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Letter dated 17 May 2021 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council

I am pleased to submit 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 should be grateful if you would transmit the present letter and its annexes to the members of the Security Council.

(*Signed*) Carmel **Agius**
President

Annex I

[Original: English and French]

Assessment and progress report of the President of the International Residual Mechanism for Criminal Tribunals, Judge Carmel Agius, for the period from 16 November 2020 to 16 May 2021

Contents

1. The present report, the eighteenth in a series, is submitted pursuant to Security Council resolution 1966 (2010), by which the Council established the International Residual Mechanism for Criminal Tribunals. In paragraph 16 of that resolution, the Council 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.[1] The same reporting requirement is reflected in article 32 of the statute of the Mechanism (resolution 1966 (2010), annex 1). Certain information contained in the present report is also submitted pursuant to paragraph 10 of Council resolution 2529 (2020).

I. Introduction

2. The Mechanism was established by the Security Council to carry out a number of essential residual functions of the 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 and 31 December 1994, and 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, which closed in 2015 and 2017, respectively. The Mechanism's branch in Arusha, United Republic of Tanzania, commenced operations on 1 July 2012, assuming functions derived from the International Criminal Tribunal for Rwanda, while its branch in The Hague, Netherlands, commenced operations on 1 July 2013, assuming functions derived from the International Tribunal for the Former Yugoslavia. The Mechanism has been a stand-alone institution since 1 January 2018.

3. Pursuant to resolution 1966 (2010), the Mechanism was tasked to operate for an initial period of four years, and subsequently for periods of two years, following reviews of its progress, unless the Security Council decided otherwise. The Council concluded its third such review in 2020, on the basis of the Mechanism's report of 15 April 2020 (S/2020/309, annex) and the related evaluation undertaken by the Office of Internal Oversight Services (OIOS). The review culminated in the adoption of Council resolution 2529 (2020) on 25 June 2020. During the reporting period, the Mechanism continued to implement the recommendations made by the Informal Working Group on International Tribunals, as reflected in paragraph 9 of that resolution, as well as the recommendations made by OIOS in its evaluation report (see S/2020/236 and paras. 165 and 166 below).

4. Generally shaped by the pervasive coronavirus disease (COVID-19) pandemic, the reporting period once again presented the Mechanism with numerous challenges to its operations. Not only was the Mechanism required to navigate the impacts of further waves of the pandemic, but it was also shaken by the tragic loss of one of its esteemed judges, Judge Gberdao Gustave Kam (Burkina Faso). In addition, certain judicial proceedings were affected by the health situation of accused persons or their counsel, including in one case the unfortunate death of a co-accused person, Maximilien Turinabo. A number of court hearings were affected by travel and other pandemic-related restrictions in place at the Mechanism's various duty stations, and staff morale reflected the overall sense of "COVID-19 fatigue" felt by so many around the world. Nevertheless, thanks to the grit and dedication of its principals, judges and

[1] Unless otherwise specified, figures set out in this report are accurate as at 16 May 2021.

staff members, as well as non-staff personnel, including members of defence teams, the Mechanism was able to make great strides during a very difficult time.

5. In that regard, the Mechanism can report that it is now in the crucial final weeks of several proceedings. In particular, it is pleased to confirm that judgment in the appeal case of *Prosecutor v. Ratko Mladić* has been scheduled for delivery on 8 June 2021 and that judgment in the trial case of *Prosecutor v. Jovica Stanišić and Franko Simatović* is expected by the end of June 2021. Similarly, the Mechanism can report that judgment is expected at the end of June 2021 in the multi-accused contempt trial formerly known as *Prosecutor v. Maximilien Turinabo et al*., which, following the death of Mr. Turinabo, is now named *Prosecutor v. Anselme Nzabonimpa et al*. The imminent conclusion of those three proceedings represents the tireless efforts made by all those involved and marks another milestone in the lifespan of the Mechanism's judicial activity.

6. In addition to those proceedings, the pretrial phase in the *Prosecutor v. Félicien Kabuga* case has continued apace, involving litigation before both the pretrial judge and the Trial Chamber seized of the case and the disposal of a large number of motions. Work also continued during the reporting period with respect to the Mechanism's other continuous judicial functions, including on matters arising from its supervision of the enforcement of sentences, as well as the protection of victims and witnesses and contempt of court issues.

7. As detailed in the present report, alongside its judicial activity, the Mechanism also made solid progress in its other residual functions, which include tracking the remaining fugitives indicted by the International Criminal Tribunal for Rwanda, providing assistance to national jurisdictions and managing the archives of the ad hoc Tribunals and the Mechanism. The Mechanism also continued in its efforts to harmonize practices and procedures across branches and to address institution-wide issues through the refinement of its legal and regulatory framework.

8. During the global health crisis, the Mechanism is more alert than ever to its responsibilities towards the persons under its care. As a judicial institution, it continues to fulfil those duties to the best of its abilities and is guided by the foundational principles of fairness, due process and regard for fundamental rights. At the same time, the Mechanism strives every day for utmost effectiveness and efficiency in its operations, bearing in mind the vision that the Security Council had of the Mechanism as a small, temporary and efficient structure, the functions and size of which will diminish over time. The unrelenting progress made by the Mechanism in the current reporting period demonstrates its commitment to fulfilling that vision.

9. Wherever possible, the present report reflects detailed projections of the duration of residual functions entrusted to the Mechanism, in accordance with Security Council resolution 2529 (2020), as well as the second recommendation contained in the OIOS evaluation report of 2020 (S/2020/236, para. 67). It must be noted that such projections are based on information available at the time of reporting and therefore subject to modification in the event of evolving circumstances.

II. Structure and organization of the Mechanism

A. Organs and principals

10. As established in article 4 of its statute, the Mechanism consists of three organs: the Chambers; the Prosecutor; and the Registry, which provides administrative services for the Mechanism, including the Chambers and the Prosecutor. The work of

the Chambers and the Registry is discussed below, while the activities of the Office of the Prosecutor (the Prosecution) are detailed in annex II.

11. Each organ is led by a full-time principal who exercises responsibility over both Mechanism branches. The President is the institutional head and highest authority of the Mechanism, responsible for the overall execution of its mandate, assigning judges to cases, presiding over the Appeals Chamber and carrying out other functions specified in the statute and the Rules of Procedure and Evidence of the Mechanism.[2] The Prosecutor is responsible for the investigation and prosecution of persons covered under article 1 of the statute, while the Registrar has overall responsibility for the administration and servicing of the institution, under the authority of the President.

12. As previously reported, the Secretary-General renewed the term of office of the President, Judge Carmel Agius, for a period of two years commencing 1 July 2020, and the Prosecutor, Serge Brammertz, was reappointed for the same period by the Security Council in its resolution 2529 (2020). The Registrar, Abubacarr Tambadou, took office on 1 July 2020, following his appointment by the Secretary-General. The current terms of all three principals run until 30 June 2022. President Agius is based in The Hague, while Prosecutor Brammertz and Registrar Tambadou are based in Arusha.

B. President

13. Mindful of the relevant recommendation of made by OIOS in 2020 (S/2020/236, para. 66) and the most recent Security Council resolution, under the leadership of the President, the three organs enhanced coordination and information-sharing on matters affecting them equally, with a view to ensuring systematic thinking and planning about the future. The value of the OIOS recommendation was apparent in the context of the ongoing pandemic, which continued to demand a collaborative, proactive and flexible response by the President and the other principals during the reporting period, as well as dedicated time and attention. The three principals were ably advised in that respect by the COVID-19 Steering Committee, which was established in July 2020. In addition, they continued to hold regular Coordination Council meetings to discuss cross-cutting issues affecting all organs, in accordance with rule 25 of the Rules of Procedure and Evidence.

14. Notwithstanding the necessary focus on the impact of COVID-19, the President was determined to make progress with the implementation of the overarching priorities of his presidency, namely: (a) the timely and efficient conclusion of the Mechanism's existing judicial proceedings, while ensuring due process and fundamental rights; (b) harmonizing practices and procedures across the Mechanism's two branches; and (c) fostering high staff morale and performance. This has been no easy task, as the global health crisis continues to directly threaten each of those aspects of the Mechanism's functioning.

15. With regard to the first of his priorities, the President managed the judicial roster and oversaw the work of Chambers, taking full account of the previously envisaged timelines for case completion and the imperative to avoid further delays to the extent possible. Within the parameters of that coordination role, he remained focused on ensuring that all efforts were expended on the pending judicial caseload, despite renewed COVID-19 restrictions and other challenges. Close collaboration among the Office of the President, the Chambers Legal Support Section and the Registry sections that directly support judicial work was once more crucial in that regard.

[2] Available at www.irmct.org/en/basic-documents/rules-procedure-and-evidence.

16. In addition, the President continued to exercise his own judicial functions in numerous matters, including in his capacity as presiding judge of the Appeals Chamber with regard to a request for review, and separately in relation to the Mechanism's supervisory responsibilities vis-à-vis accused, detained and convicted persons. During the reporting period, he issued a further order for regular COVID-19 updates from enforcement States pertaining to prisons where convicted persons are serving their sentences, and dealt with enforcement-related motions arising from the COVID-19 pandemic.[3]

17. Concerning the President's second priority, as in previous reporting periods, the Mechanism focused on identifying areas in which it could continue to improve inter-branch cooperation and working methods by better coordinating practices and procedures. Such areas included general filing practices, judicial support services, victim and witness protection services, and detention and enforcement matters. As a result, a number of relevant practice directions and policy documents are currently being updated.

18. With respect to his third priority, the President remained conscious of the impact of the pandemic on staff morale. In that respect, he continued to emphasize the importance of timely, clear and reassuring communications with staff through various forums and to initiate town hall and other meetings, including with the staff union. A town hall meeting by videoconference was held with all staff in December 2020 and another was scheduled for late May 2021. As previously reported, those meetings provide valuable opportunities for staff members to raise any issues of concern and to feel more connected to their colleagues working remotely or in other duty stations. The President also continued to fully support the activities of the Mechanism's focal points for gender and other focal points.

19. Although the aforementioned matters absorbed much of the President's focus, he kept sight of his other long-standing areas of endeavour, namely, the further strengthening of the relationships between the Mechanism and the Governments and peoples of Rwanda and the countries of the former Yugoslavia, and taking action on gender issues within the Mechanism, including in his capacity as an International Gender Champion. With respect to the former, the President is hopeful that, with the roll-out of COVID-19 vaccination campaigns and the consequent relaxation of certain measures, he will be able to undertake missions to those States before long.

20. In the meantime, during the reporting period, the President held virtual meetings with officials and other stakeholders from the Mechanism's affected communities, including a meeting with representatives in the Netherlands of the Ibuka victims' association, on the occasion of the twenty-seventh commemoration of the 1994 genocide against the Tutsi in Rwanda. The President also participated in events of significance to the Mechanism, including an online event organized by the Embassy of Rwanda in The Hague to mark the aforementioned commemoration and a conference hosted by the International Court of Justice to mark the commemoration of the 100th anniversary of the adoption of the Statute of the Permanent Court of International Justice.

21. In December 2020, the President addressed the Security Council by videoconference to present the seventeenth progress report of the Mechanism. He also briefed the Informal Working Group on International Tribunals and participated in bilateral videoconference meetings with representatives of Member States and high-level representatives of the United Nations.

[3] In relation to those and other judicial activities of the President, see paras. 78–81.

C. Judges

22. Article 8, paragraph 1, of the statute provides that the Mechanism is to have a roster of 25 independent judges. In accordance with article 8, paragraph 3, of the statute, the judges are only to be present at the seats of the branches of the Mechanism as necessary at the request of the President and, insofar as possible, will otherwise exercise their functions remotely. In line with article 8, paragraph 4, of the statute, the judges of the Mechanism are not remunerated for being on the judicial roster and receive compensation only for the days on which they exercise their functions.

23. During the previous reporting period, the terms of office of all judges of the Mechanism were extended by the Secretary-General for a period of two years, effective 1 July 2020. In February 2021, the Mechanism learned with deeply sadness of the death of Judge Gberdao Gustave Kam, who had been sworn in as a judge of the Mechanism in May 2012 and had served with distinction on several cases, including, most recently, the ongoing *Mladić* case. Judge Kam's passing represents a tremendous loss for the Mechanism and the field of international justice, and the Mechanism takes this opportunity to pay tribute to his outstanding service. It is expected that, in accordance with article 10, paragraph 2, of the statute, the Secretary-General will appoint another judge to serve the remainder of Judge Kam's term.

24. The current judicial roster comprises (in order of precedence): Judge Carmel Agius, President (Malta), Judge Theodor Meron (United States of America), Judge Jean-Claude Antonetti (France), Judge Joseph E. Chiondo Masanche (United Republic of Tanzania), Judge William Hussein Sekule (United Republic of Tanzania), Judge Lee G. Muthoga (Kenya), Judge Alphons M.M. Orie (Netherlands), Judge Burton Hall (Bahamas), Judge Florence Rita Arrey (Cameroon), Judge Vagn Prüsse Joensen (Denmark), Judge Liu Daqun (China), Judge Prisca Matimba Nyambe (Zambia), Judge Aminatta Lois Runeni N'gum (Zimbabwe/Gambia), Judge Seon Ki Park (Republic of Korea), Judge José Ricardo de Prada Solaesa (Spain), Judge Graciela Susana Gatti Santana (Uruguay), Judge Ivo Nelson de Caires Batista Rosa (Portugal), Judge Seymour Panton (Jamaica), Judge Elizabeth Ibanda-Nahamya (Uganda), Judge Yusuf Aksar (Turkey), Judge Mustapha el Baaj (Morocco), Judge Mahandrisoa Edmond Randrianirina (Madagascar), Judge Claudia Hoefer (Germany) and Judge Iain Bonomy (United Kingdom of Great Britain and Northern Ireland).

25. As previously reported, the COVID-19 pandemic unfortunately prevented the Mechanism from holding an in-person plenary of judges in The Hague during 2020. Continuing travel restrictions and other measures, together with the unpredictable nature of the global health crisis, have similarly made planning for an in-person event in 2021 extremely difficult. The Mechanism therefore hopes that its judges will be able to meet in person during 2022, as soon as circumstances will safely allow. In the meantime, the Mechanism is currently exploring options for holding its first-ever "virtual plenary", using a secure platform developed by its own Information Technology Services Section. The Mechanism looks forward to providing updates in its next six-monthly report.

26. Pursuant to his discretion under article 12, paragraph 2, of the statute, the President continued to assign on an alternating basis Judge William Hussein Sekule and Judge Vagn Prüsse Joensen as duty judges at the Mechanism's Arusha branch. As previously reported, this decision maximizes efficiency, since both judges reside in the United Republic of Tanzania and their assignment as duty judge is remunerated only to the extent that they exercise judicial functions in that capacity.

D. Branches

27. As established in article 3 of its statute, the Mechanism has two branches, one located in Arusha and the other in The Hague. The Mechanism continues to enjoy excellent cooperation with both host States and is grateful for their continued support and cooperation in accordance with the respective headquarters agreements. Despite the two branches being in different locations and time zones, the Mechanism constantly endeavours to function as a single, unified institution, optimizing and harmonizing its activities wherever possible and taking full advantage of efficiencies.

28. At the Arusha branch, a number of additional measures were introduced at the Lakilaki premises during the reporting period to, inter alia, further facilitate the safe continuation of in-court proceedings and allow for staff presence during the COVID-19 pandemic. Furthermore, following the withholding of delay damages in accordance with General Assembly resolution 73/288 of 15 April 2019, negotiations with the contractor are ongoing. The Mechanism is grateful to the United Republic of Tanzania for its steadfast support in relation to the construction project.

29. As previously reported regarding the branch in The Hague, the host State acquired ownership of the rented premises occupied by the Mechanism in April 2019 and has agreed to the Mechanism's remaining in its current location. Discussions with the host State on the future lease agreement are ongoing, as they are dependent on the finalization of the renovation schedule of the host State for the premises. In the meantime, consideration is being given to extending the current lease agreement, which takes into account the Mechanism's reduced occupancy requirements. The Mechanism remains grateful for the outstanding commitment and support of the Netherlands with respect to the Mechanism's premises in The Hague.

30. The Mechanism's two field offices continued to play an important role in the implementation of its mandate. Both field offices adopted a number of measures to be able to continue their activities uninterrupted, despite the applicable COVID-19 restrictions.

31. The field office in Kigali continued to support the Prosecution and the Defence in relation to *the Nzabonimpa et al*. case (formerly *Turinabo et al*.). In addition, it provided support to the pretrial team of the Prosecution in the *Kabuga* case. The field office also provided protection and support to witnesses, including through the provision of medical and psychosocial services by its medical clinic. Lastly, the Kigali field office facilitated requests for assistance from national jurisdictions and supported the activities of the independent monitors of cases of the International Criminal Tribunal for Rwanda that have been referred to Rwanda, pursuant to article 6 of the statute (see sect. XII).

32. The field office in Sarajevo continued to provide protection and support services to witnesses who had previously been called to appear before the International Tribunal for the Former Yugoslavia or the Mechanism, and to liaise with national and local authorities on those issues. The field office also facilitated requests for the variation of protective measures for witnesses, in support of national prosecutions of individuals allegedly implicated in the conflicts in the former Yugoslavia.

E. Budget, staffing and administration

33. Since 1 January 2021, the Mechanism has been operating under its approved budget for 2021 (General Assembly resolution 75/249). In his proposed budget for the Mechanism for 2021 (A/75/383), the Secretary-General included requirements to conclude judicial proceedings that had been delayed because of the COVID-19

pandemic and corresponding travel restrictions. As detailed in the present report, these proceedings are now expected to conclude by the end of June 2021. The proposed budget also included resources for the pretrial and trial phases of the *Kabuga* case. The Assembly, in line with the recommendations of the Advisory Committee on Administrative and Budgetary Questions, reduced the Mechanism's proposed budget for 2021 by $5,145,800 gross, approving an overall budget of $97,519,900 gross. The Mechanism expects to be able to fully support the remaining judicial activities in 2021 and to proceed with requirements related to the *Kabuga* case within its approved budgetary resources.

34. As previously reported, the planned downsizing of staff at the branch in The Hague in 2020, which was scheduled to proceed in accordance with the Registrar's downsizing policy of June 2019 and following a comparative review exercise, had to be partially postponed to mid-2021 as a result of delays in certain judicial proceedings resulting from the COVID-19 pandemic. Owing to additional requirements to address the *Kabuga* case, no downsizing was proposed for 2021 at the Arusha branch. The Mechanism is conscious of the fact that the pandemic may further affect judicial activities and, in turn, related staffing levels. Accordingly, efforts aimed at enhancing cross-branch collaboration will continue to ensure the efficient provision of judicial support for the Chambers and the Prosecution at both branches.

35. While the previously reported delays in judicial proceedings affected the Mechanism's downsizing strategy to some degree, the budgetary reductions decided by the General Assembly, as noted above, required the Mechanism to take additional measures at both branches to remain within approved budgetary resources. As such, the Mechanism has had to limit the duration of appointments for some staff members, while further measures to implement those reductions are being assessed.

36. Details and a breakdown of the Mechanism's expenditure in 2021, presented in terms of funds committed, are set forth in enclosure I.

37. As at 1 May 2021, 181 of the 187 approved continuous posts to carry out the Mechanism's continuous functions were occupied, while an additional 320 personnel were serving as general temporary assistance to assist with ad hoc needs, including judicial work. Consistent with the flexible staffing structure of the Mechanism, those positions are short-term in nature and will fluctuate depending on workload.

38. Details concerning the staffing of the Mechanism by division are reflected in enclosure II.

39. The Mechanism's continuous and general temporary assistance positions comprise nationals of 73 States, namely: Algeria, Australia, Austria, Belgium, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, China, Congo, Croatia, Cuba, Democratic Republic of the Congo, Denmark, Egypt, Ethiopia, Fiji, Finland, France, Gambia, Germany, Ghana, Greece, Guatemala, Haiti, India, Indonesia, Iraq, Ireland, Israel, Italy, Jamaica, Kenya, Latvia, Lebanon, Lesotho, Liberia, Madagascar, Morocco, Nepal, Netherlands, New Zealand, Niger, Nigeria, North Macedonia, Pakistan, Philippines, Poland, Republic of Korea, Romania, Russian Federation, Rwanda, Serbia, Sierra Leone, Slovakia, South Africa, Spain, Sudan, Sweden, Thailand, Uganda, Ukraine, United Kingdom, United Republic of Tanzania, United States, Yemen, Zambia and Zimbabwe.

40. Averaged across the two branches, as at 1 May 2021, 50 per cent of Professional staff members at the Mechanism were women, which meets the gender parity goals of the Secretary-General. However, when General and Field Services staff are also taken into account, the average percentage of female staff unfortunately remains lower, with a total of 43 per cent. Despite the limitations imposed by its nature as a downsizing institution, the Mechanism continues to strive for improvement in that

regard, taking into consideration the relevant administrative instruction on temporary special measures for the achievement of gender parity (ST/AI/2020/5).

41. As previously reported, the Mechanism at both branches has dedicated focal points for gender; protection from sexual exploitation and sexual abuse; diversity, inclusion and LGBTIQ+ issues; disability and accessibility issues; and conduct and discipline. The focal points provide information and engage with staff and senior management to address matters that may arise in the workplace. While many in-person activities planned by the Mechanism's focal points had to be postponed as a result of the COVID-19 pandemic, the focal points conducted a number of virtual awareness-raising campaigns and continued to explore possibilities for offering training and workshops remotely. Among those activities was a campaign organized by the focal points for gender on the occasion of International Women's Day, which featured a series of video interviews highlighting women's leadership at the Mechanism.

42. The evolving COVID-19 pandemic continued to be met by the Mechanism with swift action and adjustment to its working methods to adapt to prevailing circumstances as necessary. To facilitate decision-making on pandemic-related matters by the principals, the COVID-19 Steering Committee, which comprises a small number of senior representatives of the various organs, continued to provide information and policy advice. In turn, the Steering Committee was supported by the larger, Registry-based COVID-19 crisis management team. As the global health crisis remained unpredictable, the Mechanism monitored developments closely and planned and prepared for different scenarios so as to be able to respond rapidly to any change in circumstances. In that regard, a recent focus of the Steering Committee has been the development of a detailed scenario-based plan for the full return of staff to premises, in anticipation of the impact of vaccination campaigns and associated changes in pandemic-related restrictions. In addition, the Steering Committee has been finalizing a document setting out the lessons learned by the Mechanism during the pandemic, as part of the Mechanism's efforts to continually strive for improvement in its operations.

43. Ensuring business continuity remained a key concern for the Mechanism during the current reporting period, as was the case in the two previous periods. In that respect, the Mechanism built on the facility alterations and policies put in place earlier in the COVID-19 pandemic and continued to take appropriate measures, both to ensure the safety of judges, staff and others when at the premises and, as required, to further facilitate remote work. Overall, the Mechanism again maintained a reduced presence on site during the reporting period. Compared with pre-pandemic staffing levels, between 30 and 50 per cent of staff members were present in the office at the various duty stations. That number fluctuated depending on in-court judicial activity.

44. During the reporting period, reflecting its efforts to ensure business continuity, and as detailed below, the Mechanism was able to finalize in-court proceedings in the *Stanišić and Simatović* case, conclude the hearing of Defence witnesses in the *Nzabonimpa et al*. case (formerly *Turinabo et al*.) and advance in the *Kabuga* case and the *Mladić* case, taking into account all safety measures related to COVID-19 and making use of the possibility of remote participation by videoconference when necessary (see sect. III).

45. The Division of Administration continued to provide support across branches and field offices. In addition to carrying out their regular responsibilities, administrative sections addressed the challenges presented by the COVID-19 pandemic in order to meet the needs of staff and ensure business continuity. While managing the Mechanism's information technology and communication systems and equipment, as well as ensuring remote access by judges, staff and others to relevant

applications and networks, remained a primary focus, additional efforts were undertaken in supporting staff, including with regard to arranging medical evacuations. The Secretariat-led COVID-19 Medical Evacuation Framework has proven to be indispensable in that regard, and the Mechanism had to rely on its services a number of times during the reporting period.

46. Furthermore, concerning the well-being of staff, tele-health services for both physical and mental health support are now accessible to staff at all duty stations. Also, since 1 January 2021, all staff members have access to an employee assistance programme, which offers counselling on a broader range of issues that have an impact on the quality of life and resilience. Focusing on self-care, a webinar series on relevant activities was also implemented for staff in early 2021 and is planned to be followed by facilitated discussions on self-care and resilience in the second quarter of 2021. In addition, relevant resources and information are regularly made available to staff on the Mechanism's intranet.

F. Legal and regulatory framework

47. The legal and regulatory framework of the Mechanism provides important guidance, clarity and transparency for stakeholders across a broad range of the Mechanism's mandated functions. During the reporting period, the Mechanism continued to develop the framework with a view to further harmonizing and building on the best practices of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, as well as its own practice, in order to carry out its mandate more efficiently and effectively.

48. Following consultations with the President and the Association of Defence Counsel practising before the International Courts and Tribunals, the Registrar adopted amendments to the Remuneration Policy for Persons Representing Indigent Convicted Persons in Post-Conviction Proceedings, upon Issuance of a Judicial Order Granting Assignment of Counsel at the Expense of the International Residual Mechanism for Criminal Tribunals, and the Policy for the Appointment and Remuneration of *Amici Curiae* Investigators and Prosecutors in Proceedings before the International Residual Mechanism for Criminal Tribunals. Taking into account the amendments also recently made to the Remuneration Policy for Persons Representing Indigent Suspects and Accused in Contempt and False Testimony Proceedings before the International Residual Mechanism for Criminal Tribunals, the Registry's review of the Mechanism's remuneration framework has now been completed, introducing a change to the monthly remuneration scheme and the possibility to apply a lump sum system in exceptional cases.

49. Furthermore, on 14 May 2021, the Registrar issued a revised Code of Professional Conduct for Defence Counsel Appearing before the Mechanism and Other Defence Team Members,[4] following consultations with the President and the Association of Defence Counsel. The revised Code, inter alia, further clarifies the professional obligations of Defence counsel and their support staff and introduces a secure and reliable procedure to allow prospective complainants to make a complaint without disclosing their identity.

50. The Registry also continued its review of cross-branch policy instruments regulating court operations and judicial records management functions, to further streamline and harmonize practices across the two branches. In that regard, a revised Short Guide on the filing of documents was posted on the Mechanism's website in English on 12 February 2021, with Bosnian-Croatian-Serbian, French and

[4] MICT/6/Rev.1.

Kinyarwanda versions subsequently uploaded on 15 April 2021. Moreover, in view of the continuing COVID-19 pandemic and the Mechanism's increased reliance on rule 96 of the Rules of Procedure and Evidence, the Registry updated its standard operating procedures for facilitating proceedings by videoconference link.

51. Lastly, work continued during the reporting period on a Mechanism-specific policy incorporating the Secretary-General's bulletin on addressing discrimination, harassment, including sexual harassment, and abuse of authority (ST/SGB/2019/8). While the principals have emphasized the importance of the bulletin and the Mechanism's related policy at town hall meetings to ensure awareness of all staff, the various focal points are already working together to integrate a number of aspects in their respective programmes. Progress has also been made with respect to the Mechanism's policy on occupational safety and health.

III. Judicial activities

52. Throughout the reporting period, the Mechanism was seized of a number of complex judicial matters, many of them ongoing since the previous progress report. The President and the judges continued to engage in a wide variety of judicial activity, issuing 203 decisions and orders. In accordance with article 8, paragraph 3, of the statute, judicial activity was primarily carried out remotely. Currently, judges on the roster are supported by a Chambers Legal Support Section of 19 staff, comprising 16 legal officers and three administrative assistants, serving at both branches of the Mechanism.

53. Of the 203 decisions and orders issued during the reporting period, 147 (or approximately 7 in 10) related to the Mechanism's continuous judicial functions – including matters pertaining to the protection of victims and witnesses, assistance to national jurisdictions, enforcement of sentences, and the investigation and trial of allegations of false testimony or contempt, as well as the management of the work of Chambers and the judicial review of administrative decisions – rather than to the adjudication of the core crimes incorporated in the statute.

54. The leadership of the Chambers Legal Support Section continued to employ streamlined working methods and processes, in collaboration with other sections of the Mechanism, to facilitate an efficient and transparent one-office work environment that draws on the resources at both branches to address judicial workload wherever it arises. During the reporting period, the leadership proactively cooperated with colleagues throughout the Mechanism to continue to overcome pandemic-related challenges in order to advance the judicial proceedings, including through in-court hearings. As detailed below, that approach enabled the Trial Chamber in the *Stanišić and Simatović* case to hear closing arguments, and the single judge in the *Nzabonimpa et al*. case (formerly *Turinabo et al*.) to hear the six witnesses called as part of the Defence cases. In addition, it ensured that ongoing progress could be made in both the *Kabuga* case and the *Mladić* case, most notably leading to the scheduling of the appeal judgment in the latter.

55. With respect to the core crimes incorporated in the statute, the judges, whose individual legal backgrounds are roughly evenly split between civil and common law, worked on three trials, at various stages of proceedings, and on an appeal from judgment, as set forth below.

56. In the *Stanišić and Simatović* case, the retrial commenced on 13 June 2017 and the Prosecution case concluded on 21 February 2019. The Defence case for Jovica Stanišić commenced on 18 June 2019, while the Defence case for Franko Simatović

commenced on 12 November 2019. Both Defence cases concluded on 23 February 2021.

57. It was initially projected that the presentation of evidence would conclude in June 2020, with final trial briefs and closing arguments planned for September and October 2020 and the trial judgment for December 2020. The projection for the delivery of the judgment in December 2020 remained unchanged until the global health crisis unfolded. As previously detailed, beginning in March 2020, the Trial Chamber was forced to postpone the completion of the presentation of evidence on several occasions until restrictions on travel and movement were eased and measures and protocols could be put in place to ensure the safe conduct of in-court proceedings. Nevertheless, the Trial Chamber and the parties continued to advance the case and the Trial Chamber issued numerous decisions pertaining to the admission of thousands of exhibits and the written testimony of a number of witnesses. On 1 September 2020, in-court proceedings resumed in a modified courtroom, and the Trial Chamber subsequently heard the final five Defence witnesses, concluding the evidentiary hearings on 8 October 2020.

58. As indicated in the previous progress report, it was originally expected that the final trial briefs would be filed on 26 February 2021 and the closing arguments heard during the last week of March 2021. However, the Trial Chamber was required to extend those deadlines owing to health-related difficulties faced by the Defence team for Mr. Simatović, which caused certain delays in the litigation concerning the admission of the final exhibits and preparation of the final submissions. As a result, the final trial briefs were filed on 12 March 2021, and closing arguments were heard from 12 to 14 April 2021.

59. On the basis of those circumstances, it is currently projected that the trial judgment will be issued by the end of June 2021, instead of May 2021 as indicated in the previous progress report. During the reporting period, the three judges on the bench in the case carried out their work at the seat of the Mechanism, in The Hague.

60. With regard to the *Kabuga* case, following Félicien Kabuga's initial appearance on 11 November 2020, the Prosecution filed a motion on 15 January 2021 seeking leave to amend the operative indictment that had been filed before the International Criminal Tribunal for Rwanda and attaching the proposed amended indictment. The Trial Chamber granted the Prosecution's request on 24 February 2021, and the amended indictment was subsequently filed on 1 March 2021. In addition, with the consent of the parties, the Trial Chamber conducted a status conference by way of written procedure between 9 March and 6 April 2021, as travel restrictions related to the pandemic and other health concerns related to Mr. Kabuga prevented conducting that hearing in court. On 7 May 2021, an in-person status conference before the full Trial Chamber was scheduled for 1 June 2021.

61. Mr. Kabuga remains detained in The Hague following his transfer to the United Nations Detention Unit on 26 October 2020 in order to undergo a medical assessment. The Trial Chamber has been closely following reports on Mr. Kabuga's health and has issued decisions and orders necessary to advance litigation related to it. The Trial Chamber is currently awaiting the appointment of an independent medical expert to assist in evaluating Mr. Kabuga's fitness to travel to Arusha and stand trial. Based on the projected time frame set out in the third review report for the duration of fugitive trials (S/2020/309, annex, para. 62), the pretrial phase of those proceedings would normally be expected to last 12 months from the initial appearance, that is, until November 2021. The trial and judgment drafting phase is expected to last an additional 18 months, until May 2023. These projections will be adjusted as further information concerning Mr. Kabuga's health becomes available, as this may affect the

pace of proceedings. All judges are currently working remotely, except when their temporary presence may be required.

62. The appeal proceedings in the *Mladić* case advanced significantly towards conclusion during the reporting period, with judicial deliberations and judgment preparation progressing despite the tragic loss of Judge Kam, a distinguished member of the bench in the case. On 30 April 2021, the Appeals Chamber issued a scheduling order for the pronouncement of the judgment on 8 June 2021.

63. As set out in previous reports, the appeal proceedings followed the judgment against Ratko Mladić issued on 22 November 2017 by a trial chamber of the International Tribunal for the Former Yugoslavia, which found him guilty of genocide, crimes against humanity and violations of the laws or customs of war and sentenced him to life imprisonment. Both Mr. Mladić and the Prosecution appealed against the judgment. The Appeals Chamber partly granted the requests by Mr. Mladić for extensions of filing deadlines, allowing a total of 210 days of extensions of time in the appeal briefing process. The briefing of the appeals concluded on 29 November 2018. Following disqualification motions brought by Mr. Mladić, three judges were disqualified from the bench in the case on 3 September 2018, owing to the appearance of bias, and were replaced. Subsequently, on 14 September 2018, one of the newly assigned judges was replaced at his request. The replacement of the judges in the early phase of the proceedings did not delay the proceedings.

64. On 16 December 2019, the Appeals Chamber scheduled the hearing of the appeals for 17 and 18 March 2020. However, at the end of February 2020, Mr. Mladić requested the Appeals Chamber to reschedule the hearing to allow him to undergo surgery. The Appeals Chamber granted the request, staying the hearing until a date approximately six weeks after his surgery, to allow for his recovery. At the same time, the Appeals Chamber requested to be provided with weekly status reports to facilitate an expeditious rescheduling of the hearing.

65. Noting medical reports that Mr. Mladić was recovering well from the surgery, and considering the pandemic-related restrictions on travel then in place, on 1 May 2020, the Appeals Chamber, in consultation with the parties, rescheduled the hearing of the appeals to 16 and 17 June 2020. However, on 21 May 2020, the Defence team of Mr. Mladić gave notice of its unavailability to proceed with the scheduled hearing owing to developments and restrictions related to the COVID-19 pandemic. In view of this, and noting the exceptional circumstances, including the fact that the travel of the judges to attend the hearing was impeded, the Appeals Chamber found that it was not feasible to hold the hearing as scheduled. Consequently, on 28 May 2020, the Appeals Chamber stayed the hearing, to be rescheduled as soon as circumstances would allow. To that end, the Appeals Chamber requested the Registrar to provide it with periodic feasibility reports. The Appeals Chamber ultimately held the appeal hearing on 25 and 26 August 2020, with four of the five judges participating by videoconference owing to pandemic-related restrictions on travel.

66. Following the hearing of the appeals, the Appeals Chamber proceeded to deliberate and commence judgment preparation. As the Chamber was advancing in its work, Judge Kam passed away on 17 February 2021. The following day, President Agius assigned Judge El Baaj to the bench seized of the case. Judge El Baaj immediately started to familiarize himself thoroughly with the case, having at his disposal the full record on appeal, including the audiovisual record and written transcripts of the hearing of the appeals.

67. During the reporting period, the Appeals Chamber did not hold a status conference, as it was awaiting the availability of the Defence. A status conference had been scheduled for 19 November 2020; however, the Defence filed a submission indicating that, as Defence counsel could not be present in The Hague on the

scheduled date, and as Mr. Mladić did not consent to their or his own participation by videoconference, Mr. Mladić would prefer to defer the status conference. As a result, the presiding judge stayed the status conference until such time as Defence counsel would be available to appear with Mr. Mladić in court. On 10 December 2020, Defence counsel informed the Appeals Chamber of their continued unavailability and submitted that they would inform the Chamber as soon as circumstances allowed for scheduling the status conference. The judges on the bench in the *Mladić* case carried out their work remotely during the reporting period.

68. In previous progress reports, the Mechanism explained that, because the hearing of the appeals had to be postponed by a total of three months, owing to the surgery of Mr. Mladić and pandemic-related restrictions on travel, the projection for completing the proceedings in the case had been adjusted by a commensurate amount of time, from the end of December 2020 to the end of March 2021. The Mechanism added that the projection would be closely monitored and updated as necessary. In the previous progress report, and in view of the fact that the appeal hearing was postponed by a further two months owing to pandemic-related restrictions, the Mechanism had also adjusted its projection for completion of the case by two months, from the end of March 2021 to the end of May 2021.

69. Following the appointment of Judge El Baaj to the case in mid-February 2021 and his involvement in the deliberations and judgment preparation, the appeal judgment has now been scheduled to be pronounced on 8 June 2021. The Mechanism wishes to highly commend Judge El Baaj, who capably assumed the complex and weighty responsibilities entrusted to him at such a late stage of the case. Thanks to his tireless efforts and the outstanding dedication of all judges on the bench, as well as the Chambers Legal Support Section, the appeal judgment will be delivered with a delay of just over one week from the previously reported projection.

70. The Appeals Chamber was also seized earlier in the reporting period of a request for review and assignment of counsel in the *Prosecutor v. Milan Lukić* case, which was filed by Milan Lukić on 1 September 2020. Mr. Lukić requested review of his judgment and the sentence of life imprisonment imposed by a Trial Chamber of the International Tribunal for the Former Yugoslavia on 20 July 2009 and affirmed by the Appeals Chamber of the Tribunal on 4 December 2012. Specifically, Mr. Lukić challenged his conviction for extermination as a crime against humanity, which was based in part on his involvement in the killing of 59 persons in an incident on Pionirska street in Višegrad, Bosnia and Herzegovina, on 14 June 1992. Mr. Lukić advanced a new fact which, in his view, indicated that the number of victims was lower and therefore justified a change in the nature of the characterization of the crime and a reduction in his sentence. On 15 December 2020, the Appeals Chamber dismissed Mr. Lukić's request, finding that the potential ground of review advanced by Mr. Lukić against his conviction had no chance of success. Having so found, the Appeals Chamber also rejected his request for assignment of counsel at the expense of the Mechanism.

71. In addition to the proceedings relating to core crimes incorporated in the statute, the Mechanism was seized of five matters pertaining to allegations of false testimony or contempt.

72. The trial in the *Nzabonimpa et al*. case (formerly *Turinabo et al*.) commenced on 22 October 2020 after several delays described in the previous report caused by the COVID-19 pandemic and related restrictions on travel and movement. The last Prosecution witness was heard on 24 November 2020, and the Prosecution case was closed on 2 March 2021. On 8 and 9 March 2021, the single judge heard submissions from three Defence teams and the Prosecution in connection with the Defence requests for a judgment of acquittal. On 12 March 2021, the single judge denied the

requests and held the pre-Defence conference, and the Defence cases subsequently commenced on 15 March 2021. The last Defence witness was heard on 9 April 2021 and the Defence cases closed on 7 May 2021. On 19 April 2021, the single judge terminated proceedings against Mr. Turinabo following his death and, on 7 May 2021, ordered that the indictment be amended to remove him as an accused person. Also on 7 May 2021, the single judge scheduled the closing arguments for 21 to 23 June 2021.

73. As indicated in the previous progress report, the trial judgment was expected in May 2021. However, the start of the Defence cases was delayed by two weeks owing to travel and movement restrictions related to the COVID-19 pandemic. In addition, owing to the declining health and unfortunate death of Mr. Turinabo, there was a significant trial disruption midway through the hearing of the Defence cases, which led to an additional two-week delay. As a result of those unexpected delays, the trial judgment is now expected by the end of June 2021.

74. During the reporting period, significant developments took place in the contempt case against Petar Jojić and Vjerica Radeta. As previously reported, the case was transferred from the International Tribunal for the Former Yugoslavia to the Mechanism on 29 November 2017 and referred to the authorities of Serbia for trial by order of a single judge on 12 June 2018. The *amicus curiae* prosecutor in the case appealed against the order of referral. On 12 December 2018, the Appeals Chamber found that the *amicus curiae* prosecutor had not raised before the single judge the issue of "the unwillingness of the witnesses to testify if the case is tried in Serbia" and remanded the matter for consideration of further submissions on that issue. On 13 May 2019, the single judge issued a decision revoking the referral order and requesting Serbia to transfer the two accused to the Mechanism without delay. On the same day, the single judge issued new international arrest warrants, directed to all States Members of the United Nations, for the arrest, detention and transfer to the custody of the Mechanism of the accused. On 4 June 2019, Serbia appealed the single judge's decision. On 24 February 2020, the Appeals Chamber dismissed the appeal by Serbia and affirmed the single judge's decision of 13 May 2019 to revoke the referral order.

75. More recently, in a public decision issued on 8 December 2020, the single judge found it appropriate to reiterate the request to Serbia to transfer the two accused to the Mechanism, granting 90 days for compliance with the decision. On 16 April 2021, the single judge issued a decision finding that Serbia has failed to comply with its obligations under article 28 of the statute to arrest the accused and transfer them to the Mechanism, emphasizing that the obligation to cooperate extended to cases of contempt and that it prevailed over any domestic legal impediment. Accordingly, the single judge requested the President to notify the Security Council.

76. On 11 May 2021, the President of the International Residual Mechanism for Criminal Tribunals wrote to the President of the Security Council to report that Serbia continued to fail to comply with its international obligations to arrest and surrender the accused Mr. Jojić and Ms. Radeta (S/2021/452). Specifically, the President of the International Residual Mechanism for Criminal Tribunals called upon the Council to take the measures necessary to secure the fulfilment by Serbia of its obligations under the statute of the Mechanism and Council resolution 1966 (2010). In addition, he appealed to all Member States to do their utmost to ensure that the international arrest warrants and orders for surrender issued on 13 May 2019 were executed as soon as possible.

77. The Mechanism reiterates that all Member States, including Serbia, must abide by their obligations under Chapter VII of the Charter of the United Nations and are therefore expected to act in accordance with the outstanding warrants against the two accused and to secure their arrest, detention and transfer to the custody of the

Mechanism without delay. The Mechanism does not hold trials in absentia and therefore relies heavily on cooperation from Member States to secure the presence of accused persons.

78. With regard to the judicial activity of the President, during the reporting period, the President issued a total of 45 decisions and orders, including 29 decisions and orders related to enforcement matters. Also included in the total were 13 assignment orders, of which 10 related to the assignment of a single judge and 3 concerned the Appeals Chamber. Of those assignments, nine related to rule 86 of the Rules of Procedure and Evidence. To the extent possible, in assigning matters to judges, the President endeavoured to ensure an equitable distribution of work, also giving due consideration to geographical representation and gender parity, as well as possible conflicts of interest arising from previous assignments.

79. Pursuant to his authority in the area of enforcement of sentences, the President continued to dedicate a substantial amount of time and resources to numerous enforcement matters, including those related to the early release of convicted persons. Such matters are dependent on the circumstances specific to each convicted person and case, and in addition frequently relate to questions of State support and cooperation. As a result, they can be extremely complex and time-consuming. In one particularly resource-intensive case, the President received 46 filings and other communications from the relevant convicted person during the reporting period.

80. Those complications notwithstanding, the President was able to conclude a number of enforcement matters during the reporting period, adjudicating nine applications for early release or commutation of sentence,[5] and three applications for transfer in respect of which confidential decisions were issued. Following the submission of new applications for early release or commutation of sentence concerning six convicted persons during the reporting period, he remains seized of 12 more. To assist in his determination of those applications, and consistent with the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence, or Early Release of Persons Convicted by the ICTR, the ICTY, or the Mechanism,[6] the President continued to actively solicit a range of relevant information to ensure greater transparency and allow for full consideration of the broader impacts of early release. In that respect, he issued seven orders or invitations. The President also consulted judges of the relevant sentencing chamber who remained judges of the Mechanism, as applicable, pursuant to rule 150 of the Rules of Procedure and Evidence. Where no other judges who had imposed the sentence remained judges of the Mechanism, the President consulted at least two other judges, consistent with rule 150 of the Rules.

[5] See *Prosecutor v. Vujadin Popović*, Case No. MICT-15-85-ES.2, Decision on the Early Release of Vujadin Popović, 30 December 2020 (public redacted version); *Prosecutor v. Siméon Nchamihigo*, Case No. MICT-12-19-ES.1, Decision on Siméon Nchamihigo's Application for Commutation of Sentence, 31 December 2020; *Prosecutor v. Dragoljub Kunarac*, Case No. MICT-15-88-ES.1, Decision on Dragoljub Kunarac's Application for Early Release, 31 December 2020 (public redacted version); *Prosecutor v. Milomir Stakić*, Case No. MICT-13-60-ES, Decision on Sentence Remission and Early Release of Milomir Stakić, 31 December 2020; *Prosecutor v. Goran Jelisić*, Case No. MICT-14-63-ES, Decision on Sentence Remission and Early Release of Goran Jelisić, 11 March 2021; *Prosecutor v. Jadranko Prlić*, Case No. MICT-17-112-ES.2, Decision on the Early Release of Jadranko Prlić, 23 March 2021; *Prosecutor v. Stanislav Galić*, Case No. MICT-14-83-ES, Decision on the Early Release of Stanislav Galić, 24 March 2021 (public redacted version); *Prosecutor v. Théoneste Bagosora*, Case No. MICT-12-26-ES.1, Decision on the Early Release of Théoneste Bagosora, 1 April 2021 (public redacted version); and *Prosecutor v. Radivoje Miletić*, Case No. MICT-15-85-ES.5 Decision on the Early Release of Radivoje Miletić, 5 May 2021 (public redacted version).

[6] MICT/3/Rev.3.

81. The COVID-19 pandemic again led to increased judicial activity in the context of enforcement matters. Bearing in mind the Mechanism's responsibilities to the persons under its supervision, the President continued to receive pandemic-related updates from enforcement States and issued a fifth order for such updates on 23 February 2021.[7] He also continued to deal with enforcement-related requests arising from the pandemic. The President requested the Registrar to liaise with enforcement States to ensure that specific information regarding national vaccination campaigns and their applicability to persons serving sentences under the supervision of the Mechanism were provided in response to his COVID-19-related orders. In addition, the President remained apprised of COVID-19 issues as they related to the United Nations Detention Facility in Arusha and the United Nations Detention Unit in The Hague, where Mechanism detainees are housed.

82. In detailing its current judicial activities and the projections for completion of the relevant proceedings, the Mechanism has strived to provide the fullest information in line with the recommendation made in 2020 by OIOS concerning clear and focused case projections, which it takes very seriously (S/2020/236, para. 67 and annex I, and S/2020/309, annex, paras. 204 and 214). In that respect, the Mechanism will continue to closely monitor and adjust its projections to reflect developments, including those arising from any extraordinary events occurring during the course of the proceedings that would affect their conduct. Such developments could include the imposition of new pandemic-related measures, the replacement of judges or counsel or the illness of an accused or an appellant. As always, the judges and the leadership of the Chambers Legal Support Section remain fully committed to expediting pending matters and concluding them as soon as possible, in accordance with due process and fundamental rights.

83. With respect to projections for judicial activities other than trials and appeals from judgment, the Mechanism notes that it has a continuing obligation to safeguard the administration of justice. In that regard, its duty to investigate and prosecute allegations of contempt or false testimony, subject to the provisions of article 1, paragraph 4, of the statute, will continue until its closure. The Mechanism recalls more broadly the observations made by the Secretary-General in his report of 21 May 2009 that it is not possible to foresee when, and how often, requests related to contempt cases, protective orders, review of judgments, referral of cases and pardon and commutation of sentences will arise, but that such issues are more likely to arise within a period of 10 to 15 years after the closure of the Tribunals and that the level of work involved will inevitably decrease over time (S/2009/258, para. 102). Indeed, it is expected that such requests will continue to be filed for as long as cases continue to be investigated and prosecuted in domestic jurisdictions, persons convicted by the ad hoc Tribunals or the Mechanism continue to serve their sentences and any of the victims and witnesses who testified before those institutions remain in need of protection.

84. It is therefore important to remain mindful that the Security Council has tasked the Mechanism with a range of residual judicial functions that will continue after the existing caseload has been concluded, unless the Council decides otherwise.

[7] See Case No. MICT-12-01-ES, Order for COVID-19 Updates from Enforcement States, 24 April 2020 (public redacted version); Case No. MICT-12-01-ES, Second Order for COVID-19 Updates from Enforcement States, 26 June 2020 (public redacted version); Case No. MICT-12-01-ES, Third Order for COVID-19 Updates from Enforcement States, 28 August 2020 (public redacted version); Case No. MICT-12-01-ES, Fourth Order for COVID-19 Updates from Enforcement States, 30 October 2020 (public redacted version); and Case No. MICT-12-01-ES, Fifth Order for COVID-19 Updates from Enforcement States, 23 February 2021 (public redacted version).

85. The current status of the Mechanism's trial and appeal proceedings, as discussed above, is reflected in enclosure III.

IV. Registry support for judicial activities

86. During the reporting period, the Registry continued to provide support to the Mechanism's judicial activities at both branches.

87. The Registry processed and disseminated 1,204 filings, including 268 Registry legal submissions, amounting in total to 27,536 pages during the reporting period. Following the transfer of Mr. Kabuga to the United Nations Detention Unit in The Hague in October 2020 and the initial appearance held on 11 November 2020, the two Registry branches continued to work closely together in supporting the pretrial proceedings in the *Kabuga* case. At the branch in The Hague, the Registry also supported the *Stanišić and Simatović* case, with closing arguments held from 12 to 14 April 2021. At the branch in Arusha, the Registry successfully supported the *Nzabonimpa et al*. case (formerly *Turinabo et al*.), for which in-court hearings resumed on 8 March 2021, including by facilitating the participation of a number of Defence team members by videoconference from The Hague. In addition, the Kigali field office arranged for the testimony of a witness by videoconference from Kigali. In total, 23 court hearing days were serviced during the reporting period.

88. In view of the COVID-19 pandemic, all in-court proceedings continued to be subject to the related safety measures for Mechanism's court proceedings, aimed at ensuring the implementation of practical preventive measures by all participants. Special arrangements and modifications made in the courtrooms to ensure physical distancing and implement hygiene requirements and other COVID-19 expert advice remained in place.

89. During the reporting period, the Language Support Services of the Registry at the two branches translated approximately 13,000 pages, provided 250 conference interpreter days and produced 4,000 pages of transcripts in English and French. Its work included support provided for the *Kabuga*, *Mladić*, *Nzabonimpa et al*. (formerly *Turinabo et al*.) and *Stanišić and Simatović* cases, as well as the translation of monitoring reports with regard to cases referred to France and Rwanda.

90. With regard to the translation of judgments, the Mechanism is pleased to report that the Kinyarwanda Unit of the Language Support Services completed the translation into Kinyarwanda of the last remaining trial judgment of the International Criminal Tribunal for Rwanda. All Kinyarwanda trial judgments are now publicly accessible through the unified court records database and the websites of the Tribunal and the Mechanism. At the time of reporting, 34 appeal judgments of the Tribunal or the Mechanism were awaiting translation into Kinyarwanda, and one appeal judgment of the International Tribunal for the Former Yugoslavia was awaiting translation into Bosnian-Croatian-Serbian. In addition, 13 judgments of the Tribunals and the Mechanism were yet to be translated into French.

91. The Registry's Office for Legal Aid and Defence Matters provided financial and other assistance to 58 Defence teams comprising a total of approximately 100 members. In particular, the Office processed more than 550 Defence invoices, travel requests and expense reports during the reporting period. The list of those eligible for assignment to suspects and accused before the Mechanism now includes 54 admitted counsel, while the number of prosecutors and investigators eligible for assignment as an *amicus curiae* has been maintained at 46.

92. As during the previous reporting period, and in response to international travel restrictions imposed as a result of the COVID-19 pandemic, the Office for Legal Aid

and Defence Matters continued to facilitate diligently and cautiously the travel of Defence team members linked to official Mechanism activity. All Defence investigative missions relevant to the *Nzabonimpa et al*. case (formerly *Turinabo et al*.), which had been previously postponed as a result of travel restrictions, were completed. In addition, the Office remained in contact with all active Defence teams, offering regular updates on the pandemic and related safety and health measures implemented by the Registry.

V. Victims and witnesses

93. Pursuant to article 20 of the statute, the Mechanism is responsible for the protection of the witnesses who have testified in cases completed by the ad hoc Tribunals, as well as those witnesses who have appeared or may appear before the Mechanism. In practice, approximately 3,150 witnesses benefit from judicial or non-judicial protective measures.

94. The Witness Support and Protection Unit continued to provide, in accordance with judicial protection orders, security to witnesses by undertaking threat assessments and coordinating responses to security-related requirements during the reporting period. In doing so, the Unit worked closely with national authorities and other United Nations entities. The Unit also ensured that protected witness information remained confidential and continued to contact witnesses in relation to requests for the continuation, rescission, variation or augmentation of judicial protective measures.

95. During the reporting period, the Witness Support and Protection Unit filed numerous submissions concerning witness-related matters and implemented 28 judicial orders involving protected witnesses, including orders in relation to requests for the variation of protective measures.

96. Regarding the Mechanism's judicial caseload, the Witness Support and Protection Unit supported the pretrial proceedings in the *Kabuga* case, as well as witness activity in relation to the Defence phase of the *Nzabonimpa et al.* case (formerly *Turinabo et al.*), which commenced on 15 March 2021 and concluded on 7 May 2021. Furthermore, the Unit facilitated contact between parties and witnesses, when so required. In response to travel and other restrictions related to the COVID-19 pandemic, new technologies have been implemented to enable secure and confidential video calls for that purpose.

97. Witnesses residing in Rwanda continued to receive medical and psychosocial services from the medical clinic located at the Kigali field office. Those services focus on witnesses experiencing psychotrauma or living with HIV/AIDS, as many of those who contracted the virus did so as a result of crimes committed against them during the 1994 genocide against the Tutsi in Rwanda. In addition, the Witness Support and Protection Unit continued to support protected witnesses who testified before the International Criminal Tribunal for Rwanda in resolving refugee status and residency-related issues.

98. At the branch in The Hague, and as part of the measures taken and policies adopted by the Witness Support and Protection Unit in response to the COVID-19 pandemic, the Unit followed up with the witnesses who had testified in the *Stanišić and Simatović* case so as to address any possible issues resulting from having testified in court during the pandemic.

99. It is expected that victim and witness protection will continue to be required in the coming years in the light of the multitude of judicial protection orders that will remain in force unless rescinded or waived. The provision of support may be required

until the last victim or witness is deceased or, where applicable, until the cessation of protective measures covering a victim's or witness's immediate family members. With regard to relocated witnesses, support may be required until the last member of the immediate family is deceased.

VI. Fugitives and trial and appeal readiness

100. In its resolution 1966 (2010), the Security Council urged all States, in particular those where fugitives were 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 indicted by the International Criminal Tribunal for Rwanda as soon as possible. The Council has repeated that call to States in subsequent resolutions, including resolution 2529 (2020). The Mechanism is deeply grateful for the Council's support in relation to that vital matter as it continues to rely on the cooperation and political will of Member States for the apprehension and prosecution of the remaining fugitives indicted by the Tribunal.

101. The fugitive tracking function is within the responsibility of the Prosecutor, and the relevant progress made during the reporting period is discussed in detail in annex II. Of the remaining six fugitives indicted by the International Criminal Tribunal for Rwanda, one individual, Protais Mpiranya, is expected to be tried before the Mechanism, while the cases of the other five, namely, Fulgence Kayishema, Phénéas Munyarugarama, Aloys Ndimbati, Charles Ryandikayo and Charles Sikubwabo, were referred to Rwanda by the Tribunal, subject to the conditions set out in the relevant referral decisions.

102. The arrest and prosecution of all of those individuals continue to be a top priority for the Mechanism. For that reason, and as demonstrated by its swift action in response to the arrest and transfer of Mr. Kabuga in 2020, the Mechanism is committed to remaining ready for trial for as long as the case of any remaining fugitive is pending before it.

103. Similarly, the Mechanism stands ready to deal with other proceedings as necessary. It remains mindful of the possibility that a retrial may be ordered in any appeal proceedings before the Mechanism, that new contempt or false testimony proceedings may be initiated at any time and that the referral of a case to a national jurisdiction for trial may be revoked. In accordance with article 15, paragraph 4, of the statute, rosters of qualified potential staff are in place to enable the expeditious recruitment, as necessary, of the additional staff required to support those potential judicial proceedings.

VII. Detention facilities

104. At the United Nations Detention Facility in Arusha and the United Nations Detention Unit in The Hague, the Mechanism detains persons awaiting trial, appeal or other judicial proceedings before the Mechanism, as well as persons otherwise detained on the authority of the Mechanism, such as convicted persons awaiting transfer to an enforcement State.

105. During the reporting period, the United Nations Detention Facility housed one detainee, who was convicted on appeal and is awaiting transfer to an enforcement State pending the conclusion of the *Nzabonimpa et al*. case (formerly *Turinabo et al*.), in which he is a co-accused person.

106. The United Nations Detention Facility will continue to be required until the detained person is either released or transferred to an enforcement State and until the

four other co-accused persons currently on trial are acquitted, released or transferred to enforcement States. In addition, the Facility must retain an area for the detention of Mr. Kabuga in anticipation of a potential transfer from the United Nations Detention Unit to Arusha, as well as for the remaining fugitive indicted by the International Criminal Tribunal for Rwanda expected to be tried by the Mechanism once apprehended and any other fugitive indicted by that Tribunal whose case referral is revoked in accordance with article 6, paragraph 6, of the statute. It must also provide a residual custodial capacity for other individuals potentially appearing before the Mechanism's Arusha branch, such as detained witnesses.

107. On 20 January 2021, in accordance with an order from the President,[8] one convicted person returned to the United Nations Detention Unit on a temporary basis while a new enforcement State was sought, following the inability of the previous enforcement State to continue to enforce the sentence for reasons of national law. Consequently, and taking into account the continued detention of Mr. Kabuga at the branch in The Hague, the Detention Unit has been housing four detainees (two accused and two convicted persons), while maintaining custodial capacity for two individuals who were on provisional release.[9]

108. The services of the United Nations Detention Unit will continue to be required until all trials and appeals in ongoing cases are concluded and all detained persons are acquitted, released or transferred to enforcement States, after which a reduced, residual custodial capacity for other individuals potentially appearing before the Mechanism may have to be arranged.

109. Both detention facilities are regularly inspected by the International Committee of the Red Cross (ICRC) to ensure that the Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Mechanism or Otherwise Detained on the Authority of the Mechanism adopted by the Mechanism on 5 November 2018 are properly applied and that both facilities are operating in accordance with international standards. As a scheduled visit of ICRC to the United Nations Detention Unit had to be postponed as a result of the COVID-19 pandemic and related restrictions, the Registry arranged confidential meetings between the detainees and representatives of ICRC by videoconference.

110. Furthermore, in order to reduce the risk of COVID-19 contamination for persons currently in detention and staff, the Commanding Officers of both detention facilities, in cooperation with the respective host State authorities, continued to implement strict preventive measures during the reporting period. At both facilities, non-essential activities and services were suspended and the number of personnel in direct contact with the detainees was reduced to a minimum. While most visits were suspended, detainees continued to benefit from unhindered communication with their families, Defence counsel and diplomatic representatives by means of alternative means of communication, including telephone, mail, videoconference and email, where available. In addition, both the United Nations Detention Facility and the United Nations Detention Unit exceptionally facilitated the visits of detained clients by their Defence counsel pursuant to judicial instructions. Both detention facilities employed mitigating measures, including the use of Plexiglas, to ensure adequate physical distancing during those visits. Throughout the COVID-19 pandemic, the detainees

[8] *Prosecutor v. Sreten Lukić*, Case No. MICT-14-67-ES.4, Order for the Transfer of Sreten Lukić to the United Nations Detention Unit on a Temporary Basis, 12 January 2021.

[9] See *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. MICT-15-96-T, Decision on Stanišić's Thirteenth Motion for Further Extension of Provisional Release, 1 March 2021, and *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. MICT-15-96-T, Decision on Simatović's Motion for Extension of Provisional Release, 1 March 2021, whereby Mr. Stanišić and Mr. Simatović were granted an extension of their provisional release until a date to be determined by the Trial Chamber at the time of scheduling the delivery of the trial judgment.

continued to have access to medical care and fresh air. The activities and services that had become increasingly important to the detainees and had been reinstated during the previous reporting period remained in place, subject to additional mitigating measures.

111. The Registry actively pursued the inclusion of the Mechanism's detainees in national or international COVID-19 vaccination programmes as they became available during the reporting period. In mid-March 2021 and again in mid-April 2021, the detainees at the United Nations Detention Unit were offered vaccinations through the host State, the Netherlands. As regards the United Nations Detention Facility, the Mechanism is currently pursuing the possibility for the detainees to be offered vaccinations through the United Nations country team in the United Republic of Tanzania. The Registry is hopeful that the administration of vaccines will allow for a gradual loosening of the restrictions currently in place at both detention facilities.

112. Lastly, the Mechanism assures the Security Council that it remains acutely aware of its duty of care towards detainees and takes the health situation of all detainees extremely seriously, especially during the current pandemic. In that respect, the Mechanism notes in particular paragraph 11 of resolution 2529 (2020), in which the Council recalled the importance of ensuring the rights of persons detained on the authority of the Mechanism in accordance with applicable international standards, including those related to health care. The Mechanism emphasizes that detention-related concerns may be addressed in accordance with its legal and regulatory framework, including through the Mechanism's Regulations on the Complaints Procedure for Detainees,[10] as well as through regular status conferences[11] and the aforementioned inspections by ICRC.

VIII. Enforcement of sentences

113. Pursuant to article 25 of the statute, the Mechanism supervises the enforcement of sentences pronounced by the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda or the Mechanism.

114. In connection with that area of responsibility, and in accordance with article 26 of the statute, the President has the authority to decide on requests for pardon or commutation of sentence by persons convicted by the ad hoc Tribunals or the Mechanism. While article 26 of the statute, like the corresponding provisions in the statutes of the ad hoc Tribunals, does not specifically mention requests for early release of convicted persons, the Rules of Procedure and Evidence reflect the President's powers to deal with such requests and the long-standing practice of the ad hoc Tribunals and the Mechanism in that regard.

115. The Mechanism relies greatly 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 any other arrangement. The agreements concluded by the United Nations for the ad hoc Tribunals continue to apply to the Mechanism, mutatis mutandis, unless superseded by subsequent agreements.

[10] MICT/25. See also rules 91–97 of the Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Mechanism or Otherwise Detained on the Authority of the Mechanism; regulations 8 and 10 of the International Residual Mechanism for Criminal Tribunals Regulations on the Disciplinary Procedure for Detainees (MICT/24); and regulation 23 of the International Residual Mechanism for Criminal Tribunals Regulations on the Supervision of Visits to and Communications with Detainees (MICT/23).

[11] See rule 69 of the Rules of Procedure and Evidence.

116. Regarding the designation of the State in which a convicted person is to serve his or her sentence, following delivery of a final judgment, the President makes a decision in accordance with article 25 of the statute, rule 127 of the Rules of Procedure and Evidence and the Practice Direction on the Procedure for Designation of the State in which a Convicted Person is to Serve His or Her Sentence of Imprisonment[12] on the basis of information provided by the Registrar and any other enquiries that the President chooses to make. While there is no prescribed time limit for the designation of an enforcement State, rule 127, paragraph B, of the Rules of Procedure and Evidence provides that the transfer of the convicted person to an enforcement State is to be effected as soon as possible after the time limit for appeal has elapsed. In line with the Mechanism's agreements with the host States, the convicted persons are not to be detained indefinitely at the United Nations Detention Facility in Arusha or the United Nations Detention Unit in The Hague.

117. During the reporting period, the Mechanism continued its efforts, through bilateral meetings and other communications of both the President and the Registrar, to increase its enforcement capacity for both branches. It welcomes the valuable cooperation of States in that regard and underscores the need for such cooperation to continue into the foreseeable future. Indeed, securing the enforcement of all sentences, including those that may be rendered in the future, continues to be of paramount importance to the Mechanism.

118. Regarding the branch in Arusha, following the death of one convicted person, currently 28 persons convicted by the International Criminal Tribunal for Rwanda are serving their sentences under the supervision of the Mechanism in three States: Benin (18), Mali (6) and Senegal (4). One convicted person remains at the United Nations Detention Facility in Arusha, awaiting transfer to the designated enforcement State.

119. Regarding the branch in The Hague, currently 20 persons convicted by the International Tribunal for the Former Yugoslavia are serving their sentences under the supervision of the Mechanism in 12 States: Austria (1), Belgium (1), Denmark (1), Estonia (3), Finland (2), France (1), Germany (4), Italy (1), Norway (1), Poland (3), Sweden (1) and the United Kingdom (1). Following the return of one convicted person from an enforcement State (see para. 107), there are currently two convicted persons at the United Nations Detention Unit in The Hague who are awaiting transfer to an enforcement State.

120. With regard to one of the convicted persons awaiting transfer to an enforcement State, the President decided on 12 May 2021 that the person would serve his sentence in the United Kingdom, pending further steps.[13] The Mechanism is extremely grateful to the United Kingdom for its willingness to enforce the sentence of another convicted person.

121. In agreeing to enforce sentences pronounced by the Tribunals or the Mechanism, the 15 States listed above have voluntarily assumed additional responsibilities that the Mechanism acknowledges as both weighty and taxing. The Mechanism again expresses its deepest gratitude to each of those States, the unwavering and generous support of which has been critical to the Mechanism's ability to carry out its mandate in that area.

122. Sentences pronounced by the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism are enforced in accordance with the applicable law of the enforcing State and with international

[12] MICT/2 Rev.1.

[13] *Prosecutor v. Radovan Karadžić*, Case No. MICT-13-55-ES, Order Designating the State in which Radovan Karadžić is to Serve his Sentence, 12 May 2021.

standards of detention, subject to the supervision of the Mechanism. Conditions of imprisonment must be compatible with relevant human rights standards, which include the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). Recognized organizations, such as ICRC and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, serve as independent inspecting bodies and regularly monitor the conditions of imprisonment to ensure that international standards are met.

123. During the reporting period, the Mechanism, in coordination with national authorities, the United Nations Development Programme, or both, continued its efforts to address the recommendations of the relevant inspecting bodies, as well as the recommendations of an independent expert on ageing in prison and associated vulnerabilities who had been engaged by the Mechanism.

124. Furthermore, an essential aspect of the implementation of the Mechanism's mandate concerning the supervision of the enforcement of sentences has been the monitoring of the COVID-19 pandemic. Pursuant to the orders issued by the President on 24 April, 26 June, 28 August and 30 October 2020 and 23 February 2021 (see footnote 7), the Registry continued to engage with all enforcement States to regularly obtain updated and relevant information on measures taken, including the provision of vaccinations, in their respective prisons to prevent the potential spread of COVID-19, as part of the Mechanism's supervision of the enforcement of sentences.

125. It is expected that the functions related to the supervision of the enforcement of sentences carried out under the authority of the President will continue until the last prison sentence has been served. Of relevance in that respect is rule 128 of the Rules of Procedure and Evidence, which provides that all sentences are to be supervised by the Mechanism during the period of its functioning, and that the Security Council may designate another body to supervise the enforcement of sentences after the Mechanism ceases to exist.

126. In that respect, the Mechanism notes that 17 individuals are currently serving life sentences, while 15 convicted persons will complete their sentences between 2030 and 2040 and another 8 only after 2040. Of the third group, the longest three sentences will have been fully served in 2044. Furthermore, a majority of the individuals currently serving life sentences will not be eligible for consideration of pardon, commutation of sentence or early release until after 2030, even if they may seek such relief beforehand. Two individuals serving a life sentence will not become eligible for consideration of pardon, commutation of sentence or early release until 2038.

IX. Relocation of acquitted and released persons

127. The resettlement of the nine acquitted and released persons currently residing in Arusha who are unable or afraid to return to their countries of citizenship unfortunately remains unresolved. As reported on several previous occasions, those persons were either acquitted by the International Criminal Tribunal for Rwanda or were convicted and released after having served their sentences.

128. The present dilemma represents first and foremost a continuing legal limbo for the acquitted and released persons, which affects their rights in a number of ways. In addition, being consigned to residing in a safe house under the care of the Mechanism heavily affects their daily lives and prevents them from re-establishing themselves. At the same time, the matter continues to be an enormous challenge for the Mechanism, in particular since its headquarters agreement with the United Republic of Tanzania provides that the released and acquitted persons are not to remain permanently in the United Republic of Tanzania except with that country's consent.

The United Republic of Tanzania has therefore generously permitted those persons to stay on its territory temporarily, pending their relocation to another country.

129. While the Mechanism continues to be committed to finding a durable solution for the relocation of those nine persons, it must emphasize, once more, that it cannot resolve the situation on its own. The Mechanism therefore greatly welcomed the call that the Security Council made upon all States, in its resolutions 2422 (2018) and 2529 (2020), to cooperate with and render all necessary assistance to the Mechanism. The goodwill, cooperation and support of Member States will be required until such time as all acquitted and released individuals are appropriately relocated.

130. During the reporting period, both the President and the Registrar extended efforts to further raise the international community's awareness of that issue and to engage with Member States bilaterally on the possible resettlement of the affected individuals. In particular, the Registrar continued to pursue several avenues for a possible solution, with a special focus on States that had been identified by the Mechanism or the acquitted and released persons as potential relocation States. Further efforts in relation to previous requests for relocation made by the International Criminal Tribunal for Rwanda and the Mechanism will also be undertaken. The Mechanism is grateful for the Registrar's proactive approach and remains cautiously optimistic that those efforts may in time bear fruit.

X. Cooperation of States

131. Pursuant to article 28 of the statute, States are required to cooperate with the Mechanism in the investigation and prosecution of persons covered under the statute, and to comply with orders and requests for assistance in relation to cases before the Mechanism. States are also required to respect the statute owing to its adoption by the Security Council pursuant to Chapter VII of the Charter.

132. The Mechanism depends upon the cooperation of States to fulfil many of its mandated functions. With regard to the arrest and surrender of the remaining fugitives indicted by the International Criminal Tribunal for Rwanda, the immense value of such cooperation was demonstrated in 2020 through the joint efforts of numerous States and organizations that led to the arrest of Mr. Kabuga. The Mechanism is dedicated to making further breakthroughs regarding the remaining fugitives but will require ongoing and robust support in that endeavour. It reminds all States of their continuing obligations under article 28 of the statute, as well as of the most recent call to States by the Security Council, in its resolution 2529 (2020), to intensify their cooperation with and render all necessary assistance to the Mechanism, in particular to achieve the arrest and surrender of all remaining fugitives as soon as possible.

133. Separately, following the referral of Serbia to the Security Council by the President on 11 May 2021 in relation to the *Jojić and Radeta* case detailed above (see paras. 74–77), the support of all Member States will be crucial in ensuring that the accused persons are finally brought to justice. In line with that referral, the Mechanism trusts that the Council will take the action necessary to ensure that Serbia at long last fulfils its obligations, after a lengthy period of non-compliance. Furthermore, the Mechanism once more urges all Member States to honour their responsibilities under Chapter VII of the Charter and do their utmost to ensure that the outstanding arrest warrants and orders of surrender are executed as soon as possible.

134. With regard to other aspects of its mandate requiring State cooperation, the Mechanism also continues to call for greater cooperation in relation to the resettlement of the nine acquitted and released persons currently living in Arusha, as

discussed above (see sect. IX). It will, in addition, rely on the ongoing support of Member States to further enforce the sentences of persons convicted by the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda or the Mechanism. The Mechanism expresses sincere gratitude to all enforcement States for their sterling support thus far in relation to that crucial and long-term function.

135. Fostering stronger relationships and promoting communication and cooperation between the Mechanism and the Governments and peoples of Rwanda and the countries of the former Yugoslavia also continue to be a priority for the Mechanism. To the extent feasible in the light of the travel and other restrictions resulting from the COVID-19 pandemic, representatives of the Mechanism, up to and including the level of the principals, engaged with government officials and met or communicated with victims' groups during the reporting period.

136. The Mechanism will continue to discuss matters of mutual interest with the Rwandan authorities, including means by which cooperation with the Government of Rwanda can be enhanced, in line with paragraph 23 of Security Council resolution 2256 (2015). In that regard, and as noted above (see para. 90), the Kinyarwanda Unit completed the translation of the last remaining trial judgment of the International Criminal Tribunal for Rwanda during the reporting period, which marked five years since the establishment of the Unit. In addition, the Unit translated a number of decisions and orders, as well as monitoring reports concerning three cases referred to Rwanda (see paras. 144, 147 and 148).

137. In its resolution 1966 (2010), the Security Council requested that the Mechanism cooperate with Rwanda and the countries of the former Yugoslavia to facilitate the establishment of information and documentation centres. With respect to the former Yugoslavia, the first such information centre was opened in Sarajevo on 23 May 2018, with the support of the Mechanism. A memorandum of understanding was signed on 5 October 2017 in respect of a second information centre, in Srebrenica-Potočari, Bosnia and Herzegovina. The Mechanism remains available to facilitate the establishment of similar information centres with other stakeholders in the region of the former Yugoslavia and continued its dialogue with relevant authorities in that regard during the reporting period.

138. The Mechanism, together with the European Union and with additional support from Switzerland, also continued to work on a project focused on informing affected communities and younger generations in the region of the former Yugoslavia about the legacy of the International Tribunal for the Former Yugoslavia and the ongoing work of the Mechanism, and on facilitating access to the archives of the Tribunal and of the Mechanism.[14] More than 160 secondary school teachers participated in six workshops organized by the Mechanism on using the archives. In addition, the Mechanism contributed to six lectures on the legacy of the Tribunal, hosted by local groups or organizations, which reached more than 200 young people, journalists and researchers from the region. In March 2021, the Mechanism completed the second cycle of its lecture series entitled "International Law and Facts Established before the ICTY", which reached more than 150 postgraduate law students from eight universities across the former Yugoslavia. Furthermore, the Mechanism published the *2020 Essay Volume*,[15] a compilation of the winning essays of law students who participated in a writing competition as part of the first cycle of the Mechanism's lecture series.

[14] See www.irmct.org/en/mip/about-mip for further information about the Mechanism Information Programme for Affected Communities.

[15] Available at www.irmct.org/en/mip/features/2020-essay-volume.

139. The Mechanism is pleased to report that the project continues to be well received, with its social media campaigns having reached more than 3 million users since January 2019, and it wishes to thank the European Union and its member States, as well as Switzerland, for their generous support.

XI. Assistance to national jurisdictions

140. Pursuant to article 28, paragraph 3, of the statute, the Mechanism responds to requests for assistance from national authorities in relation to the investigation, prosecution and trial of those responsible for serious violations of international humanitarian law in Rwanda and the countries of the former Yugoslavia.

141. During the reporting period, the Registry processed 27 requests for assistance from national authorities or parties to domestic proceedings in relation to domestic proceedings concerning individuals allegedly implicated in the 1994 genocide against the Tutsi in Rwanda or the conflicts in the former Yugoslavia. It also provided more than 26,080 documents. In addition, the Mechanism received and considered numerous requests, made pursuant to rule 86 of the Rules of Procedure and Evidence, for the variation of protective measures granted to witnesses who had testified in cases before the ad hoc Tribunals or the Mechanism.[16] Comprehensive information and guidance regarding the submission of requests for assistance is available on the Mechanism's website.[17] In addition, details regarding the Prosecution's activity in relation to requests for assistance are provided in annex II.

142. It is expected that activities linked to requests for assistance from national jurisdictions will continue alongside the investigation and prosecution of cases in domestic jurisdictions related to the 1994 genocide against the Tutsi in Rwanda and the conflicts in the former Yugoslavia.

XII. Cases referred to national jurisdictions

143. Pursuant to article 6, paragraph 5, of the statute, the Mechanism is responsible for monitoring cases referred to national courts by the ad hoc Tribunals and the Mechanism, with the assistance of international and regional organizations and bodies. During the reporting period, the Mechanism continued to exercise its monitoring function in respect of three cases referred to Rwanda, one to France and one to Serbia.

144. The monitoring of cases referred to Rwanda continued with the pro bono assistance of monitors from the Kenyan section of the International Commission of Jurists, pursuant to a memorandum of understanding concluded on 15 January 2015 and amended on 16 August 2016. The referred cases concern Jean Uwinkindi, Bernard Munyagishari and Ladislas Ntaganzwa, who were indicted by the International Criminal Tribunal for Rwanda. The *Ntaganzwa* case is in the appeal phase, following the delivery of the trial judgment in that case on 28 May 2020. The appeal judgment in the *Uwinkindi* case was delivered on 24 December 2020 by the Court of Appeal of Rwanda, and Mr. Uwinkindi subsequently filed a notice for review of the appeal judgment before the Supreme Court of Rwanda. In the *Munyagishari* case, the Court

[16] During the reporting period, the President issued nine assignment orders relating to a total of 24 requests made pursuant to rule 86 of the Rules of Procedure and Evidence (see para. 78). A total of 30 decisions and orders were issued during the reporting period in relation to those requests or requests made pursuant to rule 86 that had been received in a previous reporting period.

[17] See www.irmct.org/en/about/functions/requests-assistance.

of Appeal of Rwanda confirmed on 7 May 2021 the trial judgment that had been delivered in that case on 20 April 2017.

145. Regarding the case of Laurent Bucyibaruta referred to France, the Investigating Chamber ordered an indictment and referral to the Paris criminal court on 21 January 2021. On 14 April 2021, the Court of Cassation rejected the cassation appeal by the Defence and confirmed the referral. Proceedings in the *Bucyibaruta* case continued to be monitored by an interim monitor.

146. With regard to the case against Vladimir Kovačević, which was referred to Serbia by the International Tribunal for the Former Yugoslavia in March 2007, the Mechanism is currently assessing the need for further monitoring, given that there has been no change in the status of the case in recent years. The Mechanism looks forward to being able to provide an update in its next report.

147. As in the previous reporting period, the monitoring of the aforementioned cases was affected by the COVID-19 pandemic. Given the travel restrictions in place, the Registry requested the assistance of the relevant national authorities to enable the monitors to fulfil their duties. Where possible, monitors attended or followed the hearings and meetings remotely. Furthermore, upon request of the monitors, the President again allowed for the submission of consolidated reports covering several months, where necessary.

148. The Mechanism's support for the monitoring of cases referred to national jurisdictions is expected to continue for the duration of those cases. While each case is different, the experience with referred cases to date is instructive as to potential timelines. As set out above, two of the monitored cases in Rwanda, the *Uwinkindi* case and *Munyagishari* case, are now at the post-appeal stage. Depending on further developments over the coming months and the length of any review in the *Uwinkindi* case, the Mechanism expects to be nearing the end of its monitoring responsibilities in respect of those cases. Lastly, the Mechanism's monitoring function with respect to cases referred to Rwanda will need to be further assessed, should any of the fugitives expected to be tried in Rwanda be arrested.

XIII. Archives and records

149. In accordance with article 27 of the statute, the Mechanism has responsibility for the management of the archives of the Mechanism and the ad hoc Tribunals. The archives, which are co-located with the respective branches of the Mechanism, contain both physical and digital records, such as documents, maps, photographs, audiovisual records and objects. The records concern, inter alia, investigations, indictments and court proceedings; the protection of witnesses; the detention of accused persons; and the enforcement of sentences. In addition, they include documents from States, other law enforcement authorities, international and non-governmental organizations and other stakeholders.

150. The Archives and Records Section of the Mechanism is currently responsible for the management of approximately 4,400 linear metres of physical records and 2.7 petabytes of digital records of the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism's two branches. The management of the archives includes the preservation, arrangement and description of records, their security and the provision of access, while ensuring the continued protection of confidential information, including information concerning protected witnesses.

151. As concerns preservation, the digital records of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia

continued to be incorporated into the Mechanism's digital preservation system to safeguard their long-term integrity, reliability and usability, in accordance with the Mechanism's policy on retention and preservation of records. During the reporting period, a total of 32.54 terabytes of digital records were ingested, including more than 7,320 files in a variety of formats. The Archives and Records Section will continue the work of strengthening the Mechanism's digital preservation programme by further developing institutional capacity and capability for digital preservation.

152. Furthermore, the preservation of audiovisual recordings stored on obsolete physical media in The Hague continued. More than 11,950 physical audiovisual records were assessed to determine preservation needs. At the Arusha branch, the creation of publicly accessible audiovisual records of the judicial proceedings of the International Criminal Tribunal for Rwanda has progressed. A total of 600 hours of recordings were thus made accessible during the reporting period.

153. The Mechanism also continued to facilitate the widest-possible access to the public judicial records in its custody through the unified court records database. As previously reported, the database brings together all public judicial records of the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism. More than 355,000 judicial records, including approximately 29,000 hours of audiovisual recordings, are currently available to the public through the database. The public judicial records were consulted by more than 15,400 users during the reporting period.

154. During the reporting period, the Mechanism received and responded to 56 requests for access to records under the Access Policy for the Records Held by the International Residual Mechanism for Criminal Tribunals.[18] Many of the requests were for copies of audiovisual records of courtroom proceedings.

155. Regarding the archives of the ad hoc Tribunals and the Mechanism, the Archives and Records Section continued to develop a publicly accessible catalogue containing descriptions of the archives, prepared in accordance with international standards. During the reporting period, more than 2,000 new catalogue entries were created.

156. Together with the External Relations Office of the Mechanism, on 9 April 2021, the Archives and Records Section launched a digital exhibition entitled "ICTR: looking back" and a social media campaign to mark the twenty-seventh commemoration of the 1994 genocide against the Tutsi in Rwanda. The campaign was well received and had reached 61,191 individuals by the end of the reporting period.

157. While the COVID-19 pandemic continued to affect the Archives and Records Section, thanks to the implementation of information technology solutions and the return of some staff to the office on a rotational schedule, progress was made on a number of projects during the reporting period. It is also on that basis that the Section continued to provide, to the greatest extent possible, full services to other sections and the public.

XIV. External relations

158. The External Relations Office is responsible for the dissemination of timely and accurate information on the judicial work and activities of the Mechanism. This includes supporting the Mechanism's principals in their interactions with stakeholders where appropriate, hosting visits, organizing meetings and public events, liaising with the media, creating information materials and facilitating access to information by the

[18] MICT/17/Rev.1.

general public, including through the Mechanism's website and social media channels, as well as through its library.

159. As during the previous two reporting periods, on-site visits remained suspended until further notice owing to the COVID-19 pandemic. However, the External Relations Office continued its virtual visits programme by hosting a number of online visits, presentations and workshops. In total, more than 220 international and regional students, media outlets and members of the general public participated in the virtual visits programme during the reporting period. In addition, the Office continued its efforts to facilitate public and media access to the Mechanism's judicial proceedings, including by streaming court sessions on the Mechanism's website and coordinating the release and transmission of official audiovisual records to international and regional media outlets. In that regard, the online streaming of the closing arguments in the *Stanišić and Simatović* case from 12 to 14 April 2021 drew more than 3,000 viewers, while the proceedings in the *Nzabonimpa et al.* case (formerly *Turinabo et al.*) in November 2020 and in March and April 2021 were viewed more than 6,300 times. More generally, the Mechanism's website recorded more than 610,000 page views and almost 160,000 visitors during the reporting period.

160. In addition to those efforts, on 22 December 2020, the Mechanism launched on social media a video entitled "Mechanism's '10 in 10' countdown", marking the Mechanism's tenth anniversary since its establishment by highlighting some of the key events of the past decade.

161. During the reporting period, the External Relations Office also developed social media campaigns to mark the International Day for the Elimination of Violence against Women (25 November), the International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and of the Prevention of This Crime (9 December), the International Day of Commemoration in Memory of the Victims of the Holocaust (27 January), International Women's Day (8 March), the International Day for the Elimination of Racial Discrimination (21 March) and the International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims (24 March).

162. Lastly, during the reporting period, the Mechanism's libraries in Arusha and The Hague processed a total of 619 research requests, loans and other enquiries. This number is lower than usual as a result of the COVID-19 pandemic.

XV. Reports of the Office of Internal Oversight Services

163. During the reporting period, the Mechanism continued its efforts to fully implement the recommendations made by OIOS in its evaluation report of 2020 (S/2020/236, paras. 66 and 67) and to complete the implementation of the recommendations contained in the evaluation of 2018 (S/2018/206, paras. 43 and 44).

164. With regard to the first of the outstanding recommendations of 2018, the Mechanism has advanced in its development of a general scenario-based plan to inform decisions on the allocation of resources and preparation for unforeseen and foreseeable events and will share that plan in due course. The efforts of the COVID-19 Steering Committee in planning for specific pandemic-related scenarios and developing relevant protocols have been instructive in that regard. The second of the outstanding recommendations of 2018 concerns staff morale within the Prosecution and is addressed in annex II.

165. Regarding the remaining recommendations contained in the OIOS evaluation report of 2020, the principals continued to prioritize coordination and information-sharing among themselves and laterally, across the organs, on matters that affect them

equally (S/2020/236, para. 66). That was crucial in the context of decision-making concerning the Mechanism's response to the ongoing pandemic, as well as cross-cutting issues as diverse as budget and staffing, filing practices and judicial support services. As for the recommended rationalization of reporting lines of the external relations function, that was the subject of continued discussions between the President and the Registrar. The Mechanism hopes to be able to provide a proposal in the near future.

166. With respect to the OIOS recommendation to provide clear and focused projections of completion timelines (S/2020/236, para. 67), the Mechanism has set out such information above[19] and in enclosure III. In particular, the Mechanism has provided projections for the completion of its pending judicial caseload and has fully explained any adjustments to the projections contained in the previous report. The present report illustrates how, once again, the Mechanism spared no effort in attempting to mitigate the impact of the pandemic and other challenges on its timelines for completion and, moreover, made significant progress during the reporting period.

167. In addition to implementing OIOS evaluation recommendations, the Mechanism continued to benefit from regular audits by OIOS. In that respect, the audit of the management of translation and interpretation services at the Mechanism was completed and resulted in the issuance of four recommendations. Separately, the Mechanism took part in a system-wide audit of the response of United Nations entities to the COVID-19 pandemic. The audit is still ongoing.

168. With regard to earlier OIOS audits, the Mechanism continued to follow up on and implement any open or outstanding recommendations diligently. For example, in relation to the audit of post-construction and occupancy of the Arusha branch facility, a first draft of space allocation guidelines was prepared. In addition, following the conclusion of the final settlement agreement with the architect in October 2020 and the payment of the settlement in December 2020, the Mechanism and the architect released each other in respect of their claims. Moreover, as previously reported, the Mechanism continued its implementation of the sole recommendation issued in the strictly confidential report on the audit of the enforcement and monitoring of sentences of convicted persons under the supervision of the Mechanism.

169. Further to the Mechanism's engagement with OIOS, the Mechanism is audited annually by the Board of Auditors. On 3 May 2021, the Board of Auditors completed a four-week audit conducted entirely remotely as a result of the measures and travel restrictions in place regarding the COVID-19 pandemic.

170. The Mechanism welcomes and appreciates the work of OIOS and the Board of Auditors, as well as the opportunity to further enhance its operations through regular audits and evaluations. In reference to Security Council resolution 2529 (2020), the Mechanism is pleased to continue to make progress in closing outstanding recommendations that contribute to improving efficiency and ensuring effective and transparent management.

XVI. Conclusion

171. With three judgments expected to be delivered by the end of June 2021, the Mechanism is close to seeing the concrete results of its tireless efforts during the reporting period and the periods before it. This is particularly satisfying given the challenges faced in recent months, including major disruptions to ongoing

[19] See paras. 56–59 regarding the *Stanišić and Simatović* case, 60 and 61 regarding the *Kabuga* case, 62–69 regarding the *Mladić* case and 72 and 73 regarding the *Nzabonimpa et al.* case.

proceedings, the terrible loss of a Mechanism judge and the sudden death of an accused person. In those circumstances, the Mechanism's judges, staff, Defence teams and others have had to find new reserves of determination and resilience to see the pending work through to the very end. The Mechanism takes this opportunity to sincerely thank and commend all those persons for their service, hard work and exceptional dedication.

172. Encouraged by that progress, the Mechanism very much looks forward to being able to inform Member States of the conclusion of the relevant judicial proceedings in its next six-monthly report. In that sense, the Mechanism stands at the edge of a new, leaner phase in its core judicial activity. Following the pronouncement of the judgments in June, the Mechanism will retain on its docket the *Kabuga* case, as well as any potential appeal proceedings in the *Stanišić and Simatović* case and the *Nzabonimpa et al.* case (formerly *Turinabo et al.*).

173. In addition, as mandated by the Security Council, the Mechanism will still be required to fulfil its continuous judicial functions, including those relating to the protection of victims and witnesses, the enforcement of sentences and national requests for assistance, and to carry out its other residual activities. While those longer-term responsibilities will continue for the foreseeable future, the Mechanism is in the meantime taking significant steps towards the further streamlining of its operations. The delivery of judgments in the next reporting period will be of pivotal importance in that regard.

174. Although challenges to securing accountability around the world persist, the Mechanism is proud to play a role in advancing international justice and is heartened by the support of Member States and other stakeholders that champion the same cause. The Mechanism is particularly indebted to those that have provided unrelenting cooperation and assistance to its activities, as well as the activities of the ad hoc Tribunals, over many years, starting with its outstanding host States, the Netherlands and the United Republic of Tanzania, as well as Rwanda and the countries of the former Yugoslavia. Special mention also goes to the 15 enforcement States of the Mechanism. In addition, the Mechanism expresses sincere thanks to Switzerland and the European Union for again providing generous support to projects aimed at increasing awareness of its mandate and operations.

175. Similarly, the Mechanism wishes to express heartfelt gratitude to the Security Council and its Informal Working Group on International Tribunals, as well as the Office of Legal Affairs and OIOS. The Mechanism continues to benefit from their valuable guidance and the recommendations made during the review of the Mechanism's progress by the Council in 2020, and it looks forward to the commencement of the next evaluation by OIOS later in 2021. Thanks must also be extended to the General Assembly and the broader United Nations membership for their support with respect to the Mechanism's budget during this time of global resourcing constraints.

176. As described comprehensively in the present report, the Mechanism's resolute commitment to staying operational throughout the COVID-19 pandemic and to keeping advancing in its work has paid off. The Mechanism can assure Member States that this drive will persist beyond delivery of the pending judgments. Indeed, its committed judges and staff are ready to do everything within their power to ensure that the final judicial proceedings are concluded both fairly and expeditiously. In turn, the Mechanism will once more rely on the support and trust of Member States and valued stakeholders. Only with the staunch backing of those that are committed to advancing international justice, accountability and the rule of law will the Mechanism be able to continue to discharge the essential mandate entrusted to it by the Security Council.

Enclosure I

International Residual Mechanism for Criminal Tribunals: approved appropriations and expenditure for 2021

Table 1
Approved appropriations for the period 1 January to 31 December 2021 (net of staff assessment)
(United States dollars)

		Chambers	*Office of the Prosecutor*	*Registry*	*Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals*	*Mechanism*
Arusha	Post	–	3 302 300	12 312 000	–	15 614 300
	Non-posta	643 200	5 864 100	19 386 800	4 292 800	30 186 900
	Subtotal	**643 200**	**9 166 400**	**31 698 800**	**4 292 800**	**45 801 200**
The Hague	Post	–	1 545 800	6 668 000	–	8 213 800
	Non-post	1 126 000	5 303 200	27 466 000	–	33 895 200
	Subtotal	**1 126 000**	**6 849 000**	**34 134 000**	**–**	**42 109 000**
New York	Post	–	–	178 300	–	178 300
	Non-post	–	–	–	–	
	Subtotal	**–**	**–**	**178 300**	**–**	**178 300**
Office of Internal Oversight Services	Post	–	–	208 400	–	208 400
	Non-post	–	–	134 900	–	134 900
	Subtotal	**–**	**–**	**343 300**	**–**	**343 300**
Overall	Post	–	4 848 100	19 366 700	–	24 214 800
	Non-post	1 769 200	11 167 300	46 987 700	4 292 800	64 217 000
	Total	**1 769 200**	**16 015 400**	**66 354 400**	**4 292 800**	**88 431 800**

[a] Non-post includes all commitment items other than posts, such as general temporary assistance, travel and rental of premises.

Table 2
Expenditure (net of staff assessment) as at 1 May 2021 (per Umoja)
(United States dollars)

		Chambers	*Office of the Prosecutor*	*Registry*	*Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals*	*Mechanism*
Arusha	Post	–	833 477	3 593 560	–	4 427 037
	Non-post	212 695	1 345 822	4 652 689	1 507 090	7 718 296
	Subtotal	**212 695**	**2 179 299**	**8 246 249**	**1 507 090**	**12 145 333**
The Hague	Post	–	452 436	1 929 637	–	2 382 073
	Non-post	484 084	1 980 705	8 230 602	–	10 695 391
	Subtotal	**484 084**	**2 433 141**	**10 160 239**	**–**	**13 077 464**

		Chambers	*Office of the Prosecutor*	*Registry*	*Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals*	*Mechanism*
New York	Post	–	–	60 129	–	60 129
	Non-post	–	–	–	–	–
	Subtotal	**–**	**–**	**60 129**	**–**	**60 129**
Office of Internal Oversight Services	Post	–	–	60 059	–	60 059
	Non-post	–	–	–	–	–
	Subtotal	**–**	**–**	**60 059**	**–**	**60 059**
Overall	Post	–	1 285 913	5 643 385	–	6 929 298
	Non-post	696 779	3 326 527	12 883 291	1 507 090	18 413 687
	Total	**696 779**	**4 612 440**	**18 526 676**	**1 507 090**	**25 342 985**

Table 3
Percentage of annual budget expended as at 1 May 2021

		Chambers	*Office of the Prosecutor*	*Registry*	*Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals*	*Mechanism*
Arusha	Post	–	25.2	29.2	–	28.4
	Non-post	33.1	23.0	24.0	35.1	25.6
	Subtotal	**33.1**	**23.8**	**26.0**	**35.1**	**26.5**
The Hague	Post	–	29.3	28.9	–	29.0
	Non-post	43.0	37.3	30.0	–	31.6
	Subtotal	**43.0**	**35.5**	**29.8**	**–**	**31.1**
New York	Post	–	–	33.7	–	33.7
	Non-post	–	–	–	–	–
	Subtotal	**–**	**–**	**33.7**	**–**	**33.7**
Office of Internal Oversight Services	Post	–	–	28.8	–	28.8
	Non-post	–	–	–	–	–
	Subtotal	**–**	**–**	**17.5**	**–**	**17.5**
Overall	Post	–	26.5	29.1	–	28.6
	Non-post	39.4	29.8	27.4	35.1	28.7
	Total	**39.4**	**28.8**	**27.9**	**35.1**	**28.7**

Enclosure II

International Residual Mechanism for Criminal Tribunals: staffing*

Table 1
Staff number by branch and organ

Category	*Arusha branch*	*The Hague branch*	*Chambers*[a]	*Office of the Prosecutor*	*Registry*[b]	*Mechanism overall*
All staff	236	265	33	98	370	501
Staff on continuous posts	124	57	9	26	146	181
Staff on general temporary assistance positions	112	208	24	72	224	320
International (Field Service, Professional and above)	128	114	26	64	152	242
Local (General Service)	108	151	7	34	218	259

[a] Chambers staffing data include the Office of the President and exclude judges.
[b] Registry staffing data include the Immediate Office of the Registrar, the Legal Team, the Archives and Records Section, the Witness Support and Protection Unit, the Judicial Records and Court Operations Unit, the Language Support Services, the External Relations Office, the Office for Legal Aid and Defence Matters, the Division of Administration, the Security and Safety Section, and the United Nations Detention Facility and the United Nations Detention Unit.

Table 2
Geographical representation by regional group

	Arusha branch	*The Hague branch*	*Mechanism overall (percentage)*[a]
Nationalities	38	50	73
All staff			
Group of African States	183	22	205 (40.9)
Group of Asia-Pacific States	9	21	30 (6.0)
Eastern European Group	2	60	62 (12.4)
Latin American and Caribbean Group	3	7	10 (2.0)
Group of Western European and Other States	39	155	194 (38.7)
International (Field Service, Professional and above)			
Group of African States	75	5	80 (33.0)
Group of Asia-Pacific States	9	6	15 (6.2)
Eastern European Group	2	26	28 (11.6)
Latin American and Caribbean Group	3	3	6 (2.5)
Group of Western European and Other States	39	74	113 (46.7)
Local (General Service)			
Group of African States	108	17	125 (48.3)
Group of Asia-Pacific States	–	15	15 (5.8)
Eastern European Group	–	34	34 (13.1)
Latin American and Caribbean Group	–	4	4 (1.5)
Group of Western European and Other States	–	81	81 (31.3)

(Footnotes on following page)

* The data in the tables below represent the number of staff employed as at 1 May 2021.

(Footnotes to table 2)

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[a] As percentages are rounded to the nearest decimal, the total may not add up exactly to 100 per cent.

Group of African States: Algeria, Benin, Burkina Faso, Burundi, Cameroon, Congo, Democratic Republic of the Congo, Egypt, Ethiopia, Gambia, Ghana, Kenya, Lesotho, Liberia, Madagascar, Morocco, Niger, Nigeria, Rwanda, Sierra Leone, South Africa, Sudan, Uganda, United Republic of Tanzania, Zambia and Zimbabwe.

Group of Asia-Pacific States: Cambodia, China, Fiji, India, Indonesia, Iraq, Lebanon, Nepal, Pakistan, Philippines, Republic of Korea, Thailand and Yemen.

Eastern European Group: Bosnia and Herzegovina, Bulgaria, Croatia, Latvia, Poland, Romania, Russian Federation, Serbia, Slovakia, North Macedonia and Ukraine.

Latin American and Caribbean Group: Brazil, Cuba, Guatemala, Haiti and Jamaica.

Group of Western European and Other States: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Israel, Italy, Netherlands, New Zealand, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland and United States of America.

Table 3
Gender representation

	Arusha branch		*The Hague branch*		*Mechanism*
	Arusha (percentage)	*Kigali field office (percentage)*	*The Hague (percentage)*	*Sarajevo field office (percentage)*	*Overall (percentage)*
Professional staff (all levels)	57	10	111	3	181
Male	36 (63)	7 (70)	45 (41)	3 (100)	91 (50)
Female	21 (37)	3 (30)	66 (59)	–	90 (50)
Professional staff (P-4 and above)	17	3	34	1	55
Male	12 (71)	1 (33)	14 (41)	1 (100)	28 (51)
Female	5 (29)	2 (67)	20 (59)	–	27 (49)
Field Service staff (all levels)	54	7	–	–	61
Male	31 (57)	4 (57)	–	–	35 (57)
Female	23 (43)	3 (43)	–	–	26 (43)
General Service staff (all levels)	89	19	148	3	259
Male	56 (63)	15 (79)	88 (59)	2 (67)	161 (62)
Female	33 (37)	4 (21)	60 (41)	1 (33)	98 (38)
All staff	200	36	259	6	501
Male	123 (62)	26 (72)	133 (51)	5 (83)	287 (57)
Female	77 (38)	10 (28)	126 (49)	1 (17)	214 (43)

Table 4
Staff by organ

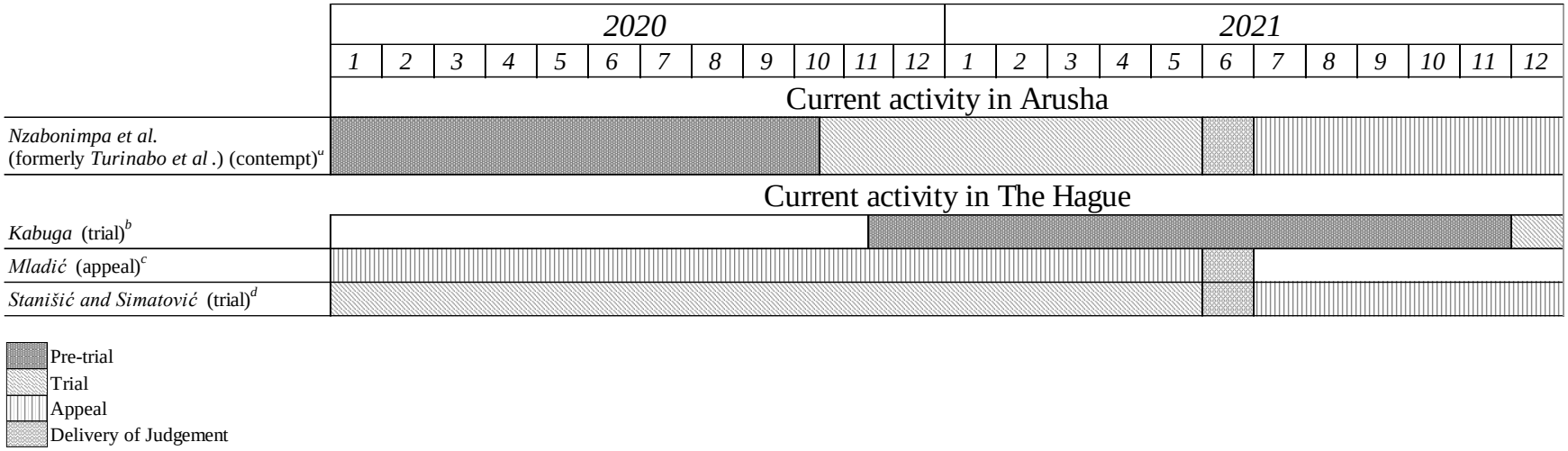
	Arusha branch	*The Hague branch*	*Mechanism overall*
Chambers (including the Office of the President)	6	27	33
Office of the Prosecutor	43	55	98
Registry	187	183	370
Immediate Office of the Registrar	3	3	6
Legal Team	7	6	13
Archives and Records Section	18	14	32

	Arusha branch	*The Hague branch*	*Mechanism overall*
Witness Support and Protection Unit	17	7	24
Judicial Records and Court Operations Unit	3	8	11
Language Support Services	14	24	38
External Relations Office	4	7	11
Office for Legal Aid and Defence Matters	0	3	3
Division of Administration	43	65	108
Security and Safety Section	64	41	105
United Nations Detention Facility and United Nations Detention Unit	14	5	19

Enclosure III

International Residual Mechanism for Criminal Tribunals: status of trial and appeal proceedings, 2020–2021

(On the basis of information available as at 16 May 2021 and subject to change)



[a] The trial commenced on 22 October 2020. The trial judgment is expected to be delivered in June 2021. Subject to the outcome of the trial, an appeal may follow.

[b] Following the single judge's order of 21 October 2020, the accused was temporarily transferred to The Hague on 26 October 2020 for a detailed medical assessment. The initial appearance took place in The Hague on 11 November 2020.

[c] The appeal is expected to be concluded and the appeal judgment to be delivered in June 2021.

[d] The evidentiary hearings concluded in October 2020, and the final briefs were filed on 12 March 2021. Closing arguments were heard from 12 to 14 April 2021, and the trial judgment is planned for June 2021. Subject to the outcome of the trial, an appeal may follow.

Annex II

[Original: English and French]

Progress report of the Prosecutor of the International Residual Mechanism for Criminal Tribunals, Serge Brammertz, for the period from 16 November 2020 to 16 May 2021

Contents

I. Overview

1. The Prosecutor submits the present eighteenth progress report pursuant to Security Council resolution 1966 (2010), covering developments between 16 November 2020 and 15 May 2021.

2. During the reporting period, the Office of the Prosecutor of the Mechanism (the Prosecution) continued to focus on its three priorities: (a) completing trials and appeals expeditiously; (b) locating and arresting the remaining fugitives indicted by the 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 and 31 December 1994; and (c) assisting national jurisdictions prosecuting international crimes committed in Rwanda and the former Yugoslavia. The Office relies on the full cooperation of States to carry out its mandate successfully in those areas.

3. The Office of the Prosecutor achieved notable milestones during the reporting period, continuing progress towards completion of its ad hoc residual functions. At the Arusha branch, the Prosecution timely undertook its work in the *Nzabonimpa et al.* (formerly *Turinabo et al.*) case, completing the presentation of its case-in-chief, responding to the evidence presented by the Defence teams and nearly finalizing its closing submissions. In the *Kabuga* case, the Prosecution's amended indictment was approved by the Trial Chamber on 24 February, which will allow the Prosecution to present a stronger, clearer and more expeditious case. At the branch in The Hague, the Prosecution completed trial proceedings in the *Stanišić and Simatović* case and is now awaiting judgments in that retrial and the *Mladić* appeal.

4. The Office of the Prosecutor is intensively working to account for the remaining six fugitives indicted by the International Criminal Tribunal for Rwanda. The highest priority target is Protais Mpiranya, former commander of the Presidential Guard of the Rwandan Armed Forces, while the Office continues to actively pursue the other five fugitives, Fulgence Kayishema, Phénéas Munyarugarama, Aloys Ndimbati, Charles Ryandikayo and Charles Sikubwabo. As previously reported, the lack of timely and effective cooperation from States Members of the United Nations, in particular from Central, Eastern and Southern Africa, is preventing successful results. The situation is critical, and the intervention of the Security Council is urgently needed. Member States should explain to the Council, as well as the victims and survivors of the 1994 genocide against the Tutsi in Rwanda, why they do not consider it necessary to respond to requests for assistance, execute international arrest warrants and provide full, active cooperation to the Office.

5. Regarding national prosecutions of war crimes committed in Rwanda, the Office of the Prosecutor recognizes and congratulates the Rwandan authorities for having now completed proceedings against two of the three accused who have so far been transferred to Rwanda for trial under rule 11 bis of the Rules of Procedure and Evidence of the International Criminal Tribunal for Rwanda. Additional fugitives indicted by the Tribunal will be transferred to Rwanda for trial following their arrests. The Office, within existing resources, continued to monitor the progress of cases referred to the Rwandan and the French authorities, provide national justice sectors with access to the Mechanism's evidence collection and support national accountability for the crimes committed. More justice for crimes committed during the 1994 genocide against the Tutsi in Rwanda is still urgently needed, and there remain a high number of suspects to be prosecuted. The Office calls upon Member

States to continue to provide full support to the accountability process, whether in the courtrooms of the Mechanism, Rwanda or third-party States.

6. Regarding national prosecutions of war crimes committed in the former Yugoslavia, the Office of the Prosecutor continued to support the further implementation of the completion strategy 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. With the closure of the Tribunal, further accountability for the crimes now depends fully on national judiciaries in the countries of the former Yugoslavia. At the request of Governments and stakeholders in the region, the Office continued during the reporting period to provide vital assistance, in particular by providing access to its evidence and expertise. At the same time, progress in national justice initiatives has been slow in recent years, in particular given the large backlog of cases that remain. Similarly, commitments made by Governments in the region to support war crimes justice, the search for missing persons and reconciliation remain unfulfilled.

7. In managing its work, the Office of the Prosecutor continued to be guided by the views and requests of the Security Council as set forth in, inter alia, paragraphs 18 to 20 of its resolution 2256 (2015) and paragraphs 7 and 8 of its resolution 2422 (2018).

8. The Office of the Prosecutor has continued with remote and on-site working arrangements in the light of the coronavirus disease (COVID-19) pandemic. The Office's continued progress in achieving its strategic goals and mandate in those challenging circumstances is due to a large extent to the dedication of its staff to the cause of justice.

II. Trials and appeals

9. During the reporting period, the Office of the Prosecutor worked on one case at pretrial (*Kabuga*), two trials (*Nzabonimpa et al*. and *Stanišić and Simatović*) and one appeal proceeding (*Mladić*).

10. Such judicial activity is temporary in nature, and the Office of the Prosecutor is taking all steps under its control to expedite the completion of the proceedings.

A. Update on the progress of trials

1. *Kabuga*

11. On 16 May 2020, Félicien Kabuga was arrested in Paris, after more than two decades as a fugitive. He is charged with six serious international crimes: genocide; direct and public incitement to commit genocide; conspiracy to commit genocide; persecution as a crime against humanity; extermination as a crime against humanity; and murder as a crime against humanity.

12. On 24 February 2021, the Trial Chamber granted the Prosecution's request to amend the indictment in the *Kabuga* case. The indictment was initially submitted in October 1997. The most recent amendments reflect four key changes: (a) additional evidence gathered, in particular since Kabuga's arrest; (b) more specific descriptions of the crimes charged; (c) streamlined charges for a more expeditious trial; and (d) updates based on jurisprudential developments since 2011. The charges against Kabuga are now presented in two components, first in relation to Radio-Télévision Libre des Mille Collines, and second concerning crimes committed by Interahamwe. Importantly, the Prosecution's amendments identified specific incidents of sexual

violence with which Kabuga is now charged, as the Office of the Prosecutor considered that it was crucial to reflect explicitly crimes of sexual violence committed during the genocide and the particular harm suffered by women and girls. Ultimately, by streamlining, clarifying and particularizing the charges, the amended indictment will promote a more expeditious trial while appropriately reflecting the scale of the crimes committed and Kabuga's alleged criminal responsibility.

13. With the confirmation of the amended indictment, the Prosecution is fully focused on pretrial preparations and ensuring its readiness to start trial. Additional disclosure of material to the Defence is under way, work has commenced to prepare witness and exhibit lists and the trial team is readying its pretrial brief. The Prosecution has proposed a mid-September deadline for completion of its pretrial obligations, subject to defence preparations, and awaits a pretrial workplan from the Trial Chamber. A status conference has been scheduled for 1 June, shortly after the end of the reporting period.

14. During the reporting period, the Prosecution made 16 filings on matters related to the case and responded to seven filings by the Defence. The Prosecution disclosed 1,141 files comprising 14,402 pages to the Defence.

15. The Prosecution is facing an immense workload in relation to the case, arising from both the complexity of the charges against Kabuga and the significant ancillary litigation concerning such matters as the health of the accused. The Office of the Prosecutor is making every effort to manage the workload through the flexible redeployment of resources from throughout the Office, in accordance with its "one office" policy. Unfortunately, recruitment has been delayed by the reductions imposed on the Mechanism's budget for 2021, which the Office has absorbed with the Registry. The Office underscores that full approval of its limited budget requests is necessary to ensure the expeditious completion of the trial.

2. *Nzabonimpa et al.* (formerly *Turinabo et al.*)

16. On 24 August 2018, the single judge confirmed the indictment in the *Prosecutor v. Turinabo et al.* case and issued warrants of arrest. On 9 August 2019, the Prosecutor submitted an indictment against Augustin Ngirabatware, which was confirmed on 10 October 2019. On 10 December 2019, the single judge granted the Prosecution's motion and ordered that the cases be joined. The indictments charge five accused – Ngirabatware, Maximilien Turinabo, Anselme Nzabonimpa, Jean de Dieu Ndagijimana and Marie Rose Fatuma – with contempt of court in an effort to overturn Ngirabatware's conviction. In addition, the indictment charges Dick Prudence Munyeshuli, an investigator on Ngirabatware's former Defence team, Ngirabatware and Turinabo with violation of court orders protecting witnesses.

17. During the reporting period, the Prosecution and Defence teams completed the presentation of their evidence. The final Prosecution witness was heard on 24 November 2020. Oral arguments by the Defence for judgments of acquittal were heard on 9 March 2021 and rejected by the single judge on 12 March. The Defence teams completed the presentation of their evidence by the end of the reporting period. Final trial briefs are due on 31 May 2021, and closing arguments are scheduled to be heard the week of 21 June. Consistent with the directions of the single judge, the Prosecution streamlined the presentation of its evidence by reducing the number of witnesses and using such tools as rules 110 and 111 of the Rules of Procedure and Evidence to limit in-court time required for witness testimony. Those and other measures promoted the expeditious completion of trial proceedings in the case.

18. From the date of arrest until the end of the reporting period, the Defence teams made 543 filings, while the Prosecution submitted 334 filings. There were 248 orders and decisions by the single judge, 25 orders and decisions by the Appeals Chamber

and 40 orders and decisions by the President. There were also 149 filings by the Registry. The Prosecution had to respond to 434 items of correspondence from the Defence teams. The Prosecution has already disclosed more than two terabytes of material.

3. *Stanišić and Simatović*

19. On 15 December 2015, the Appeals Chamber of the International Tribunal for the Former Yugoslavia reversed the trial judgment of acquittal in the *Stanišić and Simatović* case and ordered the case to be retried on all counts. Pursuant to the statute and transitional arrangements of the Mechanism, the retrial is being conducted by the Mechanism. Trial proceedings in the case commenced on 13 June 2017.

20. During the reporting period, the Prosecution presented its final written and oral submissions in the case. The Prosecution's final trial brief was timely filed on 12 March 2021. The Prosecution then presented its closing arguments on 12 April and replied to the Defence teams' submissions on 14 April. The Trial Chamber's judgment is expected in the coming months.

B. Update on the progress of appeals

Mladić

21. On 22 November 2017, a Trial Chamber of the International Tribunal for the Former Yugoslavia unanimously convicted Ratko Mladić of genocide, terror, persecution, extermination, murder, unlawful attacks on civilians, deportation, inhumane acts and hostage-taking and sentenced him to life imprisonment. On 22 March 2018, the Defence filed its notice of appeal against the trial judgment, which set out nine grounds of appeal. On the same date, the Office of the Prosecutor filed its notice of appeal. The Office identified two grounds of appeal, both of which concern the acquittal for genocide in relation to events that had occurred in 1992. On 25 and 26 August 2020, the Prosecution presented its oral arguments in support of its two grounds of appeal and in response to the Defence's grounds of appeal.

22. The Prosecution mourns the passing of Judge Gberdao Gustave Kam, assigned to the Appeals Chamber for the case, on 17 February 2021. Judge Kam had an extraordinary career in international criminal justice, and the Office of the Prosecutor has immense respect for his dedication, impartiality and judgment. Although the circumstances were unfortunate, the Office welcomes the appointment of Judge Mustapha el Baaj. The Appeals Chamber has scheduled the delivery of its judgment for 8 June 2021.

C. Other proceedings

23. At the order of a single judge of the Mechanism, during the reporting period, the Office of the Prosecutor continued to conduct one investigation into alleged contempt crimes under the Mechanism's jurisdiction. The Prosecution is complying with directions from the court and submitting regular progress reports as directed. Owing to delays caused by the COVID-19 pandemic and delays in receiving responses to requests for assistance submitted to Serbia, the Prosecution expects that the investigation will be completed in the second half of 2021. In addition, the Prosecution continues to receive and monitor information concerning suspected contempt crimes within the Mechanism's jurisdiction and take appropriate steps in accordance with the Prosecutor's mandate under article 14 of the statute of the Mechanism. During the reporting period, the Office closed one investigation, having

concluded that the evidence gathered demonstrated that witness protection orders had not been violated. Using the "one office" policy, the Office absorbed the related requirements for those investigations within existing resources.

D. Cooperation with the Office of the Prosecutor

24. The Office of the Prosecutor continues to rely on the full cooperation of States to complete its mandate successfully and efficiently. The Office's access to documents, archives and witnesses is critical for ongoing trial and appeal proceedings of the Mechanism, as well as in relation to locating and arresting fugitives and to witness protection.

25. During the reporting period, cooperation with the Office of the Prosecutor was generally satisfactory, except in relation to fugitives, as discussed in section III.

26. The Office is grateful for the support provided to date by Rwanda, in particular by the Office of the Prosecutor General and the heads of law enforcement agencies. The continued cooperation and assistance from the Rwandan authorities has been instrumental in the Prosecution's efforts in the *Kabuga* case and the *Nzabonimpa et al.* case.

27. With respect to Serbia, there have been some significant delays in responses to requests for assistance from the Office of the Prosecutor in relation to court-ordered investigations. Thirteen requests are still pending, of which six have been pending since July 2019. The Ministry of Justice explained that responses had been collected and would be transmitted to the Office in the coming weeks. The Office trusts that, moving forward, similar issues will not arise and that there will be meaningful improvements in the expeditiousness of responses to the its requests.

28. Cooperation and support from States other than Rwanda and countries of the former Yugoslavia, as well as from international organizations, remain integral to the successful completion of the Mechanism's activities. The Office of the Prosecutor again acknowledges the support that it received during the reporting period from Member States and international organizations, including the United Nations and its agencies, the European Union, the North Atlantic Treaty Organization, the Organization for Security and Cooperation in Europe and the International Criminal Police Organization (INTERPOL).

29. The international community continues to play an important role in providing incentives for States to cooperate with the Mechanism and undertake national prosecutions of war crimes. The support of the European Union remains a key tool for ensuring continued cooperation with the Mechanism. Assistance is also increasingly needed to support the national prosecution of war crimes cases in Rwanda and in the countries of the former Yugoslavia.

E. Conditional early release

30. As previously reported, the Office of the Prosecutor proposed in early 2016 to amend rule 151 of the Rules of Procedure and Evidence of the Mechanism to establish a programme for conditional early release. The Office was gravely concerned that, in the past, the vast majority of persons convicted for the most serious international crimes had been released unconditionally upon or soon after serving only two thirds of their sentences. While the Office's proposal to amend rule 151 was not adopted by the plenary of judges, the Office welcomed the adoption of resolution 2422 (2018) by the Security Council, in which the Council encouraged the Mechanism to consider a conditional early release regime.

31. During the reporting period, no convicts were granted early release, following extensive consultations by the President and consideration of the views of the victims and affected communities. Notably, the victims and survivors of the 1994 genocide against the Tutsi in Rwanda welcomed the President's decision to deny Théoneste Bagosora's request for early release. President Agius found that Bagosora had not demonstrated rehabilitation or acceptance of his criminal responsibility for extremely grave crimes, including genocide, extermination, rape and murder. Similarly, Dragoljub Kunarac, responsible for raping, torturing and enslaving Bosnian Muslim women and girls, was denied early release, while Radivoje Miletić, convicted for crimes against humanity and war crimes committed during the Srebrenica genocide, was also denied early release.

32. During the reporting period, the Office of the Prosecutor made four submissions in relation to the early release of specific convicted persons. The Office will continue to urge consideration of the views of the victims and affected States and communities before granting early release, in particular without conditions, and bring its views and concerns to the attention of the President in response to applications for the early release of persons convicted of genocide, crimes against humanity and war crimes.

III. Fugitives

33. With the arrest of Félicien Kabuga and the confirmation of the death of Augustin Bizimana on 16 and 22 May 2020, respectively, the Office of the Prosecutor accounted for two of the three major fugitives indicted by the International Criminal Tribunal for Rwanda. One major fugitive – Protais Mpiranya, former commander of the Presidential Guard of the Rwandan Armed Forces – and five other fugitives – Fulgence Kayishema, Phénéas Munyarugarama, Aloys Ndimbati, Charles Ryandikayo and Charles Sikubwabo – now remain. The Office has viable leads and is implementing strategies for each of the six.

34. The Office of the Prosecutor has repeatedly underscored its understanding that fugitive tracking is a temporary activity that must be brought to an end within a reasonable period of time. In his tenth progress report (S/2017/434, annex II), the Prosecutor informed the Security Council that the Office would increase its activities and allocate surge resources to fugitive tracking, on the understanding that progress would be assessed after a few years. Following such an assessment, fugitive tracking would only continue if a demonstrated track record of success was evident and further results were achievable. Accordingly, during the reporting period, the Office conducted a detailed review of its progress, results and challenges. While recognizing that major successes were achieved in May 2020 with the arrest of Kabuga and the confirmation of Bizimana's death, the Office carefully assessed the status of the investigations into the remaining fugitive, reviewed lessons learned from Kabuga's arrest and critically examined the probability of further success.

35. Recognizing that the Office of the Prosecutor has demonstrated a track record of success and has viable leads on all remaining fugitives, the Office has concluded that it can reasonably expect continued results. In terms of lessons learned, the reforms implemented by the Office several years ago were critical to the arrest of Kabuga. The Office will now further reform and strengthen its methods and operations, including by restructuring its tracking team to ensure that it has the capabilities necessary to match its investigative strategies. Critically, the Office identified as its major challenge the lack of timely and effective cooperation from Member States. The Office believes that it would be unacceptable – to the victims and survivors and to the international community – to allow the fugitives to remain at large because Member States are not adhering to their international obligations. To

the contrary, as reaffirmed by the Council in its resolution 2529 (2020), it is for all States, in particular those where fugitives are suspected of being at large, to intensify their cooperation with the Office to achieve the arrest and surrender of all remaining fugitives as soon as possible.

36. The Office of the Prosecutor continues to work actively to confirm the reported deaths of several fugitives. The work has been delayed by the COVID-19 pandemic, but the Office hopes that it will conduct exhumation and DNA testing in the next reporting period to verify information received in the course of investigations. As with the confirmation of Bizimana's death, key partner institutions in the Netherlands, Rwanda, the United States of America and elsewhere have offered assistance in that process, for which the Office remains grateful.

37. With respect to those fugitives still believed to be at large, the Office is actively pursuing promising lines of inquiry, narrowing possible locations and preparing arrest plans. In those efforts, some Member States are providing essential support and rapidly responding to requests for assistance, including with respect to financial, telecommunication and travel matters. The Office would like to express in particular its appreciation to the Tanzanian authorities for providing prompt and full support to an important operation during the reporting period. At the same time, the Office is compelled to note that, despite progress in important areas, it has otherwise struggled to obtain the necessary cooperation from a number of relevant Member States, which has significantly hindered its efforts to track the remaining fugitives.

38. With respect to South Africa, the Office of the Prosecutor regrets to report that, for yet another reporting period, there has been no meaningful improvement in cooperation. In particular, notwithstanding sustained engagement by the Office, the failure of the Department of Home Affairs of South Africa to treat the matter seriously and provide all relevant information is deeply lamentable. It is difficult to understand how the institution entrusted to enforce national immigration laws and control the borders of South Africa is apparently unconcerned that an international fugitive wanted for genocide has been able to live freely in that country for two decades and to cross its borders repeatedly without detection. The Office acknowledges that the Department of International Relations and Cooperation, as well as law enforcement and justice agencies, recognize the gravity of the issue and have repeatedly expressed their commitment to cooperating. However, the fact remains that Kayishema is at large owing to the failure of South Africa to cooperate and, to date, very little assistance has been provided to secure his arrest. The Office will nonetheless continue its efforts to engage in order to obtain the cooperation needed, and as soon as the COVID-19 situation permits, the Prosecutor will travel to Pretoria for consultations at the highest level.

39. With respect to Zimbabwe, the Office of the Prosecutor has previously reported on its discussions with the Zimbabwean authorities and the establishment of a joint task force to coordinate investigative activities. While the Office remains grateful to the task force for its efforts, which generated some additional information, a review of its work revealed that a number of agreed, viable leads had not been meaningfully pursued, indicating an inability or unwillingness to investigate all relevant matters. In that regard, the Office has taken note of the official position of Zimbabwe that no fugitive was ever present on its territory, which is not consistent with the work of the task force and reliable evidence. Having conducted its own investigations and gathered additional information, the Office is now re-engaging with the task force and the Zimbabwean authorities and has already transmitted a first set of straightforward investigative tasks. The Office intends to send a technical mission to Harare once the task force has completed those in order to discuss results and further steps. Assuming that positive results are achieved, the Prosecutor would then travel to Harare on an official visit for high-level consultations.

40. More broadly, the Office of the Prosecutor continues to face significant challenges in obtaining critical information from Member States in Central, Eastern and Southern Africa. For example, six requests for assistance transmitted to Uganda are unanswered, including three that have been pending for more than a year and one that has been pending for two and a half years. In other circumstances, recognizing the significant challenges in obtaining responses to requests for assistance, the Office has sought the support of INTERPOL, including with regard to the Democratic Republic of the Congo, Uganda, Zambia and others. While the Office is grateful for the support, even INTERPOL has not been able to obtain the requested information.

41. To resolve all the challenges that it is facing in obtaining cooperation, the Office of the Prosecutor will continue to engage with relevant authorities. The support of Security Council members is critical in that respect. In bilateral discussions, relevant Member States should be reminded of their international legal obligation to cooperate with the Office in locating the fugitives. To secure such cooperation, serious consideration should be given to linking cooperation with the Office to other forms of support and assistance. With the full support of the Council and the international community, the fugitives can be arrested and this important residual function brought to a close. The survivors and victims of the 1994 genocide against the Tutsi in Rwanda deserve nothing less.

IV. Assistance to national war crimes prosecutions

42. National prosecutions remain essential to achieving greater justice for the victims of war crimes, crimes against humanity and genocide committed in Rwanda and the former Yugoslavia. The Office of the Prosecutor is mandated to assist and support national prosecutions of those crimes, in accordance with the completion strategies of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, Security Council resolution 1966 (2010) and the statute of the Mechanism. The effective prosecution of those crimes is fundamental to building and sustaining the rule of law, establishing the truth of what occurred and promoting reconciliation in the affected countries. Third-party States are also undertaking prosecutions against suspects present on their territory for crimes committed in Rwanda and the former Yugoslavia.

43. The Office of the Prosecutor continued its efforts to support, monitor and advise national judicial authorities prosecuting war crimes cases arising from the conflicts in Rwanda and the former Yugoslavia, within existing resources. The Office maintains an ongoing dialogue with all relevant counterparts and undertakes a range of initiatives to assist and build capacity in national criminal justice sectors.

A. War crimes committed in Rwanda

1. Completion strategy of the International Criminal Tribunal for Rwanda

44. The closure of the International Criminal Tribunal for Rwanda was not an end to the justice process for the victims of the 1994 genocide against the Tutsi in Rwanda. All those who committed crimes during the genocide must be held accountable. The Mechanism and national courts are now responsible for continuing the work of the Tribunal and ensuring the full implementation of its completion strategy by bringing more perpetrators to justice.

45. The Office of the Prosecutor is fully committed to undertaking all efforts necessary to locate and arrest the remaining six fugitives indicted by the International Criminal Tribunal for Rwanda. As reported above, the Office is generating and

pursuing active leads. Full cooperation and support from Member States are urgently needed to enable the Office to achieve results. The Mechanism further continues to monitor the progress of the two ongoing cases referred to the national courts of France and Rwanda under rule 11 bis of the Rules of Procedure and Evidence of the Tribunal. The case against Laurent Bucyibaruta was referred to France in 2007. Ladislas Ntaganzwa was transferred to Rwanda in 2016, following the referral of his case in 2012.

46. At the same time, national authorities now have primary responsibility for the continued implementation of the completion strategy of the International Criminal Tribunal for Rwanda. The Prosecutor General of Rwanda is currently searching for a thousand fugitives. Courts in countries around the world continue to process cases of crimes committed during the genocide against the Tutsi in Rwanda.

47. The arrest of Félicien Kabuga has brought greater attention to efforts in other countries to enforce “no safe haven” policies and investigate allegations against suspects present on their territories or holding their citizenship. For example, in April 2021, authorities in the United States extradited to Rwanda Beatrice Munyenyezi, who had been previously convicted for violation of immigration law in the United States for lying about her role as a commander at roadblocks where victims were killed. Similarly, in April 2021, French prosecutors requested the referral of Philippe Hategekimana for trial on genocide charges, following his arrest in Cameroon in 2018 and his extradition to France, where he holds citizenship. As previously reported, several European countries continue to work to establish an international investigative task force focusing on suspects of the genocide in Rwanda present in Europe. Those developments demonstrate both the need for further justice and the positive international legal cooperation between Rwandan and other national authorities.

48. Consistent with the principle of complementarity and national ownership of post-conflict accountability, prosecutions by the justice sector in Rwanda in accordance with international due process and fair trial standards are in principle the most advantageous accountability mechanism. The Office of the Prosecutor encourages the international community to continue its efforts to support and strengthen the criminal justice sector in that country by providing financial assistance and capacity-building as needed.

49. It is essential that those who bear individual criminal responsibility for crimes committed during the 1994 genocide against the Tutsi in Rwanda be prosecuted. Twenty-seven years after the genocide, significant steps towards justice have been achieved, but more remains to be done. The Office of the Prosecutor stands ready to provide support and assistance to the Rwandan authorities and third-party States prosecuting in their own domestic courts Rwandan nationals suspected of genocide. The Office calls upon all Member States to ensure that all possible efforts are undertaken to continue the implementation of the completion strategy of the International Criminal Tribunal for Rwanda and support more justice for more victims of the genocide against the Tutsi in Rwanda.

2. Genocide denial

50. In 2006, the Appeals Chamber of the International Criminal Tribunal for Rwanda held that the facts of the genocide committed in Rwanda were established beyond any dispute and thus constituted facts of common knowledge. In particular, the Appeals Chamber concluded that it was a universally known fact that, between 6 April and 17 July 1994, there was a genocide in Rwanda against the Tutsi ethnic group. Establishing that and other facts about the genocide against the Tutsi in Rwanda was one of the most important contributions of the Tribunal to re-establishing

peace and security in Rwanda and promoting reconciliation among the affected communities.

51. However, genocide denial continues to this day. Efforts to minimize the scale of the death and destruction, or detract attention from the judicially established facts of the genocide, are intolerable and unacceptable. There are no other facts or circumstances that in any way alter the truth that, in the course of over just 100 days in Rwanda, hundreds of thousands of innocent people were senselessly targeted, murdered, tortured, raped and forced to flee their homes because they were Tutsi. Genocide ideology continues to present clear risks to international peace and security. Ideologies of discrimination, division and hate are promoting conflict and crimes in places around the globe.

52. The Office of the Prosecutor of the Mechanism firmly rejects genocide denial and is committed to promoting education and remembrance as key tools in the fight against genocide ideology. During the recent commemoration of the twenty-seventh anniversary of the genocide against the Tutsi in Rwanda, the Prosecutor participated in events held in New York and The Hague to highlight the importance of those efforts. Participants noted that, in the light of continuing genocide denial, serious consideration should be given to criminalizing that behaviour, whether directly or as a form of hate speech, in order to ensure that genocide denial is repressed. The Office further reiterates its commitment to vigorously investigating and prosecuting those who interfere with witnesses with the aim of undermining the established facts of the genocide committed in Rwanda. Such contempt of court is a form of genocide denial and must be opposed.

3. Cases referred to France

53. The trial proceedings in the *Bucyibaruta* case have not yet commenced. Laurent Bucyibaruta, prefect of Gikongoro Prefecture, was indicted by the International Criminal Tribunal for Rwanda in June 2005 on six counts, namely, genocide, direct and public incitement to commit genocide, complicity in genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. The indictment was referred by the Tribunal to France for trial on 20 November 2007. The investigation by the French authorities has been completed. On 4 October 2018, the Public Prosecutor filed his final submission asking for partial discharge and transfer to the criminal court and requesting the investigating judge to order an indictment for genocide, complicity in genocide and complicity in crimes against humanity. On 24 December 2018, the investigating judge issued a decision that the case should proceed to trial, which was appealed by the accused and civil parties. On 21 January 2021, the appellate court confirmed the decision, changing the charges from complicity to direct perpetration of genocide for certain criminal facts, and adding others that had been rejected by the investigative judge. The final appeal to the Court of Cassation was heard on 14 April 2021, and a decision rejecting the appeal was issued on the same date. A date for the commencement of the trial has not yet been scheduled.

54. Although the Office of the Prosecutor recognizes the challenges that the French judiciary has faced, significant time has been required to process the case. The Office hopes to be able to report in the next progress report regarding the schedule for commencement of the trial in the *Bucyibaruta* case.

4. Cases referred to Rwanda

55. In a significant development, the Court of Appeal rejected the appeal of Jean Uwinkindi, a pastor in the Pentecostal Church, and confirmed the convictions and sentence entered at trial, bringing the proceedings to a close. Uwinkindi was indicted

by the International Criminal Tribunal for Rwanda in September 2001 on three counts, namely, genocide, conspiracy to commit genocide and extermination as a crime against humanity. He was transferred to Rwanda for trial on 19 April 2012, and the trial commenced on 14 May 2012. On 30 December 2015, the High Court of Rwanda issued its trial judgment, convicting Uwinkindi and sentencing him to life imprisonment.

56. In another significant development, on 7 May 2021, the Court of Appeal also confirmed the trial convictions and sentence against Bernard Munyagishari, a local leader in the Mouvement républicain national pour la démocratie et le développement. Munyagishari was indicted by the International Criminal Tribunal for Rwanda in September 2005 on five counts, namely, conspiracy to commit genocide, genocide, complicity in genocide, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 24 July 2013. On 20 April 2017, the High Court of Rwanda issued its trial judgment, convicting Munyagishari of genocide and murder as a crime against humanity, acquitting him of rape as a crime against humanity and sentencing him to life imprisonment.

57. The final ongoing referred case in Rwanda is against Ladislas Ntaganzwa, mayor of Nyakizu commune. He was indicted by the International Criminal Tribunal for Rwanda in June 1996, with the amended indictment charging him with five counts, namely, genocide, direct and public incitement to commit genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 20 March 2016. On 28 May 2020, the High Court of Rwanda issued its trial judgment, convicting Ntaganzwa of genocide and the crimes against humanity of extermination, rape and murder, acquitting him of incitement to commit genocide and sentencing him to life imprisonment. The date of the appeal hearing has not yet been scheduled.

58. The Office of the Prosecutor recognizes the efforts of the Rwandan authorities to expeditiously complete trial and appeal proceedings in cases referred by the International Criminal Tribunal for Rwanda under rule 11 bis of its Rules of Procedure and Evidence. With the final appeal decisions in the *Uwinkindi* and *Munyagishari* cases, proceedings have now been completed against two of three accused transferred so far. Those cases were each completed within approximately eight years following the transfer of the accused to Rwanda. The Office continues to seek the arrest of additional fugitives indicted by the Tribunal whose cases have also been referred to Rwanda and fully expects that their trials and appeals will be expeditiously completed, in accordance with international fair trial standards.

B. War crimes committed in the former Yugoslavia

1. Completion strategy of the International Tribunal for the Former Yugoslavia

59. As emphasized by the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia in its final completion strategy report (S/2017/1001, annex II), it was always foreseen in the completion strategy of the Tribunal that the end of the mandate of the Tribunal would not be the end of justice for war crimes committed in the former Yugoslavia, but the beginning of the next chapter. Following the closure of the Tribunal, further accountability for the crimes now depends fully on national authorities in the countries of the former Yugoslavia. The work of the Tribunal has created a solid foundation for national judiciaries to continue to implement the completion strategy and secure more justice for more victims.

60. More than 15 years after the adoption of the completion strategy, national judiciaries have achieved progress in accountability for war crimes, albeit unevenly among different countries. They continue to face a very large backlog of war crimes

cases to process, with several thousand cases remaining across the region. Most importantly, much more remains to be done to bring to justice senior- and mid-level suspects who worked with or were subordinate to senior-level war criminals prosecuted and convicted by the International Tribunal for the Former Yugoslavia.

2. Denial and glorification

61. The Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and the Office of the Prosecutor of the Mechanism have regularly reported that the denial of crimes and the non-acceptance of the facts established in the judgments of the Tribunal are widespread throughout the region of the former Yugoslavia. Convicted war criminals are often glorified as heroes. Students in different countries, including within Bosnia and Herzegovina itself, are taught widely different and irreconcilable versions of the recent past. The Office of the Prosecutor of the Mechanism has expressed its grave concern in that regard and called for urgent attention to those issues. Acceptance of the truth of the recent past is the foundation for reconciliation among and healing of communities in the former Yugoslavia.

62. Unfortunately, there were many negative developments during the reporting period. In Serbia, the denial by convicted war criminals of established crimes continues unabated, including on State-owned media. Similarly, in Bosnia and Herzegovina, the Minister for Foreign Affairs voiced on social media her support for a Bosnian Muslim wartime commander after he was convicted of war crimes by the Court of Bosnia and Herzegovina. In Montenegro, the Minister of Justice and Human and Minority Rights denied the Srebrenica genocide during a parliamentary session. In Kosovo,[20] the Minister for Foreign Affairs was criticized for expressing in the past her willingness to cooperate with judicial processes to achieve justice for alleged crimes committed by Kosovar Albanian suspects.

63. In Croatia, past steps forward that had been positively received have been more recently significantly undermined. Marking the twenty-fifth anniversary of Operation Storm, in August 2020, the Prime Minister of Croatia expressed sympathy for Croatian Serb victims. Shortly thereafter, the President of Croatia and the War Veterans Minister participated in a ceremony to commemorate Croatian Serb victims killed in the Grubori massacre. However, in April 2021, responding to criticism for officially receiving Tihomir Blaškić, a war criminal convicted by the International Tribunal for the Former Yugoslavia, the President of Croatia relativized the crimes and attacked the conviction of Blaškić as a political verdict. He further denied the judgment against Milivoj Petković, a senior Bosnian Croat military commander convicted of crimes against humanity, and stated that he would also officially receive Petković following his release from his 18-year prison sentence.

64. The Office of the Prosecutor calls upon all officials and public figures in the region to act responsibly and put the victims and civilian suffering at the forefront in all activities marking anniversaries of crimes and events that occurred during the conflicts in the former Yugoslavia. They should publicly condemn the denial of crimes and the glorification of war criminals, rather than supporting them with public rhetoric, divisive actions and funds. A break with the rhetoric of the past is long overdue, and leadership in favour of reconciliation and peacebuilding is urgently needed.

[20] References to Kosovo shall be understood to be in the context of Security Council resolution 1244 (1999).

3. Regional judicial cooperation

65. Judicial cooperation among the countries of the former Yugoslavia is essential to ensure that those responsible for war crimes are held accountable. Many suspects are not present in the territory where they are alleged to have committed the crimes. Yet Governments in the region refuse to extradite their citizens on war crimes charges, despite regularly extraditing persons accused of committing other serious crimes, such as organized crime, corruption and economic crimes. As reported in the thirteenth progress report of the Mechanism (S/2018/1033, annex II), regional judicial cooperation in war crimes matters among the countries of the former Yugoslavia is at its lowest level in years and faces immense challenges. Decisive action is needed to reverse the current negative trends and ensure that war criminals do not find safe haven in neighbouring countries. Solutions are available and well known; the commitment and willingness to use them are now required.

66. Events that occurred during the reporting period exemplified the severity of the ongoing challenges. The case against Mirko Vručinić is a category II case transferred in 2009 from the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia to the Prosecutor's Office of Bosnia and Herzegovina and investigated and prosecuted in Bosnia and Herzegovina. Trial proceedings have been ongoing for five years, and closing arguments in the trial were scheduled for 31 August 2020. Yet Vručinić failed to appear, and it was subsequently determined that he had recently obtained Serbian citizenship and absconded to Serbia, from where he cannot now be extradited back to Bosnia and Herzegovina. Instead of committing to ensuring that Vručinić would not be allowed to evade accountability for his alleged crimes, the Ministry of the Interior of Serbia issued a statement delegitimizing the accountability process in Bosnia and Herzegovina in general, and specifically in the *Vručinić* proceedings. This can only call into question the commitment of the Ministry of the Interior of Serbia to war crimes justice, the rule of law and regional judicial cooperation. It can only be expected that the Serbian authorities will examine the circumstances in which an indicted war criminal was granted Serbian citizenship while on trial and demonstrate that Vručinić will not be able to enjoy safe haven from prosecution in Serbia.

67. Further reflecting the continued difficulties, many issues previously identified by the Office of the Prosecutor in relation to regional judicial cooperation in war crimes matters remain unresolved. There has been no progress in the matter of Novak Djukić, which was covered extensively in the fifteenth progress report of the Prosecutor (S/2019/888, annex II). Judicial cooperation between Kosovo and Serbia in war crimes matters has not improved. Long-standing negotiations between Croatia and Serbia to establish an agreement on a framework for war crimes cases, previously reported on in the fourteenth progress report of the Prosecutor (S/2019/417, annex II), remain at a standstill. The Office urges prosecution offices, judiciaries and ministries of justice throughout the former Yugoslavia to resolve these and other matters urgently and to get regional judicial cooperation in war crimes matters on the right track.

68. During the reporting period, the Office of the Prosecutor continued its own efforts to improve regional judicial cooperation in war crimes matters by working collaboratively with prosecution services in the region to move forward concrete cases. The Office has reported on the transfer of some confirmed indictments against senior- and mid-level accused from Bosnia and Herzegovina to Croatia and Serbia, respectively, which it facilitated by securing agreement between the chief war crimes prosecutors. Three indictments confirmed by the Court of Bosnia and Herzegovina have been transferred to Serbia, and three have been transferred to Croatia. In Serbia, indictments were issued and confirmed in all three cases. During the reporting period,

trial proceedings commenced in relation to one transferred file, and trial proceedings are expected to begin shortly in another. Following the death of the third accused, a decision terminating that proceeding is now expected. In Croatia, investigations continued in the two previously transferred files, while an investigation was opened in the third file during the reporting period. Those developments demonstrate that regional judicial cooperation is possible with respect to cases against senior- and mid-level accused. The Office hopes to be able to report further progress in the upcoming period on those four cases, as well as additional cases.

4. Registration of judgments

69. In its previous reports, the Office of the Prosecutor touched upon the need for the countries in the former Yugoslavia to register criminal convictions entered by the International Tribunal for the Former Yugoslavia and the Mechanism into domestic criminal records. To date, in the countries of the former Yugoslavia, while the domestic records of ordinary criminals reflect their crimes, the domestic records of many international war criminals do not. In that sense, from the perspective of domestic legal orders, it is almost as if the crimes had never happened and the perpetrators had never been convicted. This matter is vitally important for the rule of law, reconciliation and stability in the former Yugoslavia, as well as a fundamental issue of cooperation with the Mechanism.

70. The Office of the Prosecutor can report that progress is being made, although more remains to be done. During the reporting period, the Ministry of Justice of Serbia reported that there were no legal impediments to registering convictions entered by the International Tribunal for the Former Yugoslavia and the Mechanism in its domestic criminal records. As a concrete step forward, shortly before the end of the reporting period, the Office was informed that the judgment of the Tribunal against a former senior Serbian official had been entered in the convict's domestic criminal record. As previously reported, Croatia has registered many Tribunal judgments in its domestic criminal records, including the convictions entered in the *Prlić et al.* case.

71. However, there has not yet been similar progress in Bosnia and Herzegovina, where no judgments from the International Tribunal for the Former Yugoslavia or the Mechanism had been recorded in domestic criminal records as of the end of the reporting period. The Ministry of Justice of Bosnia and Herzegovina reported that it was still actively pursuing the matter through an established working group.

72. The Office of the Prosecutor strongly encourages all countries of the former Yugoslavia to swiftly remove any national obstacles and ensure that the convictions entered by the Tribunal or the Mechanism against their nationals are registered in domestic criminal records. The Office hopes to be able to report in the near future that this matter has been fully addressed.

5. Bosnia and Herzegovina

73. The Office of the Prosecutor of the Mechanism continued to hold positive discussions with the Chief Prosecutor of Bosnia and Herzegovina about cooperation in war crimes justice. The Chief Prosecutor underlined her desire for even closer cooperation and collaboration with the Office of the Prosecutor of the Mechanism, including through assistance on concrete cases, strategic support and activities to transfer lessons learned. The Office of the Prosecutor of the Mechanism is committed to continuing to support the work of the Prosecutor's Office of Bosnia and Herzegovina, in particular in the mutual goal of successfully implementing the national war crimes strategy.

74. The reporting period marked the first full period for the implementation of the revised national war crimes strategy, which was finally adopted in September 2020,

even though the Prosecutor's Office of Bosnia and Herzegovina had already begun to work in accordance with the revised strategy before its formal adoption. The revised strategy provides the framework for intensified efforts to achieve greater justice for war crimes in Bosnia and Herzegovina. For the Prosecutor's Office, the revised strategy further enshrines its focus on the most complex remaining cases, involving senior- and mid-level accused and grave crimes, such as sexual violence.

75. The Prosecutor's Office of Bosnia and Herzegovina prepared a workplan to guide its activities and the implementation of the revised strategy until the end of 2023. It is currently assessed that between 200 and 300 cases remain to be processed by the Prosecutor's Office, while the remaining less complex cases will be transferred promptly. The transfer of less complex cases will be an important indicator for the implementation of the revised strategy.

76. In 2020, the Prosecutor's Office of Bosnia and Herzegovina filed 16 confirmed indictments against 45 accused persons. In addition, decisions were issued to close investigations against 64 suspects in 30 cases, on the basis of insufficient evidence of guilt or the death of the suspects. Lastly, in 2020, 67 cases involving 222 identified suspects were transferred to lower-level prosecutors, while 202 cases involving unidentified suspects were transferred. Accordingly, in 2020, the Prosecutor's Office processed a total of 305 cases involving 331 known persons, in furtherance of the revised strategy.

77. As of the beginning of 2021, there remained at the Prosecutor's Office of Bosnia and Herzegovina 410 cases against 3,780 identified suspects, while there were 377 cases involving unidentified suspects. The Prosecutor's Office reported that it expected an increased rate of processing of outstanding war crimes cases in 2021. The Office of the Prosecutor of the Mechanism will closely monitor and report on the processing of cases by the Prosecutor's Office of Bosnia and Herzegovina, as well as provide requested support to assist the latter with meeting its important responsibilities.

78. The Office of the Prosecutor of the Mechanism is already providing direct case assistance to the Prosecutor's Office of Bosnia and Herzegovina, as well as responding to a large number of requests for assistance. The Office of the Prosecutor of the Mechanism intends to further develop that collaboration and cooperation in two key areas.

79. First, of the cases against identified suspects, 310 suspects in 124 different cases are known to be currently living outside of Bosnia and Herzegovina, and accordingly cannot be prosecuted in Bosnia and Herzegovina. The overwhelming majority of those unavailable suspects are residing in neighbouring countries from which they cannot be extradited. As noted above, to address that challenge, the Office of the Prosecutor of the Mechanism has already assisted the Prosecutor's Office of Bosnia and Herzegovina with the transfer of key cases files involving senior- and mid-level accused to other countries in the region, and will work to address the large number of cases that now need to be transferred.

80. Second, the expert review report by Judge Joanna Korner provides a comprehensive and thorough analysis of challenges faced by the Prosecutor's Office of Bosnia and Herzegovina and identifies key areas in which its work can be strengthened. A number of those challenges were highlighted in previous reports, while additional issues have now been identified. Of particular importance are issues of strategic management, the organization of prosecutors into regional teams and practices to align the work of prosecutors with the national war crimes strategy. The Chief Prosecutor of Bosnia and Herzegovina has expressed her belief that her Office could best achieve progress on those issues by using as a model the regulations and practices implemented by the Office of the Prosecutor of the International Tribunal

for the Former Yugoslavia and the Office of the Prosecutor of the Mechanism. The latter Office has agreed to partner with and support the Prosecutor's Office of Bosnia and Herzegovina in that area, including in relation to implementing the recommendations in the report by Judge Korner.

81. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, significant results have been achieved so far in accountability for war crimes in Bosnia and Herzegovina, but it is clear that much more remains to be done. There is a strong foundation for continued justice in Bosnia and Herzegovina. The Office of the Prosecutor of the Mechanism and the Prosecutor's Office of Bosnia and Herzegovina continue to strengthen their cooperation. However, there remains an enormous backlog of cases, and efforts still need to be intensified. The Office of the Prosecutor of the Mechanism encourages further progress to prevent any regression and will continue to work with the Prosecutor's Office of Bosnia and Herzegovina and other prosecution offices in Bosnia and Herzegovina. The Office of the Prosecutor of the Mechanism also encourages the Prosecutor's Office of Bosnia and Herzegovina to continue to strengthen its engagement with the victims' community, including in relation to the so-called "rules of the road" files.

6. Croatia

82. The Office of the Prosecutor of the Mechanism continued to engage with the Ministry of Justice and the State Attorney's Office of Croatia regarding continued war crimes justice in Croatia and the region. This direct engagement has produced concrete results, and the Office of the Prosecutor will continue to work with and assist the Croatian authorities in ensuring greater accountability moving forward, in respect of both war crimes committed in Croatia and war crimes committed by Croatian nationals in neighbouring countries.

83. During the reporting period, Croatia took additional steps towards resuming effective regional judicial cooperation with Bosnia and Herzegovina, as the State Attorney's Office of Croatia opened its third investigation into a category II case received from Bosnia and Herzegovina. A ruling from the district court on an appeal of the decision to open the investigation is being awaited before investigative steps are initiated. The investigations relating to the two category II cases that were opened during the previous reporting period are proceeding. All three cases concern serious crimes committed by Bosnian Croat forces against Bosnian Muslim and Bosnian Serb civilians and are supported by extensive compelling evidence. The suspects are living openly in Croatia. The steps taken are encouraging, but there still remains a large backlog of pending cases requiring judicial cooperation. The Croatian authorities can build on the progress made in 2020 by facilitating the transfer of another important pending category II case and working with counterparts in Bosnia and Herzegovina to resolve the more than 50 other cases that have been blocked for the past five years. As has been previously reported, while the Government of Croatia has not yet withdrawn its 2015 conclusion that represented a political interference in the justice process, the Office of the Prosecutor of the Mechanism trusts that that conclusion will not have further effect or be relied upon to refuse requests for regional judicial cooperation.

84. Separately, the *Glavaš* case, a category II case previously referred by the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia to the State Attorney's Office of Croatia, remains at retrial. With no hearings held since November 2019, no progress can be reported. The proceedings have now been going on for 14 years. Formerly Major General in the Croatian Army and Member of the Croatian Parliament, Glavaš is accused of being responsible for the torture and execution of Croatian Serb civilians, including one victim who was forced to drink car battery acid and then shot. His initial conviction in 2009, upheld on appeal by the Supreme Court

of Croatia in 2010, was quashed on formalistic grounds by the Constitutional Court in 2015, which ruled that he should have been charged with war crimes committed in an international armed conflict rather than war crimes committed in an internal armed conflict. The absence of progress in this important case should be a matter of significant concern and sends the wrong message.

85. More generally, war crimes trials in Croatia face significant challenges. Hearings in many war crimes proceedings were not conducted during the reporting period. The large majority of cases, which concern Serb perpetrators accused of committing crimes against Croatian victims, continue to be conducted in absentia because the Serbian authorities will not extradite the accused to Croatia and the Croatian authorities will not transfer the cases to Serbia. The Office of the Prosecutor of the Mechanism will continue to engage to find solutions to the stalemate.

86. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, it is clear that more justice for war crimes is urgently needed in Croatia. While fewer cases are being prosecuted each year, significant accountability gaps remain, in particular in relation to Croatian nationals who committed crimes in neighbouring countries and the responsibility of Croatian commanders for crimes committed by their subordinates. Victims have high expectations for justice that the Croatian authorities will need to meet. The Office of the Prosecutor of the Mechanism has continued to offer its support for the State Attorney's Office of Croatia in terms of training, capacity-building and assistance on concrete cases. The State Attorney's Office faces a number of key challenges, including insufficient resources and staff, that will need to be overcome to achieve improved results. The State Attorney's Office may also benefit from exchanging experiences and knowledge with international prosecutors. The Office of the Prosecutor stands ready to provide assistance to the State Attorney's Office as requested.

7. Montenegro

87. At the request of the Montenegrin authorities, the Office of the Prosecutor of the Mechanism has, over the past few years, developed its assistance to Montenegro in relation to justice for war crimes committed in the conflicts in the former Yugoslavia. Also at the request of the Montenegrin authorities, the Office agreed to significantly strengthen cooperation in war crimes justice, including through the transfer of evidence, assistance on concrete cases, training and capacity-building. Subsequently, the Montenegrin authorities and the Office have had further positive engagement and will continue to work closely together to improve the processing of war crimes cases in Montenegro. It is well understood that, to date, sufficient justice for war crimes has not been achieved in Montenegro.

88. As previously reported, at the request of the Montenegrin authorities, in November 2019, the Office of the Prosecutor prepared and handed over to the Special State Prosecutor's Office an investigative dossier concerning more than 15 suspects. Many of those persons are suspected of horrific crimes of sexual violence, including sexual slavery, rape, torture, enforced prostitution and human trafficking for sexual exploitation, while others are suspected of the torture and execution of civilians.

89. During the reporting period, the Special State Prosecutor's Office commenced work on the dossier. A preliminary investigation was opened, and key information for further processing of the case files was obtained. The Special State Prosecutor's Office further initiated cooperation with the Prosecutor's Office of Bosnia and Herzegovina, which is in possession of relevant evidence and has already prosecuted related cases. The Office of the Prosecutor of the Mechanism will continue to provide

assistance to the Special State Prosecutor's Office so that the investigations may be swiftly completed and indictments prepared.

90. The handover of that investigative dossier is an important opportunity for the Montenegrin authorities to demonstrate their stated commitment to achieving more justice for war crimes in Montenegro. To take advantage of that opportunity, the Office of the Prosecutor of the Mechanism will provide legal and evidentiary support to the Special State Prosecutor's Office. Additional support is however needed. The Special State Prosecutor's Office urgently needs additional capacity to process the transferred files, including an increase in human resources, as only two prosecutors are currently assigned to war crimes cases. Important reforms in domestic law to support war crimes justice will also be needed. The Office of the Prosecutor trusts that the Government of Montenegro will demonstrate its commitment to effective war crimes justice by ensuring progress in these and other important areas. Diplomatic partners, in particular the European Union, can also play a decisive role in enabling the further steps needed to support increased war crimes justice in Montenegro.

91. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, war crimes justice in Montenegro is still just beginning. There has been almost no accountability for Montenegrin citizens who committed crimes during the conflicts. Nonetheless, the Montenegrin authorities have accepted that far more needs to be done and have requested the assistance of the Office of the Prosecutor of the Mechanism to ensure that Montenegro achieves much more justice and meets its commitments. The Office is committed to providing the support needed and hopes to be able to report in the future that war crimes justice in Montenegro has begun to produce concrete results.

8. Serbia

92. The Office of the Prosecutor of the Mechanism continued its engagement and cooperation with the Serbian authorities, including the Chief War Crimes Prosecutor of Serbia. The Serbian authorities reiterated their commitment to strengthening cooperation with the Office as a means to support the implementation of the national war crimes strategy and prosecutorial strategy. The Serbian authorities acknowledge that regional judicial cooperation in war crimes matters has not been satisfactory and that efforts need to be taken to improve cooperation as an important element in regional relations. The Serbian authorities and the Office will continue to work closely together to expedite the processing of war crimes cases in Serbia.

93. During the reporting period, the Office of the War Crimes Prosecutor of Serbia filed six indictments. Five of those concern cases transferred from Bosnia and Herzegovina, two of which are category II cases involving mid-level accused, and three involve low-level direct perpetrators. The sixth indictment charges a low-level Kosovar Albanian perpetrator with crimes committed against Serb victims. As of the end of the reporting period, the Office of the War Crimes Prosecutor also had 10 active investigations concerning known suspects and 14 investigations concerning unknown suspects. Judgments were issued in four cases during the reporting period, all of which resulted in convictions.

94. It was initially foreseen that the national war crimes strategy of Serbia, adopted in 2016, would continue until the end of 2020. On a basis of a review of the results, it is difficult to conclude that the goals of the strategy have been achieved in a meaningful measure. Five years on, only 33 new indictments have been filed, predominately in cases transferred from Bosnia and Herzegovina. This represents a slower pace than in the period preceding the adoption of the strategy. Moreover, the overwhelming majority of cases since 2016 have been less complex, contrary to the aim of the strategy, which is to ensure the prioritization of complex cases against

senior- and mid-level suspects. In the areas of trial efficiency, witness protection and elsewhere, it is not clear that there have been meaningful improvements in practice. While Serbia has improved its cooperation with Bosnia and Herzegovina in many respects, cooperation with Croatia and Kosovo remain largely blocked, while important matters such as the *Djukić* case have still not been resolved after many years. Lastly, the glorification of convicted war criminals and denial of crimes in Serbia have been regularly reported. Serious consideration should be given to the many factors that led to the achievement of fewer results than expected. A revised strategy has now been prepared and opened for comments.

95. Nevertheless, the direct engagement of the Office of the Prosecutor of the Mechanism with the Office of the War Crimes Prosecutor of Serbia is having a meaningful impact, and developments during the reporting period indicate possibilities of getting war crimes justice in Serbia on the right track. As previously noted, the Office of the Prosecutor of the Mechanism has undertaken significant efforts to ensure the transfer of complex cases to Serbia. During the reporting period, the Office of the War Crimes Prosecutor obtained confirmed indictments in the three category II cases transferred through mutual legal assistance from Bosnia and Herzegovina. The trial in one case is scheduled to commence in May 2021, and a hearing for the initial appearance of the accused in another is expected soon. The accused in the third case passed away before trial. In addition, the Office of the Prosecutor of the Mechanism has continued to engage actively with the Office of the War Crimes Prosecutor in the analysis and processing of two case files involving senior-level accused that had been previously handed over. The Office of the War Crimes Prosecutor continues its investigation in relation to one of the cases and opened an investigation in the other during the reporting period. In respect of all those cases, the Office of the Prosecutor of the Mechanism and the Office of the War Crimes Prosecutor continue to have detailed technical discussions, while the former continues to provide a range of other assistance, including case strategies, assistance in understanding evidence available, the provision of additional evidence, and support with respect to witness protection issues. The tangible progress made demonstrates both the value of intensified cooperation between the Office of the Prosecutor of the Mechanism and the Office of the War Crimes Prosecutor and the fact that the prosecutions of complex cases involving senior- and mid-level officials for serious crimes are possible in Serbia. The further progress of the cases will be an important indicator for the future.

96. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, five years after the adoption of the national war crimes strategy, few results have been achieved and impunity for many well-established crimes continues in Serbia. Victims, the public and other stakeholders rightly expect to see clear signs that war crimes justice in Serbia is heading in the right direction, and decisive steps are urgently needed to show that investments are bearing fruit and that there is the will to realize the commitments made in the strategy. Important case files involving senior- and mid-level officials have been transferred to Serbia, and the Office of the Prosecutor of the Mechanism will provide all requested assistance, including training, direct case assistance and other forms of support, that is needed to process those files appropriately. The next reporting periods will be critical to understanding the trajectory of war crimes justice in Serbia, including in particular whether the Office of the War Crimes Prosecutor is investigating, processing, indicting and prosecuting more cases, in particular against senior- and mid-level officials, at a higher rate and to a higher quality.

C. Access to information and evidence

97. The Office of the Prosecutor of the Mechanism possesses extensive evidence and invaluable expertise that can greatly benefit national justice efforts. The collection of evidence relating to the former Yugoslavia comprises more than 9 million pages of documents, tens of thousands of hours of audio and video records and thousands of artefacts, most of which were not introduced into evidence in any proceeding of the International Tribunal for the Former Yugoslavia and are therefore only available from the Office. The collection of evidence relating to Rwanda comprises more than 1 million pages of documents. This evidence is highly valuable to national authorities prosecuting serious international crimes committed in Rwanda and the countries of the former Yugoslavia, as well as to the search for missing persons. In addition, the staff members of the Office have unique insight into the crimes and the cases that can assist national prosecutors in preparing and proving their indictments.

98. During the reporting period, the Office of the Prosecutor continued to receive a high volume of requests for assistance from national judiciaries and international organizations.

99. With regard to Rwanda, the Office of the Prosecutor received seven requests for assistance from four Member States, all of which have been processed. Three requests were submitted by the United States authorities, two by the Belgian authorities, one by the Norwegian authorities and one by the Dutch authorities. In total, the Office handed over more than 8,500 documents comprising more than 114,000 pages of evidence.

100. With regard to the former Yugoslavia, the Office of the Prosecutor received 133 requests for assistance from five Member States and two international organizations. Fifty-six requests for assistance were submitted by the authorities in Bosnia and Herzegovina, while two came from Croatia, one from Serbia, three from the United States and one from Canada. In total, the Office handed over more than 9,300 documents comprising nearly 133,000 pages of evidence and 77 audiovisual records. In addition, the Office filed nine submissions related to witness protection measures or access to evidence. The Office continued to receive a large volume of requests for assistance during the reporting period and expects to receive an even larger volume of requests in future.

101. The significant growth in recent years in requests for assistance received by the Office – for example, at the branch in The Hague, the number of requests received increased from 111 in 2013 to 395 in 2020, a nearly fourfold increase – has not been met by proportional increases in related resources. The Office of the Prosecutor has sought to absorb the additional requirements by redeploying staff in a flexible manner. Unfortunately, as the Office already has lean staffing numbers, it has not been possible to fully address the increased workload. The Office of Internal Oversight Services (OIOS) recognized that fact when it noted that, given the dynamic level of ad hoc judicial activity, the Office of the Prosecutor had a shortfall of capacity to address ongoing activities (S/2020/236, para. 41). As a result, a backlog of approximately 230 requests more than six months old has developed, while the total number of outstanding requests at the end of the reporting period was 310.

102. The joint European Union-Mechanism Project supporting domestic accountability for war crimes continued during the reporting period. Under the project, national authorities can request direct assistance from the Office of the Prosecutor in concrete investigations and prosecutions, including with regard to regional judicial cooperation. In addition, the Office is preparing additional investigative dossiers concerning unindicted suspects for transfer to relevant

prosecution services. During the reporting period, legal, evidentiary and strategic assistance was provided under the Project with respect to five requests, which entailed handing over 1,361 documents comprising 23,362 pages of evidence and seven audiovisual records. Memorandums on legal, evidentiary and strategic issues were also handed over under the Project.

D. Capacity-building

103. The Office of the Prosecutor continued its efforts, within its existing limited resources, to build capacity in national judiciaries prosecuting war crimes. The Office focused its capacity-building efforts on the Great Lakes region, East Africa and the former Yugoslavia. Strengthening national capacities supports the principle of complementarity and national ownership of post-conflict accountability. Owing to the COVID-19 pandemic, the Office delayed some training activities that were planned during the reporting period but was still able to provide virtual training programmes to national counterparts to facilitate their access to its collection of evidence.

104. Within the limits of its operational capacity and existing resources, the Office of the Prosecutor will continue to engage with training providers and donors to ensure the availability of appropriate practical training on investigative and prosecutorial techniques in war crimes justice. The Office expresses its deep gratitude to partners for providing financial, logistical and other support to enable its capacity-building and training efforts.

E. Missing persons

105. The search for persons who are still missing as a result of the conflicts in the former Yugoslavia continues to be consistently identified as one of the most important outstanding issues. Significant results have been achieved, with approximately 30,000 missing persons found and identified. Unfortunately, the families of some 10,000 missing persons still do not know the fates of their loved ones. The search for and exhumation of remains from mass graves and the subsequent identification of the remains need to be accelerated. Further progress on those issues is a humanitarian imperative and fundamental to reconciliation in the countries of the former Yugoslavia. Victims from all sides of the conflicts must be located, identified and returned to their families.

106. During the reporting period, the Office of the Prosecutor and the International Committee of the Red Cross (ICRC) continued their cooperation pursuant to the memorandum of understanding signed in October 2018. This important agreement enables ICRC to gain access to the Office’s collection of evidence to obtain information that may assist in clarifying the fate and whereabouts of persons who are still missing. The Office and ICRC are also working jointly, in accordance with their respective mandates, to analyse information, identify new leads and provide files to domestic missing persons authorities for action. From 16 November 2020 to 15 May 2021, the Office responded to 44 requests for assistance from ICRC and handed over 782 documents comprising more than 30,500 pages, as well as 10 audiovisual records. The Office also provided other support for the search for missing persons, including by providing training in analytical skills in December 2020 and obtaining cooperation from various institutions and authorities for the use of new technologies.

V. Other residual functions

107. The Office of the Prosecutor continued to carry out its responsibilities in respect of other residual functions.

108. During the reporting period, no convicted persons filed a request for review of the final judgment. The Office of the Prosecutor will continue to monitor the volume of litigation and report as appropriate.

VI. Management

A. Overview

109. The Office of the Prosecutor is committed to managing its staff and resources in line with the instructions of the Security Council that the Mechanism be a small, temporary and efficient structure. The Office continues to be guided by the views and requests of the Council as set forth in, inter alia, paragraphs 18 to 20 of its resolution 2256 (2015) and paragraphs 7 and 8 of its resolution 2422 (2018). An important part of those efforts is the Prosecutor's "one office" policy to integrate the staff and resources of the Office across both branches. Under the policy, staff and resources are available to be flexibly deployed to work on matters arising at either branch as necessary.

110. During the reporting period, the Office of the Prosecutor continued to redeploy resources as possible applying the "one office" policy to support the *Kabuga* case. The Office also continued to maximize the use of its resources and "do more with less" through extensive multitasking and cross-training. The Office also continued to manage downsizing and staff attrition to ensure that it can meet all of its responsibilities inside and outside the courtroom, with the expected downsizing of the *Stanišić and Simatović* trial team following the delivery of the judgment.

111. However, the Office of the Prosecutor is regularly confronted with workloads that exceed its resources, placing a heavy burden on staff during an already challenging global pandemic. The imposed reductions in the budget of the Mechanism for 2021 have had a particularly detrimental effect, as the Office has delayed recruitment for the *Kabuga* trial team in order to share the burden of the budget cuts. As the Office cannot defer mandated activities and must continue to meet its legal responsibilities in accordance with judicially ordered timelines, staff members of the Office have been required to take on additional responsibilities and work extensive hours. The Office is grateful for the continued dedication and commitment of its staff. Nonetheless, the Office underscores that full approval of its limited budget requests is necessary to ensure the expeditious completion of trials and appeals and achievement of the Office's other mandated functions.

B. COVID-19 pandemic response

112. In response to the COVID-19 pandemic, the Office of the Prosecutor, together with the other organs of the Mechanism, rapidly shifted in mid-March 2020 to remote working arrangements. During that process and subsequently, the Office has remained in close, daily communication with its staff and has provided regular updates on developments in the Office and the Mechanism. The Office has effectively maintained full business continuity across all of its functions, as demonstrated by the arrest of Félicien Kabuga on 16 May 2020 and the resumption of courtroom proceedings in August 2020. The Office is also closely monitoring staff morale and welfare,

including by taking the initiative to organize remote social events and advocating Mechanism-wide staff welfare programmes. The Office is consistently identifying lessons learned and is committed to continuous improvement in its response to the pandemic and the implementation of remote working arrangements.

113. The Office of the Prosecutor has also taken an active role in Mechanism-wide activities in response to the COVID-19 pandemic, including by participating in the COVID-19 Steering Committee established by the principals to develop policies and strategies to address the impact of the pandemic on the Mechanism. Through that and other forums, the Office strongly advocated and supported the implementation of a range of measures to enable the resumption of courtroom proceedings.

114. The Office of the Prosecutor is anticipating in the near future the full return of staff to work on the premises, subject to continued positive developments in the COVID-19 situation at all its duty stations. In that respect, the Office expresses its gratitude to the Rwandan authorities for enabling its staff to be vaccinated and looks forward to more of its staff in The Hague becoming eligible for vaccination under the national programme. The Office trusts that the Tanzanian authorities will likewise support vaccination of its staff in Arusha, including by providing permission for the import of vaccines under the United Nations programmes.

115. The Office of the Prosecutor will continue to cooperate with the other organs to ensure that the Mechanism responds appropriately to the COVID-19 pandemic and any future changes.

C. Audit reports

116. In its report on the evaluation of the methods and work of the Mechanism, OIOS recognized that the methods and work of the Office of the Prosecutor were consistent with the expectations set by the Security Council, including in resolution 2422 (2018). In accordance with the expectation of the Council that the Mechanism would be a small, temporary and efficient structure with a small number of staff commensurate with its reduced functions, OIOS concluded that the Office had lean staffing numbers to represent the ad hoc nature of the judicial activity (S/2020/236, para. 20) and that both trial and appeals teams were lean (ibid., para. 41). During the reporting period, the Office worked to implement the recommendation by OIOS to support and strengthen staff morale. As at the submission date of the present report, the Office had implemented or commenced implementation of many measures to that effect. The Office will keep OIOS informed and looks forward to the closure of the recommendation in the near future.

117. In its report, OIOS issued one new cross-organ recommendation, namely, that the Mechanism should bolster coordination and information-sharing to update Mechanism-wide scenario planning continuously. The Office of the Prosecutor welcomes that recommendation, which is in line with the Office's own ongoing strategic review process, and it looks forward to further discussions with the Chambers and the Registry. In that regard, it should be noted that the COVID-19 pandemic has already prompted a significant increase in Mechanism-wide coordination, information-sharing and scenario planning. The Office fully expects that the improvements in cross-organ collaboration required to respond to the pandemic will greatly facilitate the implementation of the recommendation.

118. The Office of the Prosecutor expresses its appreciation to OIOS for its continued assistance. The Office is pleased that its commitment to the Security Council's vision of the Mechanism as a small, temporary and efficient structure was recognized and that OIOS favourably assessed the Office's work and innovative methods, including

flexibly deploying staff to address the dynamic level of ad hoc judicial activity while maintaining lean staffing.

VII. Conclusion

119. The Office of the Prosecutor continued to undertake all efforts to contribute to the expeditious completion of the remaining trials and appeals. Courtroom proceedings have now been completed in the *Stanišić and Simatović* trial and will be completed in the *Nzabonimpa et al.* trial shortly after the end of the reporting period. In the coming months, judgments are expected in *Stanišić and Simatović*, *Nzabonimpa et al.* and *Mladić*. This would leave only one trial (*Kabuga*) and two likely appeals (*Stanišić and Simatović* and *Nzabonimpa et al.*) remaining, subject to the arrest of another fugitive.

120. Having conducted an assessment of its fugitive tracking efforts, the Office of the Prosecutor concluded that it had demonstrated a track record of success, had viable leads on all remaining fugitives and could reasonably expect continued results. Having reflected on lessons learned, the Office will now further reform and strengthen its methods and operations, including by restructuring its tracking team. The highest priority target is Protais Mpiranya, former commander of the Presidential Guard of the Rwandan Armed Forces. Just as with Kabuga's arrest, the most critical factor to further success will be full and effective cooperation of Member States to confirm the fugitives' whereabouts and take necessary action. The Office is engaging intensively with relevant States to obtain that cooperation and requests the full support of the Security Council in those efforts.

121. Significant challenges remain with respect to national prosecutions of war crimes in Rwanda and the former Yugoslavia. The Office of the Prosecutor continued its engagement with national authorities and remains committed to providing its full support, including by responding to requests for assistance, transferring knowledge gained and lessons learned and providing assistance on concrete cases.

122. With the continued roll-out of vaccinations and improved health responses to the COVID-19 pandemic, the Office of the Prosecutor is aiming for the full return of its staff to work on the premises. The Office also hopes to resume in the near future critical missions in support of fugitive tracking that have been delayed by the pandemic. The Office's ability to maintain full business continuity in the face of a global pandemic is in large measure attributable to the commitment of its staff. The Office will continue to cooperate with the other organs to ensure that the Mechanism is prepared to continue to carry out its mandate in the light of further developments.

123. In all its endeavours, the Office of the Prosecutor relies upon and gratefully acknowledges the support of the international community, and especially that of the Security Council.