of the Congo, Denmark, Fiji, France, the Gambia, Germany, Greece, Ireland, Italy, Kenya, Latvia, Lebanon, Liberia, Malawi, Malaysia, Mali, Nepal, the Netherlands, New Zealand, the Niger, Pakistan, Poland, the Republic of Korea, Rwanda, Senegal, Serbia, Spain, the Sudan, Sweden, the former Yugoslav Republic of Macedonia, Uganda, the United Republic of Tanzania, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Zimbabwe.

18. Approximately 82 per cent of those recruited were current or former staff of the Tribunals. Fifty-three per cent of staff in the Professional category are women — surpassing the Secretary-General's gender parity goals and exceeding the average of 42 per cent in the United Nations. In addition, the Mechanism has

appointed focal points for gender and sexual harassment, and lesbian, gay, bisexual and transgender concerns.

#### **Legal and regulatory framework**

19. The Mechanism has established a basic structure to govern its activities, mindful of the need to develop rules, procedures and policies that harmonize and build upon the best practices of both Tribunals.

### **III. Judicial activities**

20. During the reporting period, the Mechanism addressed a significant amount of judicial work. At the Arusha branch, Judge Vagn Joensen, in his capacity as single judge, rendered eight decisions. At the branch in The Hague, Judge Bakone Justice Moloto issued seven decisions and Judge Liu Daqun issued two decisions. A number of orders were also issued.

21. Also during the reporting period, the President of the Mechanism, pursuant to his authority in the area of enforcement of sentences, issued two decisions granting early release. He is currently seized of a number of other confidential enforcement matters. In reaching decisions on certain enforcement matters, the President consults the judges of the sentencing Chamber, who are judges of the Mechanism, as applicable. During the reporting period, the President also issued one decision regarding a prosecution motion and three other confidential rulings.

22. In the *Munyagishari* case, which has been transferred to Rwanda for prosecution, the President dismissed without prejudice a second request for revocation on 26 June 2014.

23. On 21 May 2014, the Appeals Chamber dismissed an appeal filed by Radovan Stanković against a decision taken by the Referral Bench of the International Tribunal for the Former Yugoslavia denying his request to revoke his transfer, pursuant to rule 11 bis of the Rules of Procedure and Evidence of the Tribunal, to Bosnia and Herzegovina for trial in its national courts. In addition, on 6 November 2014, the Appeals Chamber dismissed a request filed by Eliézer Niyitegeka for the assignment of counsel to assist him with an anticipated request for review.

24. The Appeals Chamber remained seized of one appeal from judgement, concerning the case of Augustin Ngirabatware. Mr. Ngirabatware was appealing against the trial judgement rendered on 20 December 2012 and issued in writing on 21 February 2013. He filed his notice of appeal on 9 April 2013 and the briefing was completed on 13 August 2013. The Appeals Chamber is seized of three motions concerning the admission of additional evidence on appeal. These motions were deferred for consideration until after the appeal hearing. The case was heard in Arusha on 30 June 2014 and a status conference was held on 29 September 2014. A judgement is expected before the end of 2014.

25. The Appeals Chamber was also seized of a request for review, pursuant to rule 146 of the Mechanism's Rules of Procedure and Evidence, filed by Milan Lukić on 6 February 2014. The briefing in that case was completed. The bench in that case was also seized of a confidential request. An additional confidential matter related to an anticipated request for review was also pending before the Appeals Chamber

and the President, in his capacity as a judge of the Appeals Chamber, addressed a related confidential request in that case.

#### **IV. Victims and witnesses**

26. Pursuant to article 20 of the statute of the Mechanism and article 5 of the transitional arrangements, the Mechanism is responsible for providing support and protection to thousands of witnesses who have testified in cases completed by the two Tribunals.

27. The Witness Support and Protection Unit is fully operational in both branches of the Mechanism. Consistent with judicial protection orders and in close collaboration with national authorities or other United Nations entities, the Unit provides security to witnesses by undertaking threat assessments and coordinating responses to security requirements. In addition, it ensures the safekeeping of confidential witness information.

28. In response to requests for the rescission, variation or augmentation of witness protective measures, the number of consultations between the Unit and witnesses continued to rise over the reporting period as a result of the increasing frequency of requests from national jurisdictions and the number of witnesses involved per request. Moreover, the Unit was required to contact some witnesses more than once in a relatively short period in response to requests in different cases before national courts or in different phases of the proceedings.

29. The Mechanism also provided ongoing support services to witnesses. At the Kigali sub-office, for example, the Mechanism continued to provide medical and psychosocial services to witnesses residing in Rwanda, in particular for individuals suffering from psychological trauma and patients living with HIV/AIDS, many of whom contracted the virus as a result of crimes committed against them during the genocide.

30. The branch in The Hague, in conjunction with the University of North Texas in the United States of America, continued its pilot study to research the long-term impact on witnesses in the International Tribunal for the Former Yugoslavia, in providing testimony. Through this study, the Mechanism hopes to provide a comprehensive analysis of the effects of participating in criminal proceedings, contribute to the legacy of the International Tribunal for the Former Yugoslavia, and provide an opportunity to witnesses for emotional closure of their testimony as an important life event. Adding to the 60 witness interviews already completed prior to this reporting period, a further 70 witness interviews were conducted during the period. The Arusha branch is currently exploring the possibility of conducting a similar post-testimony study.

31. The witness protection teams at the two branches continued to exchange best practices for the development of policies and to establish a common information technology platform for their respective witness databases. Those efforts aimed to maximize operational efficiencies at both branches and ensure that the Mechanism preserves and develops the best practices established by the two Tribunals.

## V. Fugitives and trial readiness

32. On 1 July 2012, in accordance with Security Council resolution 1966 (2010) and the statute of the Mechanism, the responsibility for tracking the remaining fugitives indicted by the International Criminal Tribunal for Rwanda was transferred to the Mechanism. Specifically, the Council urged all States, in particular those where fugitives are suspected to be at large, to further intensify cooperation with and render all necessary assistance to the Mechanism in order to achieve the arrest and surrender of all remaining fugitives as soon as possible.

33. Nine individuals indicted by the International Criminal Tribunal for Rwanda continue to be fugitives. Of the nine fugitives, the Mechanism retains jurisdiction over three: Félicien Kabuga, Augustin Bizimana and Protais Mpiranya. The cases of the other six fugitives have been referred to Rwanda. The arrest and prosecution of these nine individuals remains a top priority for the Mechanism. The President and the Prosecutor, with the support of the Registrar, have agreed to work closely on the associated political issues.

34. Consistent with its commitment to efficiency, the Mechanism continues to work to ensure that it is prepared to commence a trial when a fugitive is apprehended, or any appeals from continuing trials. Pursuant to article 15 (4) of the statute of the Mechanism, the Registrar is ensuring that the necessary facilities and services will be in place when required, developing the necessary policies and procedures, and preparing a roster of qualified potential staff.

## VI. Cases referred to national jurisdictions

35. The Mechanism, pursuant to article 6 (5) of its statute, is responsible for monitoring cases referred by the two Tribunals to national courts, with the assistance of international and regional organizations and bodies.

36. Of the accused involved in cases of the International Criminal Tribunal for Rwanda that have been referred to Rwanda, two — Jean Uwinkindi and Bernard Munyagishari — have been apprehended and transferred to Kigali. As previously reported, the trial in the *Uwinkindi* case commenced on 14 May 2014. The *Munyagishari* case is in the pretrial phase. The two cases which were referred to France in November 2007 — *Bucyibaruta* and *Munyeshyaka* — are still in the investigative phase.

37. During the reporting period, the Mechanism monitored the cases referred to Rwanda through interim monitors provided by the International Tribunal for the Former Yugoslavia and the Mechanism, and with the assistance of a monitor from an international body. An interim monitor from the International Criminal Tribunal for Rwanda has been monitoring the two cases referred to France. The monitoring reports in all four cases are available on the Mechanism's website ([www.unmict.org](http://www.unmict.org)).

38. The Mechanism is currently negotiating with additional international bodies that have expressed an interest in providing assistance for monitoring the cases referred to Rwanda.

39. The *Vladimir Kovačević* case, which was before the International Tribunal for the Former Yugoslavia, was referred to Serbia in March 2007. The proceedings were subsequently suspended following a determination that the accused was unfit to

stand trial. The Mechanism continues to monitor any change of status in this referred case.

## **VII. Enforcement of sentences**

40. In accordance with article 25 of the statute of the Mechanism, the President has assumed jurisdiction over enforcement issues related to the Mechanism and the two Tribunals, including the authority to designate the States in which convicted persons are to serve their sentence, to supervise the enforcement of sentences and to decide on requests for pardon or commutation of sentence.

41. The Mechanism relies on the cooperation of States for the enforcement of sentences. Sentences are served within the territory of Member States that have concluded enforcement-of-sentence agreements or indicated their willingness to accept convicted persons under another arrangement. The agreements concluded by the United Nations for the two Tribunals remain in force for the Mechanism. Moreover, the Mechanism continues its efforts to secure additional agreements so as to increase its enforcement capacity and welcomes the cooperation of States in this regard.

42. The Mechanism also proposed to some of the enforcement States a new model agreement that provides greater clarity on financial matters and the respective responsibilities of the enforcing States and the Mechanism.

43. As at 15 November 2014, 29 persons convicted by the International Criminal Tribunal for Rwanda are serving their sentences in either Mali (16) or Benin (13). Six convicted persons are at the United Nations detention facility in Arusha, awaiting transfer to an enforcement State.

44. In addition, 18 persons convicted by the International Tribunal for the Former Yugoslavia are currently serving sentences in 12 States: Austria (1), Belgium (1), Denmark (2), Estonia (3), Finland (1), France (1), Germany (3), Italy (1), Norway (1), Poland (1), Portugal (1) and Sweden (2). During the reporting period, three convicted persons were transferred to Finland, Sweden and Germany, respectively, for the enforcement of their sentences. Two convicted persons are at the United Nations detention unit in The Hague, awaiting transfer to an enforcement State.

45. The Mechanism made significant progress in implementing the recommendations of the independent prison management expert who had assessed the security needs of the prisons in Benin and Mali. It has also been working, in coordination with the national authorities, to address the recommendations of the relevant inspecting bodies charged with examining the conditions of detention in the various enforcement States.

46. The Mechanism closely monitored the security situation in Mali throughout the reporting period and continued to receive advice and reports from the Department of Safety and Security of the Secretariat and the designated security official in Mali. The Mechanism has also been closely monitoring the outbreak of Ebola in certain States in West Africa and is undertaking preparatory planning in this regard, including liaising with the United Nations Operations and Crisis Centre.



47. The Mechanism looks forward to the continued cooperation of the Government of Senegal in relation to the refurbishment of cells in a prison by the International Criminal Tribunal for Rwanda.

### **VIII. Archives and records**

48. In accordance with article 27 of its statute, the Mechanism has responsibility for the management, including preservation and access, of the archives of the Mechanism and the two Tribunals. Pursuant to article 27 (2) of the statute, the archives of the Tribunals are to be co-located with the respective branches of the Mechanism.

49. The archives of the Tribunals include materials concerning: investigations, indictments and court proceedings; work relating to the detention of accused persons, the protection of witnesses and the enforcement of sentences; and documents from States, other law enforcement authorities, international and non-governmental organizations, and the general public. The materials consist of documents, maps, photographs, audiovisual recordings and objects.

50. The Mechanism Archives and Records Section has been tasked to preserve these materials and to facilitate the widest possible access to them while ensuring the continued protection of confidential information, including information concerning protected witnesses.

51. During the reporting period, the Section continued to work in close cooperation with the Tribunals on the preparation and transfer of records and archives for custody by the Mechanism. In Arusha approximately 50 per cent of physical records of long-term or permanent value designated for transfer to the Mechanism Registry have been received to date, including records in paper, audiovisual and artefact format. In The Hague substantial quantities of records were still being prepared for transfer, following training of managers and staff of the International Tribunal for the Former Yugoslavia. The Section plans to implement a new system for managing the process of transferring records and archives to the Mechanism before the end of 2014, which will make the transfer process more efficient and effective.

52. The Section continues to contribute to the planning of the new premises for the Mechanism in Arusha by providing additional functional requirements, specifications and estimates of resource requirements for the building that will house the archives. The Section is also developing strategies and identifying tools for ensuring the secure storage of the digital records, to enable their long-term preservation and access for current and future generations.

53. The Section continues to lead the development of record-keeping policies for the Mechanism. Policy instruments currently under development include standards on record-keeping metadata and digital file formats.

54. The Section also continues to lead or contribute to the development of record-keeping systems for the Mechanism, including a comprehensive electronic documents and records management system for non-judicial records that will improve record-keeping and facilitate the sharing of information between the two branches of the Mechanism in the interest of enhancing operational efficiency and effectiveness.

## **IX. Cooperation of States**

55. Pursuant to article 28 of the statute of the Mechanism, States are required to cooperate with it in relation to the investigation and prosecution of persons covered under the statute, as well as with orders and requests for assistance in relation to cases before the Mechanism. The Mechanism, like the two Tribunals, is dependent upon the cooperation of States.

56. The arrest and surrender of the remaining fugitives is a priority of the Mechanism. As described above, the Mechanism requires the full cooperation of States in relation to the ongoing fugitive-tracking operations being conducted by the Prosecutor and it continues the practice of the International Criminal Tribunal for Rwanda by calling for the assistance of relevant States in this respect. Likewise, the Mechanism relies on the cooperation of States for the enforcement of sentences.

57. The Mechanism has also sought to promote communication and cooperation with the Governments of the affected States and to keep relevant officials in those States updated on the transition of responsibilities from the Tribunals to the Mechanism and the activities of the Mechanism. During the reporting period, Mechanism officials met with Rwandan authorities to discuss areas of mutual interest. Representatives of the Mechanism, including the President, also visited areas of the former Yugoslavia to engage with government officials, attend public events and meet with victims groups. In addition, the President of the Mechanism has met with State officials and victims groups from the former Yugoslavia in The Hague.

58. Pursuant to paragraph 15 of Security Council resolution 1966 (2010), the Mechanism has sought the cooperation of the Governments of the States of the former Yugoslavia to establish information and documentation centres to provide access to copies of public records of the archives of the International Tribunal for the Former Yugoslavia. Good progress has been made in discussions with the Government of Bosnia and Herzegovina to establish an information centre in Sarajevo. Similar progress has not yet been achieved with the Governments of Croatia and Serbia for information centres in Zagreb and Belgrade, although efforts are continuing. In Kigali the International Criminal Tribunal for Rwanda is preparing to hand over to the Government of Rwanda the management of the Information and Documentation Centre (Umusanzu), together with 10 additional provincial centres. The Mechanism has worked in close cooperation with the staff of these centres to enhance accessibility to the public records and archives of the International Criminal Tribunal for Rwanda; such efforts included providing training to Umusanzu staff in April 2014.

59. The Mechanism has already assumed responsibility for efforts to address the status of individuals who have finished serving their sentences outside Arusha. On 1 January 2015, the Mechanism will also assume responsibility for individuals who have been acquitted or released in Arusha. The Mechanism has been working closely with the Registrar of the International Criminal Tribunal for Rwanda to facilitate this transfer.

## **X. Assistance to national jurisdictions**

60. The Mechanism routinely receives requests by national authorities or parties to national proceedings for assistance in relation to national investigations and trials of individuals charged in relation to the genocide in Rwanda or the conflicts in the

former Yugoslavia. During the reporting period, both branches of the Mechanism received and considered numerous requests for assistance by national jurisdictions, including requests to question detained persons and to vary the protective measures of witnesses and disclose their testimony and evidence (as discussed in sect. III above on judicial activities). Comprehensive information and guidance for those who wish to request assistance is available on the Mechanism's website.

## **XI. External relations**

61. The principals and officials of the Mechanism provided briefings to diplomatic representatives of Member States in the United Republic of Tanzania, the Netherlands and at the United Nations, and held discussions with interested groups on the mandate and priorities of the Mechanism.

62. The Mechanism's website maintained its role of being the virtual face of the institution. The audience grew by 10 per cent, reaching more than 90,000 page views over the reporting period. New content was added, such as a feature highlighting the work conducted by the archive teams in Arusha and The Hague, as well as a comprehensive information page for and about defence counsel. By describing in detail the qualification requirements and the application procedures to practice before the Mechanism, and providing a link to downloadable application forms, the Mechanism's website demonstrates the Mechanism's commitment to increasing efficiency and ensuring equality of arms.

63. The Mechanism continued its cooperation with the Legacy Committee of the International Criminal Tribunal for Rwanda for the preparation, design and implementation of the Tribunal's legacy website, ahead of the twentieth anniversary of the Tribunal on 8 November 2014. This work is a part of the overall legacy websites project, the goal of which is to serve the Mechanism's role in preserving the legacy of the ad hoc Tribunals beyond their closure. The project involves the creation of a flexible and cost-efficient content management framework, which will allow the Mechanism to maintain legacy websites for the two Tribunals, together with its own website, in a cohesive manner. The Mechanism has already been integrated into the unified content management system. This system will allow easy publication of case filings and judgements in Kinyarwanda and in Bosnian/Croatian/Serbian, in addition to English and French. The International Tribunal for the Former Yugoslavia website will join the Mechanism and International Criminal Tribunal for Rwanda sites on the same platform in 2015.

64. The Mechanism continues to fulfil its mandate in relation to the provision of access to information by, among other things, assuming responsibility for management of the legal library of the International Criminal Tribunal for Rwanda on 1 January 2014. It maintains its commitment to providing the same level of support to users while decreasing costs through enhanced efficiency of operations, including by placing greater emphasis on digital research and reference services. The third edition of the *International Criminal Tribunal for Rwanda Special Bibliography* was finalized and continues to add value to the overall legacy of the Tribunal in terms of assisting Mechanism staff and researchers to identify resources about it.

65. The Mechanism is exploring ways to provide capacity-building assistance to the Tanzanian judiciary and to legal scholars and academics through projects such as training programmes and access to the library resources of the Mechanism. Planning

for this cooperation is ongoing and the Mechanism hopes to establish a mutually beneficial framework to realize these objectives in the near future. Efforts to develop the collection for the library have been refocused to broaden the scope of the collection so that it provides not only legal resources but also resources relating to archives and records management. All of these efforts are undertaken with the firm objective of limiting any associated costs.

## **XII. Conclusion**

66. The Mechanism continues to adhere to the mandate established by the Security Council in its resolution 1966 (2010). In achieving its goals, the Mechanism has received support from the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia, the Office of Legal Affairs of the Secretariat, the Netherlands, Rwanda, the United Republic of Tanzania, States of the former Yugoslavia and individual Members of the United Nations. Such support is crucial to the continued success of the Mechanism, which maintains its focus on serving as a small organization dedicated to efficiently carrying out its mandate.

## Annex II

[Original: English and French]

### **Progress report of Justice Hassan Bubacar Jallow, Prosecutor of the International Residual Mechanism for Criminal Tribunals, for the period from 16 May to 19 November 2014**

#### **I. Activities of the Office of the Prosecutor of the International Residual Mechanism**

##### **A. Introduction**

1. During the reporting period, the Office of the Prosecutor of the International Residual Mechanism continued to discharge its mandate with respect to a variety of activities, including tracking fugitives, rendering assistance to national authorities, monitoring cases referred to national jurisdictions, maintaining and updating fugitive files in anticipation of arrest and prosecuting appeal and other litigation before the Mechanism's Appeals Chamber.

2. In addition, the reporting period saw the continuation of systems and procedures established to streamline operations and ensure greater coordination between the two branches of the Office of the Prosecutor. The second joint branch meeting is scheduled to take place in The Hague during the first week of December 2014.

##### **B. Arusha branch of the Office of the Prosecutor of the Mechanism**

3. The Arusha branch of the Office of the Prosecutor is now fully staffed, with a total of 15 core personnel in Arusha and the Kigali sub-office, including the administrative officer for both branches and the Special Assistant to the Prosecutor, who commenced duty on 2 June 2014 and 1 August 2014, respectively. An investigator (P-4) was recruited and joined the Kigali sub-office on 3 November 2014 to manage and strengthen the fugitive-tracking function. The four member ad hoc prosecution appeals team that was put in place to handle the appeal from judgement in the case of *Augustin Ndirabatware* will be disbanded by 31 January 2015 following the appeal judgement, which is expected to be delivered on 18 December 2014. In addition, the Prosecutor is preparing a roster of potential staff in anticipation of the arrest and trial of the Mechanism's fugitives. Candidates for the positions are currently under review.

4. The Arusha branch continues to receive support, where necessary, from the Office of the Prosecutor of the International Criminal Tribunal for Rwanda to ensure a smooth transition of functions.

##### **1. Fugitive-tracking and trial readiness**

5. The arrest and prosecution of the three fugitives, Augustin Bizimana, Félicien Kabuga and Protais Mpiranya, remains a key priority and the Prosecutor continues his efforts to track these fugitives, with particular emphasis on the Great Lakes and southern African regions. As noted above, the fugitive-tracking team of three investigators (P-3) and a crime analyst was strengthened by the recruitment of an experienced investigator (P-4). Work on the case files of these three fugitives

continues in order to keep them updated and ensure trial readiness in the event of an arrest.

6. As part of efforts to disseminate information to the public and renew the call for international cooperation in the tracking and arrest of the nine remaining fugitives, the Prosecutor launched the international fugitives initiative in Kigali on 24 July 2014, together with the Office of Global Criminal Justice of the United States Department of State, the International Criminal Police Organization (INTERPOL) and the Prosecutor-General of Rwanda. New posters were disseminated containing the contact details of the four organizations where information on the whereabouts of the fugitives can be provided.

7. The Prosecutor is grateful for the continued support provided by INTERPOL, the United States Department of State through its War Crimes Rewards Program and some Member States in the tracking effort and is particularly grateful for the Security Council's renewed and essential call, in its resolution 2150 (2014), upon all States to cooperate with the Mechanism in the arrest and prosecution of the nine remaining fugitives.

8. Pursuant to article 28 (3) of the statute of the Mechanism, the Prosecutor continues to render assistance, where requested, to the tracking of the six fugitives whose cases have been referred to Rwanda (Fulgence Kayishema, Phénéas Munyarugarama, Aloys Ndimbati, Ladislav Ntaganzwa, Charles Ryandikayo and Charles Sikubwabo).

## **2. Appeal and post-appeal proceedings**

9. Oral arguments were heard by the Appeals Chamber in the *Ngirabatware* appeal on 30 June 2014. The appeal judgement is expected to be delivered on 18 December 2014, thereby completing the case. The Prosecutor, in addition, responded to Mr. Ngirabatware's third motion for additional evidence pursuant to rule 142 of the Mechanism's Rules of Procedure and Evidence. The Arusha branch of the Office of the Prosecutor also responded to post-appeal requests filed by Gérard Ntakirutimana, Eliézer Niyitegeka and Aloys Ntabakuze.

## **3. Assistance to national jurisdictions**

10. During the reporting period, the Arusha branch of the Office of the Prosecutor continued to receive a steady flow of requests for assistance. The Office serviced 15 requests from eight Member States and international organizations. Responding to such requests involved conducting extensive research, analysis and classification of material in the evidence and information databases of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda, seeking witness or confidential provider consent and/or filing submissions in relation to applications for variation of protective measures. In addition, the Arusha branch filed submissions with respect to five applications for variation of protective measures.

## **4. Preservation and management of archives**

11. Staff of the Arusha branch of the Office of the Prosecutor continued to provide support to the Office of the Prosecutor of the International Criminal Tribunal for Rwanda for the archiving project. The Office transferred supplementary records from prosecutions and investigations to the Arusha branch. A further 225 boxes of records

from five completed cases, namely, *Semanza*, *Seromba*, *Setako*, *Rwamakuba* and *Zigiranyirazo*, were transferred to the Arusha branch. In addition, the evidence collection, comprising 625 boxes (94.45 linear metres), was also transferred to the Arusha branch. These transfers will continue on an ongoing basis as the work progresses.

12. Before transferring it to the Arusha branch, the Office of the Prosecutor of the International Criminal Tribunal for Rwanda is also working to classify its evidence collection records in accordance with the Secretary-General's bulletin on International Criminal Tribunals: information sensitivity, classification, handling and access ([ST/SGB/2012/3](#)), and the Mechanism's standard for preparation and transfer of records — digital records. Staff of the Arusha branch provided assistance to the Office of the Prosecutor of the Tribunal in this classification project. A total of 70,500 records were appraised and classified in this ongoing project. While much has been achieved, there is still much more to be done.

## 5. Monitoring of cases transferred to national jurisdictions

13. The Office of the Prosecutor continued to monitor progress in referred cases, that is, the cases of *Wenceslas Munyeshyaka* and *Laurent Bucyibaruta*, which were transferred to France in 2007, and those of *Jean Uwinkindi* and *Bernard Munyagishari*, which were transferred to Rwanda in 2012 and 2013, respectively. The Prosecutor's monitoring is distinct from that being conducted by the Mechanism pursuant to article 6 of the statute. In the Prosecutor's view, substantial progress was achieved in the pretrial phase of the *Munyeshyaka* proceedings in France. Investigations are now expected to be concluded by the end of 2014, with any trial expected to commence and be concluded by the end of 2015. According to reports to the Prosecutor from the French authorities, it is expected that the pretrial phase of the *Bucyibaruta* proceedings will be concluded by the end of 2015, with any trial anticipated to commence and be concluded by the end of 2016.

14. The *Uwinkindi* trial in Rwanda began in the High Court on 14 May 2014 and hearing continued on 4 and 12 June, 2 and 16 July, 17 and 18 September, 1, 2, 15 and 16 October, and 12 November 2014. The next hearing is scheduled for 26 November 2014. The *Munyagishari* case is in pretrial proceedings. A pretrial hearing was held on 4 June 2014, where translation issues were discussed, and on 5 November 2014. The next pretrial hearing will be held on 12 December 2014. A date is yet to be fixed for the commencement of the trial. Mr. Munyagishari continues to make applications for revocation of the order referring his case to Rwanda. During the reporting period, the Arusha branch filed submissions opposing Mr. Munyagishari's second request for revocation of the referral order.

## 6. Other projects

15. The Arusha branch of the Office of the Prosecutor continued to work with its counterpart in the International Criminal Tribunal for Rwanda on a number of projects. A training programme related to the best practices manual for the investigation and prosecution of sexual and gender-based violence, which was launched in January 2014, was conducted in Nairobi in November 2014. Work on the development of a best practices manual on the referral of international cases to national jurisdictions is almost complete and a consolidated account of the Rwandan

genocide based on facts adjudicated in the judgements of the Trial and Appeals Chambers of the Tribunal is progressing.

16. In addition, the 7th Colloquium of International Prosecutors took place in Arusha on 4 and 5 November 2014 as part of the commemorations marking the twentieth anniversary of the International Criminal Tribunal for Rwanda.

### **C. The Hague branch of the Office of the Prosecutor of the Mechanism**

17. The branch of the Office of the Prosecutor of the Mechanism in The Hague, which began operations on 1 July 2013, is fully staffed, with 10 core staff members on board. Double-hatting arrangements are in place to make efficient use of resources. An advance ad hoc prosecution appeals team had been established to address appeals against judgements of the International Tribunal for the Former Yugoslavia before the Mechanism's Appeals Chamber. Currently, this team is composed of two staff members who continue to assist the Office of the Prosecutor of the Tribunal. Given that no judgements have yet been issued in the two completed Tribunal trials, other vacancies in the ad hoc prosecution appeals team have not been filled. The branch of the Office of the Prosecutor in The Hague is preparing rosters of candidates for ad hoc prosecution appeals positions.

18. The branch of the Office of the Prosecutor in The Hague continues to receive support, where necessary, from the Office of the Prosecutor of the Tribunal to ensure a smooth transition of functions.

#### **1. Contempt proceedings**

19. The branch of the Office of the Prosecutor in The Hague responded to a request concerning allegations of contempt filed by Radovan Karadžić. The single judge dismissed the request.

#### **2. Appeal and post-appeal proceedings**

20. The branch of the Office of the Prosecutor in The Hague has been preparing for the eventuality of an appeal in the case of Vojislav Šešelj, who is currently awaiting judgement before the International Tribunal for the Former Yugoslavia.

#### **3. Diplomatic and external relations**

21. In September 2014, the Prosecutor paid the first official visit as the Mechanism's Prosecutor since the branch of the Office of the Prosecutor in The Hague commenced operations to Bosnia and Herzegovina, Croatia and Serbia. The Prosecutor held meetings with ministers and deputy ministers of foreign affairs and justice in all three States and with other international officials. In these meetings the Prosecutor discussed the transition of functions from the International Tribunal for the Former Yugoslavia to the Mechanism. The Prosecutor also signed memorandums of understanding with prosecutors in the three States regarding the framework for continued assistance provided by the branch of the Office of the Prosecutor in The Hague in facilitating access to evidence in The Hague. In Bosnia and Herzegovina, the Prosecutor visited three memorial sites in respect of Bosnian Muslim, Croat and Serb victims.



22. Staff of the branch of the Office of the Prosecutor in The Hague also participated in the annual regional conference of prosecutors from the former Yugoslavia, held in Brijuni, Croatia, in May 2014.

#### **4. Assistance to national jurisdictions**

23. On 1 July 2013, the servicing of requests for assistance from national authorities and international organizations moved to the branch of the Office of the Prosecutor in The Hague, with the exception of requests relating to ongoing cases before the International Tribunal for the Former Yugoslavia. During the reporting period, there was a continued increase in the volume of requests for assistance from national authorities beyond the level anticipated in the budget. The branch received 163 requests for assistance from five Member States and one international organization. A total of 361 requests for assistance have been received since 1 July 2013. A temporary position was created to manage the backlog resulting from the high number of requests. The branch also cooperated closely with liaison prosecutors from Serbia, Croatia and Bosnia and Herzegovina who are embedded in the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia. The effort to respond to requests for assistance included locating relevant material in the evidence collection of the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia, certifying documents, contacting witnesses and seeking the consent of providers of confidential information. In addition, the branch of the Office of the Prosecutor in The Hague filed 12 submissions in relation to variation of protective measures for the purpose of national proceedings.

24. The branch of the Office of the Prosecutor in The Hague applied on behalf of the Prosecutor's Office of Bosnia and Herzegovina for the model of Omarska camp, which is an International Tribunal for the Former Yugoslavia exhibit, to continue in the temporary custody of the Registry of the Court of Bosnia and Herzegovina. The single judge granted the application for a limited period of time.

#### **5. Sentencing matters**

25. The branch of the Office of the Prosecutor in The Hague responded to requests for information from the Registrar of the Mechanism concerning the administration of sentences for three convicted persons and filed submissions in two cases on legal issues arising from the sentencing provisions in the Mechanism's statute and Rules of Procedure and Evidence.

#### **6. Preservation and management of archives**

26. The branch of the Office of the Prosecutor in The Hague is working with the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia to prepare to hand over records from the latter to the branch in The Hague.