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International Residual Mechanism for Criminal Tribunals**

**Security Council  
Seventy-fourth year**

**International Residual Mechanism for Criminal Tribunals**

**Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly and of the Security Council the seventh annual report of the International Residual Mechanism for Criminal Tribunals, submitted by the President of the Mechanism in accordance with article 32 (1) of the statute of the Mechanism (see Security Council resolution [1966 \(2010\)](#), annex 1).

\* [A/74/150](#).



## **Letter of transmittal**

### **Letter dated 1 August 2019 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the General Assembly and the President of the Security Council**

I have the honour to submit the seventh annual report of the International Residual Mechanism for Criminal Tribunals, dated 1 August 2019, to the General Assembly and to the Security Council, pursuant to article 32 (1) of the statute of the Mechanism.

*(Signed)* Carmel Agius  
President

*Summary*

## **Seventh annual report of the International Residual Mechanism for Criminal Tribunals**

The present annual report outlines the activities of the International Residual Mechanism for Criminal Tribunals from 1 July 2018 to 30 June 2019.

The Mechanism was established by the Security Council in its resolution 1966 (2010) to carry out the essential residual functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, which closed in 2015 and 2017, respectively. Those functions include a wide range of judicial activities, as well as supervising the enforcement of sentences, locating and arresting remaining fugitives, monitoring cases referred to national jurisdictions, protecting victims and witnesses, responding to requests for assistance and managing the archives of the Tribunals and the Mechanism.

Based on two continents and featuring unique working methods and a system of remotely-based judges, the Mechanism is guided throughout by the Security Council's vision of it as a small, temporary and efficient structure, whose functions and size will diminish over time, with a small number of staff commensurate with its reduced functions. With this in mind, the Mechanism continues to draw upon the best practices of the two Tribunals and to identify areas in which greater efficiencies and further harmonization across branches can be achieved.

During the reporting period, the Mechanism saw a change in leadership, with Judge Carmel Agius assuming the presidency on 19 January 2019, taking over from Judge Theodor Meron, who had served as President since July 2012. Under the guidance of both Presidents and the other principals, the Mechanism made solid progress in relation to its mandated functions and further developed its legal and regulatory framework.

With regard to the activities of the Chambers, the Appeals Chamber delivered its judgment in one appeal case. Further trial and appeal proceedings were ongoing and a new contempt case commenced, while review proceedings in another case remained pending. Large numbers of orders and decisions were issued by the President, the Appeals Chamber, the Trial Chamber and single judges in relation to those and other matters.

The Office of the Prosecutor remained focused on three priorities: (a) the expeditious completion of trials and appeals; (b) locating and arresting the remaining fugitives indicted by the International Criminal Tribunal for Rwanda; and (c) assisting national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda.

The Registry continued to coordinate and provide judicial support services, as well as other administrative, budgetary, legal, policy and diplomatic support to Mechanism operations.

## I. Introduction

1. The seventh annual report of the International Residual Mechanism for Criminal Tribunals outlines the activities of the Mechanism for the period from 1 July 2018 to 30 June 2019.

2. In accordance with its mandate, the Mechanism is responsible for a wide range of residual judicial activities derived from the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, including retrials, appeals of judgments and sentences, reviews of proceedings and contempt cases. In addition, the Mechanism has responsibility for, inter alia, supervising the enforcement of sentences of persons convicted by the two Tribunals and the Mechanism; monitoring cases referred to national jurisdictions; locating and arresting remaining fugitives; protecting victims and witnesses who have testified before the Tribunals or the Mechanism; responding to requests for assistance from national jurisdictions; and managing the archives of the Tribunals and the Mechanism.

3. The reporting period featured a change in the leadership of the Mechanism, with Judge Carmel Agius (Malta) assuming the presidency in January 2019, taking over from Judge Theodor Meron (United States of America), who had served as President for over six and a half years, since 2012. Under the guidance of both Presidents and the other principals, the Mechanism continued to make solid progress in its judicial work and other mandated functions.

4. Notably, the appeal judgment in the case of *Prosecutor v. Radovan Karadžić* was delivered, while the trial proceedings in *Prosecutor v. Jovica Stanišić and Franko Simatović* and the appeal proceedings in *Prosecutor v. Ratko Mladić* were ongoing, with both cases anticipated to conclude by the end of 2020. Furthermore, following the arrest of five persons accused of contempt of court, the pretrial phase of the proceedings in *Prosecutor v. Maximilien Turinabo et al.* commenced, adding significantly to the volume of judicial work before the Mechanism. The review hearing in the case of *Prosecutor v. Augustin Ngirabatware* remains pending.

5. In addition, the Mechanism continued to develop its legal and regulatory framework, in particular through the adoption and entry into force of new rules and regulations concerning detention matters. Furthermore, the Office of the Prosecutor continued to prioritize the location and arrest of the remaining fugitives indicted by the International Criminal Tribunal for Rwanda, as well as assisting national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda.

6. Each organ has made efforts during the reporting period to ensure that the Mechanism's functions are carried out as effectively and efficiently as possible. To that end, the principals and management of the Mechanism have continued to identify areas in which practices can be further streamlined and harmonized and to implement further efficiencies accordingly.

## II. Activities of the Mechanism

### A. Organization

7. The Mechanism was established by the Security Council in its resolution [1966 \(2010\)](#) to carry out a number of essential residual functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, which closed in 2015 and 2017, respectively. The Mechanism was mandated to operate for an initial period of four years, starting from 1 July 2012, and

subsequently for periods of two years following reviews by the Council of the progress of its work, including in completing its functions, unless the Council decided otherwise. The Council has completed two such reviews to date, the first in December 2015, as set forth in Council resolution 2256 (2015) and reflected in General Assembly resolution 70/227, and the second in June 2018, as set forth in Council resolution 2422 (2018).

8. In accordance with article 3 of its statute, the Mechanism comprises two branches. Its branch in Arusha, United Republic of Tanzania, assumed functions derived from the International Criminal Tribunal for Rwanda and commenced operations on 1 July 2012, while its branch in The Hague, Netherlands, has been operating since 1 July 2013, assuming functions derived from the International Tribunal for the Former Yugoslavia. Pursuant to article 4 of the statute, the Mechanism consists of three organs that serve both of its branches: (a) the Chambers, from which single judges can be appointed and trial and appeal benches formed as needed, and which are presided over by the President; (b) the Prosecutor; and (c) the Registry, which provides administrative services to the Mechanism, including the Chambers and the Prosecutor.

9. Each of the organs is headed by a full-time principal, common to both branches. The President of the Mechanism is based in The Hague, while the Prosecutor and the Registrar are based in Arusha. Judge Carmel Agius commenced his term as the new President of the Mechanism on 19 January 2019, following the completion of the final six-month term of his predecessor, Judge Theodor Meron, as President. Serge Brammertz (Belgium) continued as Prosecutor for the Mechanism, commencing his current term on 1 July 2018, while Olufemi Elias (Nigeria) likewise commenced a new term as Registrar of the Mechanism on the same date. The current terms of all three principals run until 30 June 2020.

10. Article 8 of the statute provides that the Mechanism is to have a roster of 25 independent judges who may, insofar as possible and as decided by the President, exercise their functions remotely. As previously reported, in June 2018, the Secretary-General appointed 23 of the 25 judges for a new two-year term, with effect from 1 July 2018 to 30 June 2020. During the reporting period, the two remaining judicial vacancies were filled, with Judge Yusuf Aksar (Turkey) and Judge Mustapha El Baaj (Morocco) being elected by the General Assembly to the judicial roster of the Mechanism on 21 December 2018 and 15 January 2019, respectively.

11. In addition, following the sad passing of Judge Mparany Mamy Richard Rajohnson (Madagascar) on 2 October 2018, Judge Mahandrisoa Edmond Randrianirina (Madagascar) was appointed by the Secretary-General on 28 January 2019 to serve the remainder of Judge Rajohnson's term of office. In addition, following the resignation of Judge Christoph Flügge (Germany) on 7 January 2019, the Secretary-General appointed Judge Claudia Hoefler (Germany) to replace Judge Flügge on the roster, effective 21 February 2019. While Judge Hoefler's appointment increases the number of female judges to 6 out of 25, the Mechanism emphasizes that more needs to be done by the nominating States to improve gender parity at the highest levels.

## **B. Legal and regulatory framework**

12. The Mechanism's activities are governed by a legal and regulatory framework comprising the statute and the Mechanism's Rules of Procedure and Evidence, as well as other rules, regulations, practice directions and internal policies.

13. Pursuant to article 13 of the statute, the Judges of the Mechanism may decide to adopt amendments to the Rules of Procedure and Evidence, with any such

amendments taking effect upon adoption by the judges unless the Security Council decides otherwise. From September to November 2018, a “remote plenary” of judges was held by written procedure, following which amendments to the Rules of Procedure and Evidence were adopted on 6 November 2018. On 4 and 5 March 2019, the new President convened an in-person plenary of judges at the Mechanism’s premises in Arusha, being only the second in-person plenary to be held since the Mechanism commenced operations. On 4 March 2019, during the plenary, the judges adopted certain amendments to the Rules of Procedure and Evidence.<sup>1</sup> The Mechanism highlights the immense value of holding such in-person meetings on a periodic basis, given its unique structure and working methods.

14. An important addition to the legal and regulatory framework was made with the adoption on 5 November 2018 of the Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Mechanism or Otherwise Detained on the Authority of the Mechanism (Rules of Detention), which entered into force on 5 December 2018. Also on 5 December 2018, the Registrar issued a number of detention-related regulations governing the supervision of visits to and communication with detainees, the disciplinary procedure for detainees and the complaints procedure for detainees. The Rules of Detention and related regulations apply to both branches of the Mechanism and are aimed at harmonizing the very different detention regimes of the two Tribunals, drawing upon their best practices as well as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

15. In addition, a number of practice directions were revised with a view to reflecting the Mechanism’s full title. The Registry, in consultation with the President, has also been drafting a new practice direction relating to the support and protection of victims and witnesses.

### **C. Mechanism Coordination Council**

16. Pursuant to rule 25 of the Rules of Procedure and Evidence, the Mechanism Coordination Council is composed of the President, the Prosecutor and the Registrar and meets on an ad hoc basis to coordinate the activities of the three organs of the Mechanism. The Council met on numerous occasions during the reporting period to discuss the current priorities and internal functioning of the Mechanism, including budgetary issues.

### **D. Rules Committee**

17. The judicial membership of the Mechanism’s Rules Committee comprises Judge Burton Hall (Chair) (Bahamas), Judge Seon Ki Park (Republic of Korea) and Judge Graciela Susana Gatti Santana (Uruguay), with the President as an ex officio member. The non-voting membership comprises a representative of the Prosecutor, the Registrar and the Association of Defence Counsel practising before the International Courts and Tribunals. In September 2018, the Rules Committee submitted its annual report to the judges on proposed amendments to the Rules of Procedure and Evidence, and in February 2019 provided a progress report on its activities. As described above, amendments to the Rules of Procedure and Evidence were adopted by the judges in November 2018 and March 2019.

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<sup>1</sup> The Rules of Procedure and Evidence of the Mechanism and amendments thereto are accessible from <https://www.irmct.org/en/basic-documents/rules-procedure-and-evidence>.

### III. Activities of the President and the Chambers

#### A. Principal activities of the President

18. During the reporting period, both President Meron and President Agius oversaw the work and progress of the Mechanism in their respective capacities as President, focusing, inter alia, on the efficient management of the Mechanism's residual judicial proceedings and working with the Registrar in respect of operational matters subject to the President's overall authority. In addition, each President represented the Mechanism at various external forums and engaged with representatives of international organizations, including the United Nations, as well as State officials and other stakeholders, including victims' groups and members of civil society.

19. Upon assuming leadership of the Mechanism in January 2019, President Agius announced the main priorities of his presidency, namely: (a) to conclude the Mechanism's residual judicial proceedings efficiently and in a timely manner, without sacrificing due process or fair trial rights; (b) to enhance the Mechanism's unique mandate through better inter-branch coordination and harmonization of practices and procedures; and (c) to foster a work environment that encourages high staff performance and morale. The President also stated his intention that the Mechanism submit, under the Registrar's supervision, a sound and fiscally responsible budget proposal for 2020, and engage in a meaningful way with the Governments and peoples of both Rwanda and the countries of the former Yugoslavia. With the latter aim in mind, the President undertook an official mission to Rwanda in April 2019 on the occasion of the twenty-fifth commemoration of the genocide against the Tutsi. He also undertook missions to Pula, Croatia, and Sarajevo, with other official visits to the region of the former Yugoslavia to follow. In addition, the new President and other principals worked closely with Mechanism focal points and the staff union of the Mechanism on the issues of gender equality, harassment and abuse of authority in the workplace.

20. Pursuant to the statute and within their respective terms of office, President Meron and President Agius reported to the Security Council and the General Assembly, as appropriate. The thirteenth and fourteenth six-monthly reports on the Mechanism's progress were submitted to the Council in November 2018 (S/2018/1033, annex I) and May 2019 (S/2019/417, annex I), respectively. President Meron briefed the Council and the Informal Working Group on International Tribunals in person in December 2018, while President Agius' first such briefing took place outside the reporting period, in July 2019. In addition, President Meron submitted the Mechanism's sixth annual report to the General Assembly and the Security Council on 1 August 2018 (A/73/289-S/2018/569) and briefed the Assembly in October 2018.

21. Each President continued to coordinate the work of the Chambers and manage the roster of judges, with a view to ensuring an efficient and broad distribution of judicial work and making best use of the judges' diverse judicial expertise. Both Presidents also worked closely with Chambers management and staff to enhance the smooth and cost-effective functioning of the Chambers more generally.

22. During the reporting period, President Meron and President Agius issued numerous assignment orders and ruled on, inter alia, requests for administrative review and legal aid and complaints concerning conditions of detention. In addition, each President presided over the Appeals Chamber, with President Meron serving as presiding judge in the *Karadžić* case and the *Mladić* case for part of the reporting period and President Agius presiding over appeals from the *Turinabo et al.* case. With regard to the enforcement of sentences, the respective Presidents issued orders and

decisions relating to applications for the early release of persons convicted by the two Tribunals, bearing in mind Security Council resolution 2422 (2018), in which the Council encouraged the Mechanism to consider putting in place conditions on early release. Orders and decisions were also issued regarding the transfer of convicted persons and the designation of enforcement States.

## **B. Principal activities of single judges**

23. During the reporting period, nearly three quarters of the Mechanism's judges, serving as single judges in accordance with the statute of the Mechanism, were seized of and issued decisions or orders in relation to requests arising in a variety of matters. Those requests concerned, inter alia, assistance to national jurisdictions, access to confidential information, the variation of protective measures, the disclosure of exculpatory information, allegations of contempt and false testimony and changes in the classification of filings. Collectively, 152 decisions or orders were issued by single judges. As at 30 June 2019, single judges were seized of seven pending matters relating to allegations of contempt of court and false testimony and requests relating to protective measures for victims and witnesses.

24. Most notably, a single judge was seized of complex multi-accused contempt proceedings in the *Turinabo et al.* case. The case concerns allegations of witness interference in relation to the review proceedings in the *Ngirabatware* case, which is pending before the Appeals Chamber. The indictment in the *Turinabo et al.* case was confirmed on 24 August 2018, and the five accused were arrested in Rwanda on 3 September 2018, pleading not guilty at their initial appearance. During the pretrial phase of the case, which is ongoing, the single judge issued 74 orders and decisions relating to matters such as jurisdictional and pleading issues, provisional release, disclosure and State cooperation. The trial is anticipated to commence in October 2019.

## **C. Principal activities of the Trial Chambers**

25. In the *Stanišić and Simatović* case, which is a retrial of a case completed before the International Tribunal for the Former Yugoslavia, the Office of the Prosecutor concluded the presentation of its case on 21 February 2019. The Trial Chamber heard oral submissions on 26 and 28 February 2019 in connection with a motion for judgment of acquittal, which it dismissed on 9 April 2019. The defence case commenced on 18 June 2019 with the presentation of the case for Jovica Stanišić. During the reporting period, the Trial Chamber issued 81 decisions or orders, including on the protection of witnesses, access to confidential material, the admission of evidence and provisional release. It is anticipated that the trial will be concluded and judgment delivered by the end of 2020.

## **D. Principal activities of the Appeals Chamber**

26. In the *Karadžić* case, the Appeals Chamber delivered its judgment on 20 March 2019, signifying an important further step towards the fulfilment of the Mechanism's mandate. The case was due to conclude in December 2018 but was delayed following the withdrawal and replacement of a judge on the bench on 27 September 2018. The Appeals Chamber reversed in part some of the convictions of Radovan Karadžić on the basis of certain incidents, while affirming his remaining convictions for genocide, persecution, extermination, murder, deportation and other inhumane acts (forcible transfer) as crimes against humanity, as well as for murder, terror, unlawful attacks

on civilians and hostage-taking as violations of the laws or customs of war, in relation to his participation in four joint criminal enterprises. The Appeals Chamber found that the Trial Chamber had abused its discretion in imposing a sentence of only 40 years of imprisonment, and instead imposed on Karadžić a sentence of life imprisonment. During the reporting period, the Appeals Chamber in the *Karadžić* case also issued 24 decisions and orders.

27. As at 30 June 2019, the Appeals Chamber continued to be seized of the *Mladić* case, in which the International Tribunal for the Former Yugoslavia issued a trial judgment on 22 November 2017. The Appeals Chamber granted in part requests by Ratko Mladić to extend the deadlines for the briefing process and allowed a total of 210 days of extensions of time. The appeal briefing concluded on 29 November 2018. As a result of disqualification motions brought by Mladić, three judges were disqualified from the bench on 3 September 2018 owing to the appearance of bias and were replaced. During the reporting period, the Appeals Chamber issued 26 pre-appeal decisions or orders in relation to the *Mladić* case, which is currently being prepared for an in-court hearing of the appeals. It is anticipated that the case will be concluded and judgment delivered by the end of 2020.

28. In the *Ngirabatware* case, on 19 June 2017 the Appeals Chamber granted the request for review filed by Augustin Ngirabatware. Since then, the review hearing has been postponed twice owing to the replacement of Ngirabatware's counsel in December 2017 and the disclosure in September 2018 of extensive material relating to the *Turinabo et al.* case. The hearing is now expected to take place in September 2019. During the reporting period, the Appeals Chamber issued 29 decisions or orders related to the *Ngirabatware* case.

29. A variety of other appeal matters were adjudicated during the reporting period, relating to, inter alia, provisional release, protective measures, referral of a case to a national jurisdiction, review, and relocation of an acquitted person. As at 30 June 2019, the Appeals Chamber remained seized of a number of appeals relating to the *Turinabo et al.* case and an appeal filed by Serbia in the *Case against Petar Jojić and Vjerica Radeta*, which concerns the decision of the single judge on 13 May 2019 to revoke the earlier referral of the contempt case to Serbia.

## IV. Activities of the Office of the Prosecutor<sup>2</sup>

### A. Introduction

30. During the reporting period, the Office of the Prosecutor continued to focus on three priorities: (a) the expeditious completion of trials and appeals; (b) locating and arresting the remaining fugitives indicted by the International Criminal Tribunal for Rwanda; and (c) assisting national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda.

31. In managing its work, the Office is guided by the views and requests of the Security Council as set forth in, among other places, paragraphs 18, 19 and 20 of its resolution 2256 (2015). The Office continued to implement the "one office" policy to further streamline operations and reduce costs by effectively integrating staff and resources across both branches.

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<sup>2</sup> The present section reflects the views of the Prosecutor of the Mechanism.

## B. Trials and appeals

32. During the reporting period, the Office of the Prosecutor took all steps under its control to expedite the completion of ad hoc judicial proceedings under the Mechanism's jurisdiction pursuant to the statute of the Mechanism and the transitional arrangements (Security Council resolution 1966 (2010), annexes 1 and 2), namely, one trial (*Stanišić and Simatović* case) and two appeal proceedings (*Karadžić* case and *Mladić* case). The Office was also engaged in intense pretrial preparation and litigation in the first major contempt case prosecuted before the Mechanism (*Turinabo et al.* case).

33. On 20 March 2019, the Appeals Chamber of the Mechanism affirmed the conviction of Radovan Karadžić for genocide, crimes against humanity and war crimes. The Appeals Chamber granted the Prosecution's appeal against the sentence imposed by the Trial Chamber and entered a sentence of life imprisonment. Karadžić was among the first individuals indicted by the International Tribunal for the Former Yugoslavia, only two years after its establishment by the Security Council. He was one of the world's most wanted fugitives for almost 13 years, until his arrest by the Serbian authorities on 21 July 2008. Justice was delayed by Karadžić's flight, but because the international community did not waver in its commitment, the victims of his crimes ultimately saw him held to account. As the record of this trial and appeal demonstrate, Karadžić abused his political and military authority, together with other senior leaders, to unleash unimaginable campaigns of crimes, commit unspeakable atrocities and destroy a country. The Office calls upon responsible officials from all countries of the former Yugoslavia to promote acceptance of the facts established in the case as the foundation for reconciliation. The denial of crimes and glorification of war criminals cannot be tolerated.

34. On 15 December 2015, the Appeals Chamber of the International Tribunal for the Former Yugoslavia reversed the trial judgment in the *Stanišić and Simatović* case and ordered the case to be retried on all counts. Trial proceedings in the case commenced on 13 June 2017. From the beginning of the presentation of its case-in-chief, the Prosecution led the evidence of 51 witnesses in court, the majority of whom were cross-examined by the Defence. To expedite the proceedings, the Prosecution tendered the written evidence of 50 witnesses, all of which was admitted. The Prosecution completed the presentation of its case-in-chief on 21 February 2019. The presentation of the defence cases commenced on 18 June 2019.

35. 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.

36. During the reporting period, the Office of the Prosecutor completed the preparation of its written appellate briefings with the submission of its reply to the defence appeal on 29 November 2018. The Office also litigated a high volume of other matters in the *Mladić* case, including five defence motions for the admission of new evidence on appeal. The Office has further commenced preparations for the oral appeals hearing in the case, which has not yet been scheduled.

37. On 24 August 2018, the single judge confirmed the indictment in the *Turinabo et al.* case and issued warrants of arrest. The indictment charges five Rwandan nationals – Maximilien Turinabo, Anselme Nzabonimpa, Jean de Dieu Ndagijimana, Marie Rose Fatuma and Dick Prudence Munyeshuli – with contempt of court in an effort to overturn Augustin Ndirabatware's conviction. On 7 December 2018, the single judge decided not to refer the *Turinabo et al.* case to Rwanda and ordered that it be conducted by the Mechanism.

38. As the *Turinabo et al.* case is the first major contempt case prosecuted before the Mechanism, and with five accused, the pretrial litigation has been notably demanding, with many significant issues of law and a wide range of procedural issues involved. From the date of the arrest to the end of the reporting period, the Prosecution has filed responses to 249 defence motions. The Prosecution has also submitted 154 filings. There have been 74 orders and decisions by the single judge, 21 orders and decisions by the Appeals Chamber and 39 orders and decisions by the President. There have also been 113 filings by the Registry or parties from other cases. The Prosecution has responded to 85 items of correspondence from the defence teams and has disclosed over 700 items of evidence. It is expected that litigation will remain at a high level throughout the pretrial and trial phases of the case. In addition, substantial efforts have been needed in reviewing and analysing the large volume of material and evidence seized from the accused persons upon their arrest in September 2018. The parties have not yet received important judicial decisions on some critical aspects of the *Turinabo et al.* case, in particular on the form of the indictment, which has affected the progress of the case. The trial is set to commence in October 2019.

39. On 19 June 2017, the Appeals Chamber granted Augustin Ngirabatware's motion for review of a judgment in which he was convicted by the International Criminal Tribunal for Rwanda. During the reporting period, the Prosecution continued its preparations for the review hearing scheduled to take place in September 2019.

### C. Fugitives

40. As at the end of the reporting period, eight fugitives indicted by the International Criminal Tribunal for Rwanda remained at large. The Office of the Prosecutor of the Mechanism continued its efforts to locate and arrest the three fugitives whose cases would be tried by the Mechanism: Félicien Kabuga, Protais Mpiranya and Augustin Bizimana. The Office also continued to search for information on the whereabouts of the five fugitives whose cases have been referred to Rwanda: Fulgence Kayishema, Charles Sikubwabo, Aloys Ndimbati, Ryandikayo and Phénéas Munyarugarama.

41. During the reporting period, the Office of the Prosecutor engaged in intensive efforts to discuss urgent requests for assistance with the South African authorities, but without a result. The Prosecutor deeply regrets the lack of cooperation on the part of the South African authorities. The tracking efforts of the Office have been directly and negatively affected, preventing results from being achieved. The Office reiterates its desire for direct and open communication with the South African authorities to resolve pending cooperation issues and expects South Africa to adhere to its international obligations under the Charter of the United Nations and the resolutions of the Security Council.

42. With respect to Zimbabwe, the Office of the Prosecutor and the Zimbabwean authorities established a joint task force to coordinate further investigative activities and strengthen cooperation. The Zimbabwean authorities have consistently stated their full commitment to cooperation and adherence to the country's international legal obligations. During the reporting period, the Office of the Prosecutor met with the task force and was informed that there had been little development. As agreed, it is now necessary to further strengthen cooperation and increase the pace of activities. The Office trusts that the task force will receive full support from the Zimbabwean authorities in pursuing any leads necessary to locate and arrest fugitives.

43. During the reporting period, the Office of the Prosecutor submitted a number of requests for assistance to national authorities, in particular in Africa and Europe, for information relating to open leads that it is actively pursuing. Overall, while the

Office recognizes the commitment by Member States to provide cooperation, many responses were received late or not at all, thus preventing the Office from obtaining urgently needed information that is vital to locating fugitives.

44. Although the Office of the Prosecutor established the African and European Task Forces to address such operational challenges, a further strengthening of partnerships is required. Accordingly, the Office is now working with authorities in East Africa and the United Nations Office on Drugs and Crime to develop an East African network of fugitive active search teams to promote rapid cooperation and exchange of information so that intelligence can be quickly actioned and opportunities seized. At the same time, the Office of the Prosecutor has commenced discussions with participants in the European Task Force and the European Network of Fugitive Active Search Teams to benefit from additional mechanisms that, it is hoped, will expedite cooperation.

45. As provided for in the statute of the Mechanism and reinforced by the Security Council in numerous resolutions, most recently in resolution [2422 \(2018\)](#), all Member States have an international legal obligation to provide cooperation to the Office of the Prosecutor in its efforts to locate and apprehend the remaining fugitives. The Office expresses its appreciation to all Member States that support its efforts and looks forward to continuing to work in close cooperation with them.

#### **D. Assistance to national jurisdictions**

46. National prosecutions are now essential to achieving greater justice for the victims of war crimes, crimes against humanity and genocide committed in the former Yugoslavia and Rwanda. In line with the completion strategies of the Tribunals, Security Council resolutions [1966 \(2010\)](#) and [2256 \(2015\)](#), and the statute of the Mechanism, the Office of the Prosecutor is mandated to assist and support effective national prosecutions of those crimes. In the affected countries, the effective prosecution of the crimes committed is fundamental to building and sustaining the rule of law, establishing the truth of what occurred and promoting reconciliation. Third-party States are also undertaking prosecutions against suspects who are present in their territories for crimes committed in Rwanda and the former Yugoslavia.

47. During the reporting period, in relation to Rwanda, the Office received and processed one request for assistance. In total, the Office handed over 2,455 pages of documentation. In relation to the former Yugoslavia, the Office received 271 requests for assistance from five Member States and two international organizations, including 42 requests from the International Committee of the Red Cross. Some 156 requests for assistance were submitted by authorities in Bosnia and Herzegovina, 14 by Croatia and 28 by Serbia. In total, the Office handed over more than 14,000 documents, comprising more than 218,000 pages, and 110 audio and video files. In addition, the Office filed three submissions in relation to requests for variation of witness protection measures that concerned proceedings in other jurisdictions investigating and prosecuting crimes that had occurred in the former Yugoslavia. The Office continued to receive a large volume of requests for assistance during the reporting period and expects an even larger volume of requests in the future.

#### **E. Capacity-building**

48. During the reporting period, the Office of the Prosecutor continued its efforts, within existing resources, to build capacity in national judiciaries prosecuting war crimes. The Office's capacity-building efforts focused on the Great Lakes region, East Africa and the countries of the former Yugoslavia. Strengthening national capacities

supports the principle of complementarity and the national ownership of post-conflict accountability.

49. In partnership with the United Nations Office on Drugs and Crime, the Office of the Prosecutor delivered a training course on fugitive tracking in April 2019. The participants, including law enforcement officers from East African Member States, agreed that the training had helped to build their capacities to track and locate fugitives from their own countries, while also enabling them to better support the efforts of the Office. As reported above, an East African network of fugitive active search teams would be an important element in promoting improved cooperation.

50. The Office of the Prosecutor of the Mechanism, the Office of the War Crimes Prosecutor of Serbia and the Judicial Academy of Serbia jointly delivered an important advanced training course on investigating and prosecuting sexual and gender-based violence for Serbian war crimes prosecutors in Belgrade in April 2019. The participants had the opportunity to work through real-world challenges and practise in-court strategies together with their colleagues and Mechanism experts. Financial support for the training was generously provided by the European Commission.

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

## **V. Activities of the Registry**

52. During the reporting period, the Registry continued to provide judicial support services, as well as other administrative, budgetary, legal, policy and diplomatic support to Mechanism operations.

### **A. Budget, administration, staffing and facilities**

53. By its resolution [72/258 A](#), the General Assembly approved a commitment authority amounting to \$87,796,600 gross for the maintenance of the Mechanism from 1 January to 31 December 2018. The commitment authority was subsequently replaced by a revised and significantly reduced biennial budget for 2018 and 2019 (\$196,024,100 gross), approved by the General Assembly in its resolution [72/258 B](#).

54. In order to implement the decisions of the General Assembly, the Registry developed an expenditure reduction plan to reduce its staff and non-post resource requirements. With regard to non-post resources, the Mechanism's general operating expenses have been significantly reduced and maintenance of its premises has been limited to repairs strictly necessary to respond to security or health and safety concerns.

55. With regard to staffing, in the first half of 2018 a considerable number of general temporary assistance positions were abolished. During the reporting period, additional post reductions were implemented as a result of the general downsizing policy adopted by the Registrar in June 2018. This policy is being updated continuously to reflect the Mechanism's requirements and to guide further downsizing of staff in 2020 and beyond.

56. The Mechanism continues to implement the expenditure reduction plan to fulfil the core elements of its mandate to the greatest extent possible while respecting the approved budget. However, the budgetary constraints have left the Mechanism with reduced staffing levels in certain areas, exposing the Mechanism to operational risks and negatively affecting its ability to perform its mandated activities smoothly and efficiently. Additionally, the budget reductions have required the Mechanism to postpone a variety of planned activities.

57. The Mechanism submitted its 2020 budget proposal in June 2019 and has endeavoured to keep its requirements (post and non-post) to a minimum to ensure that the budget remains within acceptable limits. It is recalled that the Mechanism's budget is mainly driven by its judicial activities. In 2020, these will include the conclusion of the *Turinabo et al.* case, the *Stanišić and Simatović* case and the *Mladić* case, as well as potential pretrial proceedings regarding one or more fugitives. An adequate budget will allow for the efficient conduct of those matters and a much leaner post-2020 scenario.

58. During the reporting period, the Mechanism's administration focused on further consolidating and harmonizing its services across both branches, and the Mechanism continued its efforts to implement the recommendations of the United Nations internal and external oversight bodies.

59. As at 30 June 2019, the Mechanism had a total of 517 staff (on posts and in general temporary assistance positions): 195 at the branch in Arusha, including the Kigali field office, and 322 at the branch in The Hague, including the Sarajevo field office. The Mechanism's staff comprises nationals of 71 Member States. Of the staff at the Professional level and above, 53 per cent are women and 47 per cent men, surpassing the Secretary-General's gender parity goals. When General Service staff are taken into account, however, the average percentage of female staff is lower. The Mechanism acknowledges that there is room for improvement in this regard. Approximately 83 per cent of staff are former staff members of the two Tribunals. During the reporting period, the Mechanism continued its efforts to fill vacant posts in full conformity with established procedures, taking into account to the extent possible gender balance and equitable geographical representation.

60. The new premises of the branch in Arusha have been in use since 5 December 2016. The post-construction phase of the project is nearing completion. During the reporting period, the Mechanism remained focused on the appropriate recovery of direct and indirect costs arising from errors and delays where economically feasible to do so, and on the implementation of necessary remedial works. In addition, the courtroom was reconfigured to accommodate the proceedings in the multi-accused *Turinabo et al.* case.

61. The branch of the Mechanism in The Hague and the International Tribunal for the Former Yugoslavia shared premises until the closure of the Tribunal on 31 December 2017. In April 2019, the host State acquired the premises, which will allow the Mechanism to remain at its current location. Negotiations with the host State on the future lease will commence in due course and will take into account the Mechanism's reduced occupancy requirements.

62. The Mechanism is deeply grateful to both host States for their long-standing commitment and invaluable support.

## B. Support for judicial activities

63. The Registry continued to provide support to the Mechanism's judicial activities at both branches throughout the reporting period, despite facing significant reductions in its resources.

64. At the branch in The Hague, the Registry facilitated and serviced court hearings in the *Stanišić and Simatović* case and supported the appeal proceedings in the Mladić case and the *Karadžić* case, including the rendering of the appeal judgment in the *Karadžić* case on 20 March 2019. At the branch in Arusha, the Registry provided support for the *Ngirabatware* case and the pretrial phase of the *Turinabo et al.* case. Overall, the Registry processed and disseminated 3,410 judicial filings, amounting to 35,854 pages.

65. The Registry's Language Support Services continued to provide translations of judgments and other documents into and from Bosnian/Croatian/Serbian, English, French, Kinyarwanda and other languages, as required, as well as conference and consecutive interpretation.

66. The Registry provided assistance, financial and otherwise, to 58 defence teams, comprising a total of approximately 110 team members. The Registry expanded the list of qualified counsel who can be assigned to suspects or accused persons under rule 43 (B) of the Rules of Procedure and Evidence, as well as the roster of duty counsel under rule 43 (C) who are available to be assigned to an accused person for the purposes of an initial appearance, and the roster of prosecutors and investigators eligible for assignment as an *amicus curiae*.

67. Pursuant to article 15 (4) of the statute of the Mechanism, and consistent with the Mechanism's commitment to efficiency, the Registry continued to maintain rosters of qualified potential staff to ensure that it was prepared to support a trial or appeal in the event of a fugitive being apprehended or of any ongoing proceedings resulting in an appeal or retrial.

## C. Support for other mandated activities

### 1. Witness support and protection

68. The Mechanism is responsible for the essential residual function of witness support and protection in relation to thousands of witnesses who have testified in cases completed by the two Tribunals, as well as those witnesses who have appeared or may appear before the Mechanism.

69. Consistent with judicial protection orders and in close collaboration with national authorities or other United Nations entities, the Witness Support and Protection Unit provides security to witnesses by undertaking threat assessments and coordinating responses to security-related requirements. During the reporting period, the Unit also ensured that protected witness information remained confidential, and it continued to contact witnesses regarding the rescission, variation or augmentation of witness protective measures. The Registry filed 65 judicial submissions relating to protected witnesses and other witness-related matters. At the branch in The Hague, the Witness Support and Protection Unit supported witness activity in the *Stanišić and Simatović* case, including by facilitating the appearance of eight witnesses. At the branch in Arusha, the Unit supported witness activity in the new *Turinabo et al.* case and continued to support witness-related activity in the *Ngirabatware* case.

70. As part of the provision of support services to witnesses at the branch in Arusha, witnesses continued to receive medical and psychosocial assistance, with a focus on

witnesses who were victims of sexual or gender-based violence during the genocide against the Tutsi in Rwanda.

71. Finally, the witness protection teams at the Mechanism's two branches continued to exchange best practices and use a common information technology platform for their respective witness databases to maximize operational efficiency. Additionally, those teams adopted a gender-sensitive approach in their work on support for and protection of victims and witnesses.

## **2. Archives and records management**

72. The Mechanism Archives and Records Section is currently responsible for the management of 5,000 linear metres of physical records and approximately 3 petabytes of digital records generated by the two Tribunals.

73. During the reporting period, the Mechanism continued the ingest of digital records into its digital preservation system. Thus far, 63.7 terabytes of digital records, including 136,435 files in a variety of formats, have been ingested. The Mechanism Archives and Records Section also commenced the preservation of audiovisual recordings currently stored on obsolete physical media at the branch in The Hague. Approximately 16,000 audiovisual records were assessed to determine preservation needs. In addition, all of the audiovisual recordings of the trial proceedings before the International Tribunal for the Former Yugoslavia in the *Mladić* case, amounting to 1,400 records, have been digitized.

74. The uploading of records to the public databases of the two Tribunals and the Mechanism continued. As at 30 June 2019, the databases contained over 357,000 judicial records, including 24,000 hours of audiovisual recordings. Those records were accessed by more than 24,000 users worldwide during the reporting period. Additionally, the interface of the Judicial Records and Archives Database, which provides access to the judicial records of the International Criminal Tribunal for Rwanda and the Mechanism, underwent a technical upgrade in January 2019 and now offers, inter alia, new search parameters, thereby further improving the accessibility of those judicial records. The Mechanism also issued a user guide for the International Tribunal for the Former Yugoslavia Court Records database in English, French and Bosnian/Croatian/Serbian.

75. In January 2019, the Mechanism Archives and Records Section launched a standing exhibition at both branches to mark the twenty-fifth anniversary of the establishment of the International Criminal Tribunal for Rwanda. On the occasion of International Archives Day, on 9 June 2019, the Mechanism released an online exhibition entitled "Worth a thousand words", showcasing drawings and sketches created by witnesses to support their testimony before the Tribunals.

## **3. Enforcement of sentences**

76. As at 30 June 2019, the Mechanism was overseeing the enforcement of the sentences of a total of 48 individuals.

77. Thirty persons convicted by the International Criminal Tribunal for Rwanda are serving their sentences in three States. They include five convicted persons who were transferred from Mali to Benin in December 2018 to serve the remainder of their sentence. One convicted person remains at the United Nations Detention Facility in Arusha pending review proceedings.

78. Eighteen persons convicted by the International Tribunal for the Former Yugoslavia are serving their sentences in 11 States, including one convicted person who was transferred to the United Kingdom of Great Britain and Northern Ireland in

April 2019. Four convicted persons remain at the United Nations Detention Unit, awaiting transfer to enforcement States.

79. The Mechanism is grateful to Member States that are providing support in relation to the enforcement of its sentences and to those considering enforcing sentences in the future.

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

80. The Registry facilitated an increasing number of requests by national authorities, or parties to national proceedings, for assistance in connection with national proceedings related to the genocide against the Tutsi in Rwanda or the conflicts in the former Yugoslavia. During the reporting period, the Registry processed 117 requests for assistance, including requests to question protected witnesses; to rescind, vary or augment protective measures for witnesses; and to retrieve and transmit confidential and certified material to national authorities. In total, 301,691 documents were provided.

#### **5. Relocation of acquitted and released persons**

81. The Mechanism has continued to deploy focused efforts to facilitate sustainable solutions for the resettlement of acquitted and released persons and to provide those still residing in Arusha with relevant assistance. The number of acquitted and released persons in Arusha is currently nine, following the successful relocation of one acquitted person during the reporting period. However, bearing in mind Security Council resolution [2422 \(2018\)](#), in which the Council called upon all States to cooperate with and render all necessary assistance to the Mechanism for increased efforts towards the relocation of the nine persons, the Mechanism urges all Member States to support it in finding a long-term solution to this serious problem, which gravely affects the rights of these individuals.

#### **6. Monitoring of referred cases**

82. Pursuant to article 6 (5) of its statute, during the reporting period the Mechanism continued to monitor three cases referred to Rwanda through monitors from the Kenyan Section of the International Commission of Jurists. In the *Ntaganzwa* case, trial proceedings are ongoing, while the *Uwinkindi* and *Munyagishari* cases are on appeal. The Mechanism continued to work on establishing a similar monitoring arrangement for the two cases referred to France, which have been monitored by interim monitors from the International Tribunal for the Former Yugoslavia and subsequently the Mechanism. In the *Munyeshyaka* case, on 21 June 2018, the chambre de l'instruction de la Cour d'appel de Paris upheld the decision to dismiss the proceedings on the basis of insufficient charges. Several appeals have been filed against that decision to the Cour de cassation. In the *Bucyibaruta* case, on 24 December 2018, the Tribunal de grande instance partially dismissed the indictment and referred it to the Cour d'assises de Paris. Following that order, appeals have been filed by the accused against the indictment and by civil parties against the partial dismissal. The appeals are currently pending.

#### **7. External relations and information-sharing**

83. The External Relations Office continued to raise awareness of the Mechanism's mandate and work by engaging with Member States, civil society, victims' groups, the public and the media, including in Rwanda and the former Yugoslavia, as well as in the United Republic of Tanzania and the Netherlands.

84. The Office facilitated the attendance of victims' groups, the general public and the media at a number of public legal proceedings, including in the *Stanišić and*

*Simatović* case, the *Turinabo et al.* case and the *Mladić* case, and at the public pronouncement of the appeal judgment in the *Karadžić* case. The Office further facilitated the holding of diplomatic briefings in The Hague, Belgrade, Dar es Salaam, United Republic of Tanzania, Sarajevo and Zagreb.

85. During the reporting period, the Mechanism welcomed more than 6,100 visitors to its premises at both branches. The Mechanism also participated in The Hague International Open Day at its premises in The Hague in September 2018, which was attended by more than 400 individuals, and in the International Organizations Open Day at its premises in Arusha in November 2018, which was attended by more than 1,300 individuals.

86. In addition, the Mechanism continued to provide library services at both branches. The latest edition of the Mechanism's bibliography of publications relating to the work of the Mechanism and the Tribunals was issued in October 2018 and will assist both Mechanism staff and external researchers in identifying relevant resources and research materials relating to the work of the Tribunals and the Mechanism.

87. The External Relations Office continued to manage the Mechanism's website, social media accounts and the legacy websites of the Tribunals. During the reporting period, the Mechanism's website received nearly 410,000 visitors, an increase of almost 45 per cent from the previous reporting period.

## VI. Conclusion

88. As demonstrated by the progress made during the reporting period, the Mechanism remains committed to the efficient and effective conclusion of its residual judicial work and the fulfilment of all other aspects of its mandate. It is thanks to the outstanding efforts of the Mechanism's judges and staff that much has been achieved in the past year, despite challenges including the unexpected increase in judicial activity arising from the *Turinabo et al.* case. Under the guidance of the President and other principals, the Mechanism will continue to focus on its remaining work while being proactive in harmonizing practices and procedures and identifying areas in which further efficiencies can be introduced.

89. The Mechanism is, as ever, most grateful for the ongoing support provided by members of both the Security Council and the General Assembly, as well as the Office of Legal Affairs of the Secretariat and the United Nations more broadly. In particular, it expresses its sincere appreciation to its outstanding host States, the United Republic of Tanzania and the Netherlands. The Mechanism will continue to rely heavily on such vital assistance during the forthcoming reporting period and throughout 2020, which promises to be a crucial year owing to the anticipated conclusion of much of the Mechanism's current judicial activity. With the support of these and other stakeholders, the Mechanism looks forward to being able to successfully complete this work and to carrying out its mandated functions to the highest possible standards.