



UNITED NATIONS

International Residual Mechanism for Criminal Tribunals

The International Residual Mechanism for Criminal Tribunals ("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") which closed in 2015 and 2017, respectively.

STATEMENT

PROSECUTOR

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

New York, 13 December 2021

Address of Mr. Serge Brammertz Prosecutor, International Residual Mechanism for Criminal Tribunals to the United Nations Security Council 13 December 2021

Mister President, Excellencies,

Thank you for this opportunity to address you about the activities of the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals.

My written report provides details about our activities and results during the reporting period in relation to our strategic priorities. Today, I would like to highlight a few important issues.

Mister President, Excellencies,

We are continuing our efforts to complete our remaining trials and appeals, which remains our first strategic priority.

In the *Kabuga* case, my Office achieved key pre-trial milestones during the reporting period. In accordance with the Trial Chamber's deadlines, our trial team filed its Pre-Trial Brief as well as other important pre-trial filings. My Office further responded to significant additional litigation initiated by Kabuga's family members and associated third parties concerning seized assets.

Through these and other steps, we continue to meet all of our pre-trial obligations and take steps to promote expeditious trial proceedings. My Office is ready for and looks forward to the commencement of this trial at the Arusha Branch when ordered by the Trial Chamber.

In addition, my Office completed two more trials during the reporting period.

At The Hague branch, Jovica Stanišić and Franko Simatović were convicted at trial for aiding and abetting the crimes of murder, deportation, forcible transfer and persecution as crimes against humanity and murder as a war crime. My Office proved beyond reasonable doubt that they provided practical assistance to the crimes by deploying members of paramilitary forces.



At the Arusha branch, in the *Nzabonimpa et al.* case, four accused were convicted at trial for contempt of court. My Office proved that they engaged in a brazen effort to interfere with the administration of justice by improperly influencing witnesses to recant in a failed effort to overturn Ngirabatware's genocide conviction.

Appeal proceedings are now ongoing. My Office filed appeals in both cases, and is responding to three appeals by the convicted persons. We will continue to expeditiously litigate both appeals to the highest professional standard.

In establishing the Mechanism, the Security Council decided that it would be responsible for finalizing ongoing cases handed over by the ICTY and ICTR, as well as commencing new trials of ICTR fugitives who are arrested. My Office is satisfied that the last ICTY case is now at its final stage. With the nearing start of the *Kabuga* trial, we look forward to this opportunity to achieve more justice in the courtroom for the victims of the 1994 Genocide against the Tutsi in Rwanda.

Mister President, Excellencies,

In accordance with the Security Council's mandate, my Office further continues to actively search for the remaining six fugitives indicted by the ICTR, which is our second strategic priority.

Our most wanted fugitive, the last one to be tried by the Mechanism, is Protais Mpiranya, the former commander of the Presidential Guard.

In addition to Mpiranya, my Office is also actively working to locate and account for five other fugitives indicted for genocide, including Fulgence Kayishema, who was previously located in South Africa.

While their alleged crimes were committed more than twenty-five years ago, the need to bring Mpiranya and the others to justice is more urgent today than ever before.

My Office continues to achieve significant progress in our investigations into the whereabouts of the remaining fugitives. Under the new leadership of our tracking team, we are implementing analysis-driven investigations using advanced tools. We have identified relevant persons of interest, and are actively pursuing important leads.

The coming period will be of decisive importance. Our current strategies are approaching critical junctures. If we are able to obtain the needed intelligence and evidence, we expect further significant advancements in our work.

As I have repeatedly reported to you, the success of our efforts depends on the full and effective cooperation of Member States. Two key countries in this regard at present are Zimbabwe and South Africa.

With respect to Zimbabwe, I undertook an official mission to Harare in early November, where I met with Vice President Chiwenga and other senior officials. Zimbabwean authorities reaffirmed their unreserved commitment to provide full cooperation to my Office. In this context, we discussed positive results achieved recently in our joint efforts, as well as key outstanding issues.



As a result of these discussions, I submitted a set of concrete recommendations on how to further improve our cooperation. I further reiterated our pending requests for vital information from Zimbabwean authorities.

While I have not yet received a response, I trust that in the coming period, I will be able to report that Zimbabwe is providing full and effective cooperation.

Regarding South Africa, this Council is well-aware of the immense challenges my Office has faced for the last three years in obtaining cooperation. South Africa failed to arrest the fugitive Fulgence Kayishema, and has failed to provide critical information. I regret to report that the situation with South Africa is among the most severe instances of non-cooperation my Office has faced since the Mechanism's establishment.

Nonetheless, my Office has continued to propose constructive solutions to help South Africa finally get its cooperation on the right track. Three months ago we submitted an urgent request to establish a joint investigation team authorized to work directly with my Office on an operational level. I further visited Pretoria last month to discuss the situation.

Unfortunately, I am unable to provide a more positive update today. South Africa is still failing to adhere to its international obligations.

However, I have received commitments that senior Ministers would raise and support our request at the highest-levels of Government. What is needed now is the political will to finally give operational services the green light.

My Office – and the victims of the 1994 Genocide against the Tutsi in Rwanda – urgently need this Council's support. All of us share the same goal: to finally see the remaining fugitives accounted for, so justice can be achieved, and this critical residual function brought to a close.

Mister President, Excellencies,

Recognizing that national courts are continuing the work of the ICTR and ICTY, the Security Council mandated my Office to respond to requests for assistance from domestic investigators and prosecutors around the world. Accordingly, my Office's third strategic priority is to assist national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda.

As my Office has regularly reported, the workload associated with this residual function is much greater than anticipated. In 2013, we received approximately 100 requests for assistance. In each of the last two years, we received nearly 400, a four-fold increase.

We are receiving not only a high volume of requests for assistance, but also requests of greater complexity and significance.

During the reporting period, the Prosecutor General of Rwanda requested my Office to even further strengthen our support to his efforts to locate, investigate and prosecute Rwandan nationals suspected of genocide, particularly those living outside Rwanda. We have now commenced an extensive review of



our evidence collection and the results of prior investigations to identify suitable cases for which we can provide the requested expert assistance to the Prosecutor General and his Office.

Similarly, in the former Yugoslavia the Montenegro Special State Prosecutor's Office requested our support. In response, we prepared and handed over an investigative dossier concerning more than fifteen suspects. Many of these suspects are implicated in grave crimes of sexual violence, including sexual slavery, rape, enforced prostitution and human trafficking for sexual exploitation.

Likewise, the War Crimes Prosecutor's Office of Serbia continues to request my Office to provide a wide range of support. In response, we have assisted Serbian prosecutors with two important investigations of senior-level suspects. We have further provided evidence to our Serbian colleagues for two more mid-level cases transferred from Bosnia and Herzegovina. The tangible progress being made demonstrates the value of intensified cooperation between our offices.

These developments demonstrate first, that accountability efforts for crimes during the Rwandan Genocide and the conflicts in the former Yugoslavia continue, as the Security Council expected. Second, it is clear that evidence and other support from my Office are vital to national prosecutors, confirming the wisdom of mandating my Office to respond to their requests for assistance.

Mister President, Excellencies,

As a final remark, I am compelled to bring to your urgent attention once again the continued denial of crimes, and glorification of *génocidaires* and war criminals.

Murals of Ratko Mladić in Belgrade and the publications of extremist Rwandan diaspora groups have one sad thing in common. They demonstrate that today, more than twenty-five years later, there are still those who deny, relativize and minimize the judicially-established facts of genocide, crimes against humanity and war crimes.

This should be inconceivable. How can so many still see Mladić as a hero of the Serbian people, after his conviction to life imprisonment in a court of law based on immense evidence of his crimes?

How can others claim men like Théoneste Bagosora were only defending Rwanda, when his criminal responsibility for the genocide was proven beyond reasonable doubt?

Unfortunately, even today it seems that too often, truth and justice do not receive the support they need, in words and actions.

What message does it send when the Croatian Government takes a political decision to prevent its judiciary from investigating allegations of crimes against Bosnian Serbs?

How can Bosniak politicians insist on respect for judgments involving their victims, but call prosecutions of their commanders politically motivated?

And what can be the explanation when in Bosnia and Herzegovina, there is a lack of political support for legislation against denial of genocide, crimes against humanity and war crimes equally involving victims from every ethnic group?



There are some who may say that truth and justice are the source of social conflict.

The reality is that genocide denial and glorification of war criminals are used to prevent reconciliation, to provoke hatred and to destabilize peace and security.

They also condemn present and future generations to bear the burdens of the past.

This is true of Rwanda, and it is true of the former Yugoslavia.

My Office will continue to stand with the victims of the 1994 Genocide against the Tutsi in Rwanda, and the crimes committed during the conflicts in the former Yugoslavia, by promoting the truth and opposing denial.

We fully trust that the Security Council will join us in these efforts.

Mister President, Excellencies,

In conclusion, my Office is satisfied with its continued progress towards completing the remaining trials and appeals.

Yet we still have significant work ahead of us in our mandated residual functions.

The prosecution of the *Kabuga* case will be among our most important activities in the coming period, and we look forward to the commencement of the trial.

Our search for the remaining fugitives indicted by the ICTR continues to be a priority. The coming period will be of decisive importance. In order for this work to be successfully completed, it is critical that the Security Council sends an unmistakable message to Member States that cooperation with my Office is required. Without full and effective cooperation, we will be unable to complete our mandate.

As national courts prosecute crimes committed during the Rwandan Genocide and the conflicts in the former Yugoslavia, my Office is determined to meet our mandate to fully respond to their requests for assistance. The large number of requests that we continue to receive demonstrates the importance of our support, and the need for further accountability.

We are grateful for the continued support of this Council in all of our efforts. Thank you for your attention.
