



The Mechanism for International Criminal Tribunals (“MICT” or “Mechanism”) was established on 22 December 2010 by the United Nations Security Council to continue the jurisdiction, rights, obligations and essential functions of the International Criminal Tribunal for Rwanda (“ICTR”) and the International Criminal Tribunal for the former Yugoslavia (“ICTY”) after the completion of their respective mandates. The MICT has two branches, one in Arusha, Tanzania, and one in The Hague, Netherlands.

STATEMENT

PRESIDENT

(Exclusively for the use of the media. Not an official document)

Arusha, The Hague, 7 June 2017

**Address to the UN Security Council
Judge Theodor Meron
President, Mechanism for International Criminal Tribunals
7 June 2017**

Mr. President, Excellencies, Ladies and Gentlemen:

It is my great pleasure to brief you once again today on the progress of the Mechanism in the implementation of its mandate, and to do so under the Presidency of Bolivia. I wish Bolivia great success in its leadership of the Council during this month. I would also like to express my congratulations to the incoming members of the Security Council who I very much look forward to working with over the coming period.

I also wish to take this opportunity to express my sincere gratitude to the Council’s Informal Working Group on International Tribunals for its considerable support and attention paid to the Mechanism. I am particularly appreciative of Uruguay’s skilled and able leadership of that Group.

Finally, I would be remiss if I did not acknowledge the sustained and sustaining support provided to the Mechanism by the Office of Legal Affairs under the outstanding leadership of Under Secretary-General for Legal Affairs and United Nations Legal Counsel, Mr. Miguel de Serpa Soares, and Assistant Secretary-General for Legal Affairs, Mr. Stephen Mathias. I remain deeply grateful to them and to their colleagues for all of the assistance they provide to the Mechanism.

* * *

During my presentation today I will not repeat those matters fully addressed in my written report submitted on 17 May of this year, but will simply draw your attention to some of the most salient issues and several important developments since the filing of that written report.

Before I turn to my update on the work of the Mechanism, I would first note that since I last appeared before the Council, Mr. Olufemi Elias has joined the Mechanism as Registrar of the Mechanism, taking office on 1 January of this year upon his appointment by the Secretary-General. Mr. Elias has been working closely with colleagues at the ICTY to ensure that the Mechanism is ready to take responsibility for all remaining functions of the ICTY. In that respect, I fully anticipate that the Mechanism will be entirely self-sufficient, including in terms of its administrative capabilities, upon the closure of the ICTY at the end of this year.

Now, turning to the Mechanism's core judicial work: I am very pleased to inform the distinguished members of this Council that, on the whole, the Mechanism continues to make excellent progress in the handling of its judicial work and is, indeed, seeing a steady increase in judicial work over time. In 2012, the Mechanism rendered 25 decisions and orders; in 2013, it rendered 79; in 2014, it rendered 192; in 2015, it rendered 209; and in 2016, 405 decisions and orders were issued. As of 1 June 2017, already 146 decisions and orders have been issued. I should note that in carrying out their judicial work, the Judges are directly supported by a small group of some 25 legal and administrative Chambers staff spread over the two branches and working as a unified team, fully in line with the Council's vision of the Mechanism as one institution.

A number of the rulings from this reporting period were issued in the major trial and appeal cases currently pending before the Mechanism. In this respect, I am pleased to report that the retrial in the case of *Stanišić & Simatović* is scheduled to commence next week, at the Hague Branch of the Mechanism. The beginning of this trial—the first trial for the Mechanism—represents an important milestone.

The briefing in the appeal cases of *Karadžić* and *Šešelj* has been completed in the course of the reporting period, and preparation of those cases for appeal hearings is progressing rapidly. All the Judges on those cases with the exception of myself continue to work remotely and will be called to the seat of the Mechanism when those cases are ready for hearing. Updated projections with regard to the judgement delivery in both cases are set forth in my report.

I should underscore that the judicial work of the Mechanism is not limited to the major cases just identified. Indeed, the Mechanism is regularly seised of requests relating to everything from allegations of contempt and challenges pertaining to the *non bis in idem* principle, to motions seeking review of judgement, applications for early release, and requests for access to confidential information. These matters are for the most part assigned to Single Judges working remotely and constitute a substantial portion of the Mechanism's judicial activity.

A significant number of these requests are made by national authorities and others engaged in proceedings in national jurisdictions who are seeking access to confidential materials or information held by the Mechanism. Indeed, of the 366 decisions and orders issued between mid-May of 2016 and mid-May of this year, 164—or approximately 45%—related to requests for the variation of protective measures and other motions seeking access to confidential evidence or information. This reflects the very welcome degree to which national authorities are actively seeking accountability for core international crimes.

A crucial component of these national efforts involves the proceedings that have been referred to national jurisdictions for trial and that are being monitored by the Mechanism in accordance with its Statute. In this area too, there has been important progress over the reporting period, with a trial judgment being delivered in Rwanda in the *Munyagishari* case and, according to information received following the submission of my written report to the Council, the completion of the judicial investigation in France in the *Bucyibaruta* case.

* * *

In sum, the Mechanism is making excellent progress with its judicial work in general, all the while continuing to learn from experience, and recalibrating internal practices as necessary to ensure optimal efficiency and economy. However, as members of this Council are aware, substantive proceedings in one case—the *Ngirabatware* case—remain at a standstill due to the on-going detention of Judge Aydin Sefa Akay by the Turkish authorities.

Mr. President, Excellencies:

As Members are aware, the Legal Counsel formally asserted diplomatic immunity for Judge Akay in October 2016. And as I reported to this Council shortly thereafter, the failure to resolve this matter in a manner that respects the privileges and immunities of Judge Akay under Article 29 of Statute of the Mechanism places in jeopardy the integrity of the remote model of judging envisaged by this Council under Article 8 of the Statute. More fundamentally, the failure to resolve this matter properly

undermines the principle of judicial independence, the core principle of any judicial institution that abides by the rule of law.

The situation has been exacerbated further over the course of this year by Turkey's failure to comply without undue delay with a judicial order issued by the Mechanism in January 2017 to cease all legal proceedings against Judge Akay and to release him. Instead of compliance with obligations that are binding under Chapter VII of the UN Charter, domestic trial proceedings against Judge Akay were commenced earlier this year and have been adjourned repeatedly since.

As of two weeks from now, Judge Akay will have been in ongoing detention for no less than nine months. By any measure, this is an extraordinary period for the resolution of a situation of detention of an international Judge, whatever the legal complexities may be. The *status quo* in this matter is untenable, and I call upon this Council to take such measures as may be necessary to achieve an appropriate resolution to this unprecedented situation, consistent with the Mechanism's Statute and with the obligations incumbent on all States under Chapter VII of the UN Charter.

* * *

I am pleased to report on important developments at the Mechanism in three other areas.

First, as the Members are aware, the Council has repeatedly expressed concern as to the ongoing situation of acquitted and released persons, and called upon States to facilitate progress in this area. In that regard, I am very pleased that, following intensive efforts of the former Registrar, Mr. John Hocking, two such individuals were relocated in December 2016 to a West African State. I am deeply grateful for the collaboration with and commitment from that State, in response to this call of the Council.

The number of such persons remaining in Arusha has accordingly declined to eleven individuals. Our new Registrar, Mr. Elias, is focused on achieving further progress in respect of this long-standing humanitarian challenge, both in building on existing relationships with relevant States and exploring new opportunities. I urge Members of the Council to continue to support the Mechanism in its efforts to achieve full resolution of this difficult situation.

Turning to the enforcement of sentences, I am pleased to note that, in May, a revised agreement on the enforcement of sentences was concluded with the Government of Benin, reflecting best practices in the field and cementing further the strong relationship that Benin and the United Nations have enjoyed over many years.

With the Government of Senegal, meanwhile, we are in the final stages of implementation of its decision in principle to accept eight prisoners into cells in Senegal refurbished together with the United Nations. This new capacity would allow for almost all of the remaining ten prisoners in the UN Detention Facility in Arusha to be considered for transfer to serve their sentences.

I am deeply grateful for the broad and generous commitment of both of these Governments to work with the Mechanism in this key area of enforcement of sentences, and for the sustained support of other Member States that have likewise been faithful partners in this regard.

Finally, I wish to note the commencement by the Office of Internal Oversight Services of preparatory work for its evaluation of the methods and work of the Mechanism, as mandated by this Council in its resolution 2256 (2015). My colleagues and I look forward to collaborating closely with OIOS in its review of the Mechanism's work practices, and to making the evaluation report as valuable a document for the Council and for the Mechanism itself as possible.

* * *

Mr President, Excellencies:

Today, we—and particularly the Members of this Council—face a number of challenges in the realm of international relations. We are, in a number of quarters, witnessing a rise in suspicions and doubts concerning global and regional institutions and undertakings. We are witnessing, in a way, a retreat from a shared vision of what the international community, acting together, can achieve.

In many respects, all of this may simply reflect the natural ebb and flow of international affairs. We cannot, however, allow a temporary tide to erode any of the vital progress that the United Nations—and, in particular, this Council—has made over the last quarter of a century in strengthening the rule of law and ensuring greater accountability under and in accordance with international law. Now, perhaps more than ever, is the time to redouble our efforts in this respect, to learn from and build upon the past, and to strive for ever greater success going forward.

Thank you.
