



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

PRESIDENT

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

New York, 19 October 2022

Address to the United Nations General Assembly Judge Graciela Gatti Santana, President, International Residual Mechanism for Criminal Tribunals 19 October 2022

**Señor Presidente,
Excelencias
Señoras y Señores,**

Buenos días, es un gran privilegio dirigirme a todos ustedes en el día de hoy por primera vez como Presidenta del Mecanismo Residual Internacional para los Tribunales Penales, y permítanme efectuar un saludo especial a las delegaciones de habla hispana antes de continuar con la presentación de mi informe en los dos idiomas de trabajo del Mecanismo, que son el inglés y el francés.

At the outset, I would like to congratulate His Excellency Mr. Csaba Kőrösi of Hungary on his election as President of the seventy-seventh session of the General Assembly. Excellency, I wish you every success in your extraordinary endeavour to find solutions for the complex and interlinked crises the world is facing, through solidarity, sustainability and science.

I also seize the opportunity to acknowledge the tremendous contribution of my predecessor, Judge Carmel Agius, to the Mechanism and to international criminal justice more generally. On behalf of the Mechanism, its Judges and staff, I wish to thank him sincerely for his wise and efficient stewardship. Looking ahead, my vision is to build on the Mechanism's solid achievements and take it forward successfully into the next phase.

Mr. President,

You have before you the Mechanism's tenth annual report. The submission of this particular report represents a significant milestone for the Mechanism. On 1 July 2022, the same day I assumed my new role as President, the Arusha branch marked ten years of operations since taking over responsibilities derived from the International Criminal Tribunal for Rwanda (ICTR). I commenced my Presidency in Arusha, and being there on that special date made me acutely aware of how far we have come together since July 2012.

Today, I am pleased to inform you that, with the exception of one appeal, all ICTY cases related to core crimes have been finalised. Similarly, with the exception of one trial, we have disposed of all ICTR



proceedings earmarked to be heard before the Mechanism. Allow me to commend Prosecutor Brammertz and his team for their outstanding efforts in accounting for the remaining fugitives indicted by the Rwanda Tribunal. Following the Prosecution's confirmation of the death of two high-profile fugitives, who were charged with playing key roles during the 1994 Genocide against the Tutsi, only four remain at large. The Prosecutor is working closely with the Republic of Rwanda and several other key partner States to ensure that these individuals are effectively tracked down and brought to justice in Rwanda.

The coming years will therefore see the transition of the Mechanism from a fully operational court to a truly residual institution. It is evident that the associated necessary downsizing will create challenges and that this transition will not be an easy one. Regardless of how much we are able to shrink as an institution, our unique and important mandate involves a number of long-term tasks and requires that we continue to perform at the highest international standards. We also intend to do this with full commitment to gender equality, in line with the United Nations-wide Strategy on Gender Parity. I say this as the first-ever female President of the Mechanism.

Mr. President,

The Mechanism recently underwent the fourth review of its progress of work by the Security Council. This process culminated in Resolution 2637 (2022), which contains clear guidance on what the international community expects from us. Against this backdrop, I have established the following priorities for my Presidency:

First, to ensure the efficient, effective and fair conclusion of the remaining trial and appeal proceedings.

Second, to lead efforts in developing a comprehensive strategy to guide the Mechanism's continuing transition from an operational court to a truly residual institution.

Third, to consolidate the achievements of the *ad hoc* Tribunals and the Mechanism and to safeguard their invaluable legacy, while further enhancing inter-organ and inter-branch coordination and collaboration.

In relation to my first priority, due to the excellent work of our dedicated Judges and staff, I can report decisive progress with respect to our ongoing trials and appeals.

In the case against Félicien Kabuga, the opening statements of the parties were heard last month, on 29 and 30 September. Subsequently, the Prosecution commenced the presentation of its evidence two weeks ago, on 5 October. For the moment, as a result of Mr. Kabuga's health condition, the Trial Chamber holds court sessions three days per week for two hours per day. In line with the Chamber's decision of 13 June 2022, the trial is being held in The Hague, however both the Arusha branch and the Mechanism's Kigali Field Office are also supporting these proceedings. Thanks to our state-of-the-art courtroom technology, which provides for remote participation, and with a view to optimising costs and facilitating logistics, it is expected that a number of witnesses will testify from these locations. The preparation and conduct of this trial is a great example of the Mechanism's commitment to enhancing inter-branch coordination and the efficient use of its limited resources.



Mr. President,

As the last ICTR case commences, the last ICTY case is in its final stages. I refer to the appeals proceedings involving Mr. Jovica Stanišić and Mr. Franko Simatović. I now have the honour to preside over this case in my new capacity as Presiding Judge of the Appeals Chamber, and I am pleased to confirm that we are still on track to render a judgement by June next year.

Turning to my second priority, it is important to emphasise that not all Mechanism functions will cease with the end of in-court proceedings. Far from it; our residual functions will remain ongoing in areas such as protecting witnesses, monitoring cases referred to national jurisdictions, preserving the archives and assisting national jurisdictions. Furthermore, we have a continuing responsibility towards the persons convicted by the Mechanism or its predecessor Tribunals. Currently, 46 persons are serving their sentences across 13 enforcement States. These diverse matters routinely call for decisions by the independent Judges on the Mechanism's roster. The enforcement of sentences, in particular, requires full attention from myself as President, as I am entrusted to make determinations on all requests for pardon, commutation of sentences or early release. My undertaking is to exercise this discretion in a transparent and fair manner and in accordance with the established legal framework.

Back in 2010, the international community assumed responsibility for establishing a residual mechanism to follow the international criminal tribunals for both Rwanda and the former Yugoslavia. The international community therefore also retains responsibility for the Mechanism's ultimate closure. But this must be done in a way that safeguards the precious contributions of these institutions and protects their legacy. In my capacity as President, I will be leading efforts to develop an internal strategy and to explore options regarding the transfer of certain Mechanism activities to other bodies - with due regard for judicial independence and the rights of persons under the Mechanism's care.

This is closely linked with my third priority - to protect the legacy of the Tribunals and the Mechanism. The establishment of international courts and tribunals has clearly been an important step towards promoting a multilateral system of ending impunity for the most serious crimes. Yet, the current state of world affairs demonstrates once again that their existence alone is insufficient to secure peace and advance the rule of law. The international community's trust in a credible international criminal justice system may be jeopardised without long-term strategies and support.

In this context, the Mechanism – like other international courts and tribunals – will continue to need all States to provide sustainable support in two main areas, cooperation and resources.

Monsieur le Président,

La coopération est indispensable en matière d'exécution des peines et restera cruciale pendant les années à venir, jusqu'à ce que toutes les peines prononcées par les Tribunaux *ad hoc* et le Mécanisme aient été purgées. Je souhaite exprimer ma profonde gratitude aux 13 États chargés de l'exécution des peines qui ont assumé des responsabilités supplémentaires à cet égard. Nous dépendons largement de cette coopération et adressons un appel pressant aux autres États afin qu'ils acceptent une répartition de la charge et envisagent de participer à l'exécution des peines de nos condamnés. En effet, à moins que d'autres États ne se manifestent, le Mécanisme ne sera pas en mesure de s'acquitter de cette fonction qui lui a été confiée dans ce domaine important, et ce avec les ressources existantes ou conformément à son cadre juridique actuel.



S'agissant des questions d'outrage, la coopération des États est également d'une importance cruciale. Il est impératif que le Mécanisme soit en mesure de préserver l'intégrité des procédures judiciaires et de défendre l'état de droit à travers la bonne administration de la justice. Selon notre Statut, le Mécanisme envisage de renvoyer les affaires d'outrage aux juridictions nationales, selon ce que commandent l'intérêt de la justice et l'opportunité. Cependant, le renvoi n'est pas toujours possible, comme nous l'avons vu avec une affaire en particulier concernant la République de Serbie où les conditions requises n'étaient pas remplies. Malheureusement, le refus persistant de la Serbie d'arrêter et de transférer Petar Jojić et Vjerica Radeta au Mécanisme constitue une violation des obligations qui sont les siennes en vertu de la Charte des Nations Unies et met à mal cette intégrité même.

Un autre exemple regrettable dans lequel un État n'a pas respecté ses obligations internationales concerne la situation des huit personnes qui ont été réinstallées en République du Niger en décembre 2021, conformément à un accord conclu entre l'ONU et le Niger. Si ces huit personnes se trouvent encore là bas, elles sont toujours menacées d'expulsion. Ce sont des personnes libres qui ont été acquittées ou ont purgé leur peine, et pourtant leurs déplacements font l'objet de restrictions, et elles ont été dépouillées de leurs papiers d'identité et vivent *de facto* sous assignation à résidence. Le Mécanisme a pris de nombreuses mesures judiciaires et diplomatiques et a sollicité le soutien du Conseil de sécurité pour régler cette situation. Malheureusement, en vain. Je crains que, sans l'appui et la bonne foi des États Membres, le Mécanisme ne soit pas en mesure de trouver une solution à ce problème qui perdure.

Enfin, afin de rester opérationnel et de continuer de produire des résultats, le Mécanisme aura besoin de ressources suffisantes. À cet égard, les considérations financières ne doivent pas prendre le dessus sur le processus judiciaire. Le Mécanisme continuera de réduire ses effectifs et de rationaliser ses activités et ses dépenses dans la mesure du possible. Cependant, il y a une ligne que nous ne pouvons franchir si nous devons nous acquitter de notre mandat et, en tant que tribunal, nous devons toujours garder à l'esprit les droits fondamentaux des personnes qui relèvent de notre compétence. J'exhorte par conséquent les États Membres à soutenir la proposition de budget que nous venons de présenter, qui est aussi modeste que possible. De notre côté, nous continuerons d'œuvrer pour la justice, de façon équitable, efficace et responsable qui permet aux États Membres et autres parties prenantes de comprendre nos activités ainsi que les contributions apportées par les Tribunaux *ad hoc*.

Señor Presidente,

Para concluir, quisiera compartir unas impresiones personales y permítanme por lo tanto volver al español. Desde que asumí este cargo tuve la oportunidad de conocer dos de los países más afectados por la labor del Mecanismo- Bosnia y Herzegovina y Rwanda. En julio participé en la vigésimo séptima conmemoración del Genocidio en Srebrenica, y el mes pasado, visité, dentro y en las afueras de Kigali, algunos sitios conmemorativos y me reuní con sobrevivientes del Genocidio de 1994 contra los Tutsi. Estos encuentros me impactaron profundamente, tanto de manera personal como profesional, y solidificaron mi compromiso con el legado de los Tribunales *ad hoc* y el Mecanismo. Estas tres instituciones han ofrecido alguna medida de consuelo a las víctimas de los conflictos en cuestión y han servido de inspiración para otras cortes y tribunales internacionales.

Sin embargo, y pese a que el mundo se enfrenta a una gama de nuevos desafíos, el trauma de las víctimas perdura. Lamentablemente, seguimos siendo testigos de una creciente negación del genocidio,



el revisionismo histórico y la glorificación de los criminales de guerra condenados. Estos fenómenos buscan deshumanizar a las víctimas y privarlas de justicia y reconocimiento; distorsionan la verdad y niegan las experiencias vividas por los que más han sufrido. Por lo tanto, hago un llamado a la comunidad internacional, no sólo para que apoye al Mecanismo hasta que haya cumplido su mandato, sino también para que permanezca alerta y firme en la lucha contra estos patrones sociales que se alimentan del odio, la incitación y la negación de los crímenes del pasado, dondequiera que ocurran.

Muchas Gracias.
