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International Residual Mechanism for Criminal Tribunals

**Security Council
Seventy-sixth 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 ninth 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/76/150](#).



Letter of transmittal

Letter dated 30 July 2021 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 ninth annual report of the International Residual Mechanism for Criminal Tribunals, dated 30 July 2021, 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

Ninth 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 2020 to 30 June 2021.

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.

During the reporting period the Mechanism achieved a number of noteworthy milestones in the fulfilment of its mandate, particularly with regard to its core judicial work. Despite ongoing restrictions related to the coronavirus disease (COVID-19) pandemic and the imperative to safeguard the health and well-being of all the participants in the proceedings, the Mechanism's Chambers delivered three landmark judgments in line with projections for case completion previously communicated to the Security Council.

In addition, the Appeals Chamber adjudicated a request for review of judgment of a convicted person and pretrial proceedings progressed steadily in another case. Numerous orders and decisions were issued by the President of the Mechanism, the Appeals Chamber, the Trial Chamber and single judges in relation to these 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 carry out its responsibilities regarding the administration and servicing of both branches of the Mechanism and supported the work of the Chambers and the Office of the Prosecutor.

The Mechanism continues to be guided 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. The Mechanism is particularly attentive to further streamlining its resources, human and otherwise, across its two branches in Arusha, United Republic of Tanzania, and The Hague, the Netherlands. Furthermore, under the leadership of the President, Judge Carmel Agius, and mindful of the relevant 2020 recommendation of the Office of Internal Oversight Services and Security Council resolution [2529 \(2020\)](#), the three organs enhanced coordination and information-sharing on matters affecting them, with a view to ensuring systematic thinking and planning about the future. This was particularly reflected in the successful management of the pandemic, which secured business continuity while protecting Mechanism staff and others.

I. Introduction

1. The ninth annual report of the International Residual Mechanism for Criminal Tribunals outlines the institution's activities from 1 July 2020 to 30 June 2021.
2. In accordance with its mandate, the Mechanism is responsible for a wide range of residual judicial functions derived from the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, including conducting trials, appeals or reviews of judgments and contempt cases. The Mechanism is also tasked with supervising the enforcement of sentences; monitoring cases referred to national jurisdictions; locating and arresting the remaining fugitives indicted by the International Criminal Tribunal for Rwanda; protecting victims and witnesses; providing assistance to national jurisdictions; and managing and preserving the archives.
3. Throughout the reporting period the ongoing coronavirus disease (COVID-19) pandemic continued to pose challenges to the Mechanism's operations. Measures were implemented to ensure the safety of all those involved in judicial proceedings and to allow for business continuity, despite the need to suspend in-court proceedings temporarily. In addition, earlier this year the Mechanism mourned the untimely passing of Judge Gberdao Gustave Kam, a member of the appeals bench in *Prosecutor v. Ratko Mladić*. Subsequently, the *Prosecutor v. Maximilien Turinabo et al.* case was affected by the death of the co-accused, Maximilien Turinabo.
4. Regardless, and undeterred by these challenges, the Mechanism made exceptional progress in the fulfilment of its mandate. Notably, three landmark judgments were delivered in the second half of the reporting period: the appeal judgment in the *Mladić* case and the trial judgments in *Prosecutor v. Jovica Stanišić and Franko Simatović* and the contempt case of *Prosecutor v. Anselme Nzabonimpa et al.* (formerly *Turinabo et al.*). In addition, pretrial preparations advanced in *Prosecutor v. Félicien Kabuga*, including an in-person status conference with the participation of the parties and the full bench. With these achievements, the current judicial workload has been reduced to the case against Félicien Kabuga and potential appeals proceedings in the *Stanišić and Simatović* and *Nzabonimpa et al.* cases.
5. The judges and dedicated staff in these cases deserve the utmost praise. Their determination to keep the cases on track and overcome myriad obstacles arising from the pandemic ensured ongoing progress and timely delivery of the judgments, with full respect for the rights of the accused.
6. Litigation continued in the contempt case against Petar Jojić and Vjerica Radeta. Based on a decision by the single judge assigned to the case, on 11 May 2021 the Mechanism's President reported Serbia to the Security Council for non-cooperation (see [S/2021/452](#)). Separately, the Appeals Chamber adjudicated Milan Lukić's request for a review of his conviction by the International Tribunal for the Former Yugoslavia.
7. The Mechanism also made headway with its other functions, in particular tracking the remaining fugitives of the International Criminal Tribunal for Rwanda, providing assistance to national jurisdictions and monitoring cases referred to national jurisdictions.
8. In addition, the Mechanism continued to further develop its legal and regulatory framework through the adoption of a revised Code of Professional Conduct for Defence Counsel Appearing before the Mechanism, as well as a revised remuneration policy for persons representing indigent convicted persons in post-conviction proceedings and a revised policy for the appointment and remuneration of amici curiae investigators and prosecutors in proceedings before the Mechanism.

9. The Office of the Prosecutor continued its efforts to locate and arrest the remaining fugitives indicted by the International Criminal Tribunal for Rwanda, and to monitor, support and advise national judicial authorities prosecuting war crimes cases arising out of the conflicts in Rwanda and the former Yugoslavia.

II. Activities of the Mechanism

A. Organization

10. In its resolution 1966 (2010), the Security Council decided that the Mechanism would operate for an initial period of four years from 1 July 2012. It further decided that it would conduct periodic reviews of the progress of the Mechanism's work, including in completing its functions, and that the Mechanism would continue to operate for subsequent periods of two years following each such review, unless decided otherwise by the Council.

11. 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. The branch in The Hague, the Netherlands, assumed functions derived from the International Tribunal for the Former Yugoslavia and commenced operations on 1 July 2013. Pursuant to article 4 of the statute, the Mechanism consists of three organs that serve both branches of the Mechanism: (a) the Chambers, from which single judges can be appointed and trial and appeal benches formed as needed; (b) the Prosecutor; and (c) the Registry.

12. Each of the organs is headed by a full-time Principal common to both branches. The President is based in The Hague and the Prosecutor and Registrar are based in Arusha. During the reporting period, the Principals were President Judge Carmel Agius (Malta), Prosecutor Serge Brammertz (Belgium) and Registrar Abubacarr Tambadou (the Gambia), who was appointed by the Secretary-General effective 1 July 2020. The current terms of all three Principals run until 30 June 2022.

13. Article 8 of the statute provides that the Mechanism shall have a roster of 25 independent judges who shall, insofar as possible and as decided by the President, exercise their functions remotely. Mechanism judges are not remunerated for being on the judicial roster, but rather receive compensation only for the days on which they exercise their functions, as assigned by the President.

14. In addition, pursuant to the President's discretion under article 12 (2) of the statute, he continued to assign duty judges at the Arusha branch. By assigning alternately two judges who reside in the United Republic of Tanzania, the President maximized efficiency and reduced costs.

15. As mentioned earlier, the reporting period was overshadowed by the unexpected passing of Judge Gberdao Gustave Kam (Burkina Faso) on 17 February 2021. Judge Kam was sworn in as a judge of the Mechanism in May 2012 and served with distinction on several cases, including most recently the *Mladić* appeal proceedings. His demise represents a tremendous loss for the Mechanism and international justice more generally. The Secretary-General has initiated the process for appointing a judge to replace the late Judge Kam in accordance with article 10 (2) of the statute, and the Mechanism is looking forward to again having a full complement of 25 judges.

16. The current judicial roster comprises the following judges (in order of precedence): Judge Carmel Agius, President (Malta), Judge Theodor Meron (United States of America), Judge Jean-Claude Antonetti (France), Judge Joseph E. Chiondo Masanche (United Republic of Tanzania), Judge William Hussein Sekule (United

Republic of Tanzania), Judge Lee G. Muthoga (Kenya), Judge Alphons M.M. Orié (Netherlands), Judge Burton Hall (Bahamas), Judge Florence Rita Arrey (Cameroon), Judge Vagn Prusse Joensen (Denmark), Judge Liu Daqun (China), Judge Prisca Matimba Nyambe (Zambia), Judge Aminatta Lois Runeni N'gum (Zimbabwe/Gambia), Judge Seon Ki Park (Republic of Korea), Judge José Ricardo de Prada Solaesa (Spain), Judge Graciela Susana Gatti Santana (Uruguay), Judge Ivo Nelson de Caires Batista Rosa (Portugal), Judge Seymour Panton (Jamaica), Judge Elizabeth Ibanda-Nahamya (Uganda), Judge Yusuf Aksar (Turkey), Judge Mustapha El Baaj (Morocco), Judge Mahandrisoa Edmond Randrianirina (Madagascar), Judge Claudia Hoefler (Germany) and Judge Iain Bonomy (United Kingdom of Great Britain and Northern Ireland).

17. The pandemic unfortunately prevented the Mechanism from holding an in-person plenary of judges during the reporting period. The judges instead held a written plenary between October and December 2020. Continuing travel restrictions have similarly made an in-person event later in 2021 unlikely. However, the Mechanism is currently exploring options for holding its first-ever virtual plenary later this year. This would allow for live interactions between the judges using a secure platform developed in-house by the Mechanism's Information Technology Services Section.

B. Legal and regulatory framework

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

19. Pursuant to article 13 of the statute, the judges of the Mechanism may decide to adopt amendments to the Rules, with any such amendments taking effect upon adoption by the judges unless the Security Council decides otherwise. From 16 October 2020 until 4 December 2020, a plenary by written procedure was held in accordance with article 13 (2) of the statute. Based on the report of the Rules Committee, the judges adopted amendments to rules 2 (Definitions), 23 (A) (Functions of the President) and 56 (C) (Order directed to States for the production of documents). President Agius reported these amendments to the Council on 9 December 2020. The amendments can be found in the revised version of the Rules publicly accessible on the Mechanism's website.

20. On 14 May 2021, the Registrar adopted a revised Code of Professional Conduct for Defence Counsel Appearing before the Mechanism, which further clarifies, inter alia, the professional obligations of defence counsel and support staff and introduces a secure and reliable procedure to allow a prospective complainant to make a complaint without disclosing their identity. Earlier, on 12 April 2021, following requisite consultation, the Registrar also issued a revised remuneration policy for persons representing indigent convicted persons in post-conviction proceedings and a revised policy for the appointment and remuneration of amici curiae investigators and prosecutors in proceedings before the Mechanism, thereby completing the Registry's review of the Mechanism's remuneration framework.

C. Mechanism Coordination Council

21. Pursuant to rule 25 of the Rules of Procedure and Evidence, the Mechanism Coordination Council consists 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, chaired by the President, met regularly during the reporting

period to discuss cross-cutting topics, including budgetary issues and the management of the pandemic. It was also a useful and effective forum to further enhance communication and collaboration among the organs.

D. Rules Committee

22. The Mechanism's Rules Committee submits an annual report, which includes proposals for amendments to the Rules. The judicial membership of the Rules Committee comprises Judge Burton Hall (Chair), Judge Seon Ki Park and Judge Graciela Susana Gatti Santana, with the President as an ex officio member. The non-voting membership comprises representatives of the Prosecutor, the Registrar and the Association of Defence Counsel Practising before the International Courts and Tribunals. Based on the Rules Committee's report of September 2020, amendments to rules 2, 23 (A) and 56 (C) were adopted in December 2020 by the plenary of judges referenced above.

III. Activities of the President and the Chambers

A. Principal activities of the President

23. The President is the institutional head and highest authority of the Mechanism, responsible for the overall execution of its mandate. He assigns judges to cases, presides over the Appeals Chamber and carries out other functions specified in the statute and Rules.

24. During the reporting period, President Agius oversaw the work and progress of the Mechanism with a specific focus on maintaining business continuity and offsetting any delays encountered owing to the pandemic. In that context, he continued to prioritize the timely, efficient and fair conclusion of the Mechanism's existing judicial proceedings; harmonizing practices and procedures between the two branches; and fostering high staff morale and performance.

25. Since the start of the pandemic, President Agius was regrettably unable to visit the Arusha branch in person. However, aware of the need to remain in contact with staff in such difficult times, he held three virtual town hall meetings for staff members in all Mechanism duty stations, together with the other two Principals, and regularly consulted with the Staff Union. The Principals also circulated joint broadcast messages to staff, informing them of the Mechanism's ongoing responses to the pandemic and other issues of concern. To complement these efforts the Registrar held information sessions addressing more practical questions of staff in relation to his responsibilities.

26. Equally, President Agius was unable to travel to Rwanda and the States of the former Yugoslavia to engage directly with the people and the respective government authorities. However, he participated in both the twenty-fifth commemoration of the Srebrenica genocide and the twenty-seventh commemoration of the genocide against the Tutsi in Rwanda, by delivering video messages addressed to the victims and the public at large.

27. President Agius complied with statutory reporting duties to the United Nations through the timely submission of periodic reports, as appropriate. He submitted the Mechanism's eighth annual report to the General Assembly and the Security Council on 30 July 2020 ([A/75/276-S/2020/763](#)) and briefed the Assembly in October 2020. The briefing was conducted by videoconference because of the ongoing pandemic. The seventeenth and eighteenth six-monthly reports on the Mechanism's progress

were submitted to the Council in November 2020 (S/2020/1119) and May 2021 (S/2021/487), respectively. In addition, President Agius briefed the Council and the Informal Working Group on International Tribunals, also by videoconference, in December 2020 and June 2021. On the occasion of those briefings, the President also engaged in numerous bilateral meetings with representatives of Member States and high-level officials of the United Nations.

28. The President continued to coordinate the work of the Chambers and assign judicial functions to judges, with a view to ensuring an efficient and broad distribution of work and making the best use of the judges' diverse judicial expertise. He also worked closely with the leadership of the Chambers Legal Support Section to enhance the timely and cost-effective functioning of the Chambers more generally. He did so in full consideration of fair trial rights, as well as the previously anticipated timelines for case completion and the importance of avoiding further delays as a result of the restrictions related to the COVID-19 pandemic.

29. Supervising the enforcement of sentences remained a central area of responsibility for the President in accordance with article 25 (2) of the statute. In consultation with other judges, as required by rule 150 of the Rules of Procedure and Evidence, President Agius issued numerous orders and decisions relating to applications for pardons, commutations of sentence or early release of persons convicted by the ad hoc Tribunals or the Mechanism. In doing so, he further developed the jurisprudence on general standards to be considered in determining whether such applications should be granted. The President also issued decisions designating enforcement States in which convicted person are to serve their sentence.

30. Cognizant of the ongoing vulnerability of incarcerated persons during the pandemic, President Agius continued to order periodic updates from enforcement States regarding the overall situation in the respective prisons and specific measures put in place to prevent any potential exposure of persons convicted by the ad hoc Tribunals or the Mechanism to the COVID-19 virus. The Mechanism is grateful for the reports received and the efforts made by enforcement States to ensure the safety of the convicted persons, in particular considering the additional burden the reporting has created for the States. The Mechanism also adopted a COVID-19 response plan, presenting the measures it stands ready to take in the event of an infection or general outbreak of COVID-19 in one of the prisons.

B. Principal activities of single judges

31. During the reporting period, 12 judges on the judicial roster were assigned to serve as single judges in relation to applications arising at either branch. Those applications primarily concerned assistance to national jurisdictions, access to confidential information, variation of protective measures, disclosure of exculpatory information, allegations of contempt and false testimony and changes in the classification of filings. Collectively, 181 decisions and orders were issued by single judges during the reporting period. As at 30 June 2021, single judges were seized of eight pending matters relating to allegations of contempt of court and false testimony, requests relating to protective measures for victims and witnesses and issues concerning frozen assets and bank accounts.

32. Most notably, a single judge conducted the trial in the *Nzabonimpa et al.* case, which commenced on 22 October 2020 with the Prosecution's opening statement. On 15 March 2021, the defence cases commenced. Following the death of Turinabo on 18 April 2021, the proceedings against him were terminated on 19 April 2021. The trial judgment was pronounced on 25 June 2021. The single judge convicted Augustin Ngirabatware, Anselme Nzabonimpa, Jean de Dieu Ndagijimana and Marie Rose

Fatuma of contempt for witness interference. Ngirabatware was also convicted of contempt on the basis of violating court orders. The single judge entered a verdict of not guilty for Dick Prudence Munyeshuli on a single contempt charge for violations of court orders. Ngirabatware was sentenced to two years' imprisonment. Nzabonimpa, Ndagijimana and Fatuma were sentenced to time served, having spent over 11 months in pretrial detention. During the reporting period, the single judge issued 78 orders and decisions related to the conduct of the trials.

33. Litigation in the *Jojić and Radeta* contempt case has continued throughout the present reporting period. The single judge issued a decision on 16 April 2021 finding that Serbia had failed to comply with its obligations under article 28 of the statute to arrest the accused and transfer them to the Mechanism, and requesting the President of the Mechanism to notify the Security Council accordingly. The single judge emphasized that the obligation to cooperate extends to cases of contempt and prevails over any domestic legal impediment. In line with this request, the President reported Serbia for non-cooperation with the Mechanism by letter to the President of the Security Council dated 11 May 2021 ([S/2021/452](#)).

C. Principal activities of the Trial Chambers

34. In the *Stanišić and Simatović* case, the Trial Chamber pronounced its judgment on 30 June 2021. The Trial Chamber found Stanišić and Simatović responsible for aiding and abetting the crime of murder, as a violation of the laws or customs of war and a crime against humanity, and the crimes of deportation, forcible transfer and persecution, as crimes against humanity, committed by Serb forces following the takeover of Bosanski Šamac in April 1992. They were sentenced to 12 years of imprisonment each. This follows the conclusion of the hearing of the defence witnesses in October 2020, the closure of the evidentiary phase of the case on 23 February 2021, the filing of final trial briefs on 12 and 13 March 2021 and the hearing of closing arguments from 12 to 14 April 2021. During the reporting period, the Trial Chamber issued 43 decisions and orders, including on the protection of witnesses, access to confidential material, the admission of evidence and provisional release.

35. In the *Kabuga* case, following his initial appearance on 11 November 2020, the Trial Chamber granted, on 24 February 2021, the Prosecution's request to amend the indictment, which was filed on 1 March 2021. The Trial Chamber conducted a status conference with the consent of the parties by way of written procedure between 9 March and 6 April 2021, as travel restrictions related to the pandemic and health concerns related to Kabuga necessitated conducting this procedure by alternative means. It further conducted an in-person status conference on 1 June 2021. Kabuga remains detained at the Hague branch following his transfer to the United Nations Detention Unit on 26 October 2020 in order to undergo a medical assessment. An independent medical expert filed his report on 18 June 2021 and the matter is under consideration by the Trial Chamber.

D. Principal activities of the Appeals Chamber

36. The Appeals Chamber pronounced its judgment in the *Mladić* case on 8 June 2021, dismissing the appeals filed by Ratko Mladić and the Prosecution against the judgment rendered on 22 November 2017 by a Trial Chamber of the International Tribunal for the Former Yugoslavia. The Appeals Chamber affirmed Mladić's 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. The Appeals Chamber also affirmed the sentence of life imprisonment imposed by the Trial Chamber. In addition to pronouncing the judgment, during the reporting period the Appeals Chamber also held the appeals hearing on 25 and 26 August 2020 and issued 28 orders and decisions.

37. On 15 December 2020, the Appeals Chamber dismissed a request for review and assignment of counsel filed by Milan Lukić on 1 September 2020. Lukić requested review of his judgment and the sentence of life imprisonment imposed by a Trial Chamber of the International Tribunal for the Former Yugoslavia on 20 July 2009 and affirmed by the Appeals Chamber of the International Tribunal for the Former Yugoslavia on 4 December 2012.

IV. Activities of the Office of the Prosecutor¹

A. Introduction

38. 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.

39. In managing its work, the Office is guided by the views and requests of the Security Council as set forth in, among other places, resolutions [2256 \(2015\)](#) and [2529 \(2020\)](#). The Office continued to implement the “one office” policy to further streamline operations and reduce costs.

40. During the reporting period, the Office achieved important results in its remaining trials and appeals, securing convictions in three cases. In the *Mladić* case, the Appeals Chamber rejected the appeals filed by the Defence and confirmed the convictions at trial and the sentence of life imprisonment. In the *Nzabonimpa et al.* trial, the single judge accepted in large part the Prosecution’s evidence and arguments and convicted four of the accused for contempt of court. Finally, in the *Stanišić and Simatović* re-trial, the Trial Chamber convicted both the accused for crimes against humanity and war crimes. These judgments demonstrate that those who committed crimes under the Mechanism’s jurisdiction will be held accountable. The Office is grateful to all those who provided support to its prosecutions, including in particular the witnesses and the international community.

B. Trials and appeals

41. During the reporting period, the Office of the Prosecutor completed trial proceedings in two cases and appeals proceedings in one case. In the *Kabuga* case, the Prosecution swiftly conducted further investigations and pretrial preparations following the fugitive’s arrest in May 2020, and is adhering to the judicial calendar for commencement of the trial. These results demonstrate that the Office continues to take all steps under its control to expedite the completion of ad hoc judicial proceedings under the Mechanism’s jurisdiction pursuant to the statute and the transitional arrangements (Security Council resolution [1966 \(2010\)](#), annex 1).

42. On 8 June 2021, the Appeals Chamber issued its judgment in the *Mladić* case. The Appeals Chamber confirmed the Trial Chamber’s findings in almost all respects,

¹ The present section reflects the views of the Prosecutor of the Mechanism.

rejecting the defence grounds of appeal in their entirety. Mladić's convictions were affirmed for: (a) commanding ethnic cleansing campaigns across Bosnia and Herzegovina from 1992 to 1995; (b) commanding a campaign of crimes against the civilian population during the siege of Sarajevo; (c) taking United Nations peacekeepers hostage and using them as human shields; and (d) using the forces under his command to commit genocide against the Bosnian Muslim population of Srebrenica. The Appeals Chamber further affirmed Mladić's sentence of life imprisonment. The trial and appeals judgments in this case confirm the enormity of Mladić's crimes and the immense individual responsibility he bears as the most senior Bosnian Serb military commander for intentionally using his authority to attack innocent civilians. The Office of the Prosecutor calls upon responsible officials in the former Yugoslavia and around the world to promote the truth of Mladić's crimes and condemn continued glorification of him.

43. On 25 June 2021, the single judge issued his judgment in the *Nzabonimpa et al.* case. Four of the accused, Augustin Ngirabatware, Anselme Nzabonimpa, Jean de Dieu Ndagijimana and Marie Rose Fatuma, were convicted of contempt of court for witness interference. Ngirabatware was also convicted of contempt of court for violating judicial orders for the protection of witnesses. The accused Dick Prudence Munyeshuli was acquitted on the single charge against him of contempt of court for violating judicial orders. Ngirabatware was sentenced to two years' imprisonment, while the others were sentenced to 11 months' imprisonment. The Office of the Prosecutor is satisfied that the single judge accepted the Prosecution's evidence that the four convicted persons undertook a highly organized effort, using funds provided by Ngirabatware from detention, to manipulate, improperly influence and obtain recantations from witnesses to utilize in the previously concluded *Ngirabatware* review proceeding, thereby interfering with the administration of justice. The Prosecution will review the trial judgment with respect to the acquittals and sentences imposed, and will determine whether there are valid grounds to appeal. The Office recalls that the effective investigation and prosecution of contempt of court crimes are essential for protecting witnesses and safeguarding the integrity of proceedings conducted by the Mechanism, the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. The Office will continue to implement its mandate in this respect under article 1 (4) of the Mechanism's statute.

44. On 30 June 2011, the Trial Chamber issued its judgment in the *Stanišić and Simatović* case. Jovica Stanišić and Franko Simatović, formerly senior officials in the State Security Service of the Republic of Serbia, were convicted of aiding and abetting crimes against humanity and war crimes committed in ethnic cleansing campaigns by Bosnian Serb forces in 1992. Both were sentenced to 12 years' imprisonment. The Office of the Prosecutor has taken note that the Trial Chamber found that a joint criminal enterprise, whose participants included senior leaders in Serbia, the Republika Srpska and the Serb autonomous regions, existed from at least August 1991 to forcibly and permanently remove non-Serbs from Serb claimed territory through the commission of crimes. Stanišić and Simatović knew of this joint criminal enterprise and knowingly provided practical assistance to the commission of the crimes of murder, deportation, forcible transfer and persecution. The Prosecution will review the trial judgment with respect to the charges not found to have been proven and the sentences imposed, and will determine whether there are valid grounds to appeal.

45. In the *Kabuga* case, the Prosecution is fully focused on pretrial preparations and ensuring its readiness to start trial. On 24 February 2021, the Trial Chamber granted the Prosecution's request to amend the indictment. By streamlining, clarifying and particularizing the changes, the amended indictment will promote a more expeditious trial while appropriately reflecting the scale of the crimes committed and Kabuga's

alleged criminal responsibility. Importantly, the Prosecution's amendments identified specific instances of sexual violence with which Kabuga is now charged. The Office considered that it was critical to explicitly reflect crimes of sexual violence committed during the genocide and the particular harms suffered by women and girls.

46. The Prosecution remains committed to undertaking all steps to expedite the completion of all proceedings, in accordance with the directives of the respective Chambers. The Office also remains committed to deploying its limited resources flexibly so as to efficiently handle all responsibilities within its mandate.

C. Fugitives

47. With the arrest of Félicien Kabuga and confirmation of the death of Augustin Bizimana, the Office of the Prosecutor has accounted for two of the three major fugitives indicted by the International Criminal Tribunal for Rwanda. One major fugitive, Protais Mpiranya, former commander of the Presidential Guard, and five other fugitives, including Fulgence Kayishema, now remain at large. The Office has viable leads and is implementing strategies for each of these fugitives.

48. The major challenge facing the Office in tracking the remaining fugitives continues to be the lack of timely and effective cooperation from Member States. Most notably, Kayishema remains at large owing to South Africa's failure to cooperate. The situation has not yet improved, as the Office's most recent request for assistance related to important, time-sensitive information has still not been answered after half a year. The Prosecutor intends to travel to Pretoria as soon as possible for urgent consultations on solutions to these ongoing challenges. The Office is reiterating its previous request to the South African authorities to significantly improve their cooperation by establishing an operational task force that can cooperate directly with and swiftly implement taskings from the Office's tracking team.

49. The Office continues to conduct investigations to determine the location of Mpiranya and is seeking cooperation from a number of partners in these efforts. During the reporting period, the Office re-engaged with the authorities of Zimbabwe. The Office appreciates the authorities' reaffirmation of their commitment to provide full and effective cooperation. The Office enjoyed productive discussions with the task force established by the Government of Zimbabwe to assist in the Office's investigations and has already transmitted a further set of requests that it expects will be promptly and comprehensively addressed. The Office's tracking team anticipates returning to Harare regularly to continue the investigation and the Prosecutor is expected to visit Harare later this year for high-level consultations.

50. The Office will continue to engage directly with national authorities to ensure that its requests for assistance are promptly answered. Full and effective cooperation from Member States is essential to arresting the remaining fugitives as soon as possible. The Office reiterates that the Government of the United States continues to offer a financial reward in an amount of up to \$5 million to those who provide information leading to the arrest of a fugitive.

D. Assistance to national jurisdictions

51. National prosecutions remain essential to achieving greater justice for the victims of war crimes, crimes against humanity and genocide committed in Rwanda and the former Yugoslavia. In line with the completion strategies of the ad hoc 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

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.

52. The Office has continued its efforts, within existing resources, to monitor, support and advise national judicial authorities prosecuting war crimes cases arising out of the conflicts in Rwanda and the former Yugoslavia. The Office maintains an ongoing dialogue with its counterparts and undertakes a range of initiatives to assist and build capacity in national criminal justice sectors. The Office expresses its deep gratitude to its partners for providing financial, logistical and other support to enable the Office's capacity-building and training efforts.

53. The joint European Union-Mechanism project supporting domestic accountability for war crimes continued. During the reporting period, the project achieved a significant result with the transfer to the authorities of Montenegro of an investigative dossier concerning more than 15 suspects who are believed to be responsible for serious crimes, including murder, torture, sexual slavery and rape. The project will continue to provide legal and evidentiary support to the authorities to initiate investigations, prepare indictments and prosecute war crimes suspects.

54. During the reporting period, the Office continued to provide national authorities with access to evidence and information in response to a high volume of requests. In relation to Rwanda, the Office received and processed 14 requests for assistance from seven Member States. In total, the Office handed over more than 14,000 documents comprising more than 210,000 pages of evidence. In addition, the Office filed one submission in relation to a request for assistance. In relation to the former Yugoslavia, the Office received 269 requests for assistance from six Member States and two international organizations. Some 109 requests for assistance were submitted by the authorities in Bosnia and Herzegovina, two by Croatia and six by Serbia. In total, the Office handed over more than 16,500 documents, comprising nearly 262,000 pages, and 149 audiovisual records. In addition, the Office filed nine submissions in relation to requests for variation of witness protective measures and one submission in relation to confirmation of witness protective measures.

55. There has been a significant growth in recent years in requests for assistance received by the Office. For example, at the Hague branch the number of requests received increased from 111 in 2013 to 383 in 2020, a significant increase which demonstrates the importance of the support provided by the Office to national prosecutions of war crimes, crimes against humanity and genocide committed in the former Yugoslavia and Rwanda.

V. Activities of the Registry

56. The Registry continued to provide judicial support services and other administrative, budgetary, legal, policy and diplomatic support to the Mechanism's operations.

A. Budget, administration, staffing and facilities

57. By its resolution [75/249](#), the General Assembly decided to appropriate to the special account for the Mechanism a total amount of \$97,519,900 gross for 2021.

58. The Mechanism implemented the decision of the General Assembly² with regard to a reduction of resources for general temporary assistance, travel of staff, general operating expenses and supplies and materials, and continues to actively limit its overall expenditure to that essential to fulfil its mandated functions.

59. While the 2021 budget originally anticipated key proceedings at both branches to conclude in the first quarter, pandemic-related restrictions contributed to some delays. Fortunately, the Mechanism managed to minimize the delays by resuming courtroom activities from August 2020 and to complete proceedings before the end of the current reporting period. Absent any major new developments, such as the arrest of another fugitive, the Mechanism will be in a position to fully support the remaining judicial activities in 2021 within its approved budgetary resources.

60. The Mechanism is currently preparing its 2022 budget proposal, which will include requirements for the trial phase of the *Kabuga* case. As the case is expected to be heard at the Arusha branch, this will require the staffing levels of 2021 to be maintained at this branch in 2022. With key courtroom proceedings ending at the Hague branch, the Mechanism expects a reduction of staff at that branch in 2022.

61. As at 30 June 2021, the Mechanism had a total of 501 staff (on continuous posts and in general temporary assistance positions): 231 at the Arusha branch, including the Kigali Field Office, and 270 at the Hague branch, including the Sarajevo Field Office. The Mechanism's staff comprises nationals of 72 Member States. Of the staff in the Professional and higher categories, 50.3 per cent are women and 49.7 per cent are men, consistent with the Secretary-General's gender parity goals. When staff in the General Service category is considered, the average percentage of female staff is lower. The Mechanism remains committed to achieving greater gender balance and equitable geographical representation.

62. Throughout the reporting period, the Principals' decision-making on pandemic-related matters was facilitated by the COVID-19 Steering Committee established in July 2020. This Steering Committee is comprised of senior representatives of the three organs and is supported, as necessary, by the larger Registry-based COVID-19 management team. In view of the roll-out of vaccination campaigns and the easing of pandemic-related restrictions, the Mechanism is in the process of preparing for a full return of staff to its premises at all duty stations, while ensuring that all health and safety concerns are addressed.

63. At the Arusha branch, in consultation with the Office of Legal Affairs and the Global Asset Management Policy Service of the Secretariat, the Mechanism concluded the final settlement agreement with the architect of the Mechanism's premises on 9 October 2020. Negotiations with the contractor are ongoing, following the withholding of delay damages in accordance with General Assembly resolution [73/288](#). Although hampered by the pandemic, efforts to remedy the problems in the heating, ventilation and air-conditioning system in the archives building continue, and the conclusion of this effort is expected by mid-2022.

64. As previously reported, in April 2019, the host State acquired ownership of the premises rented by the Mechanism at the Hague branch. Negotiations on the future lease are continuing, pending the host State's finalization of the renovation schedule for the premises.

65. The Mechanism is deeply grateful to its host States, the Netherlands and the United Republic of Tanzania, for their long-standing commitment and invaluable

² In resolution [75/249](#), the General Assembly endorsed the recommendations of the Advisory Committee on Administrative and Budgetary Questions to this effect (see [A/75/632](#)).

support. The Mechanism is equally grateful to Bosnia and Herzegovina and Rwanda for facilitating the presence of the Mechanism's field offices.

B. Support for judicial activities

66. The Registry continued to provide support to the Mechanism's judicial activities at both branches. After the necessary suspension of in-court proceedings due to the pandemic, the Registry successfully facilitated a number of court hearings and the delivery of three judgments.

67. In particular, since the transfer of Kabuga to the United Nations Detention Unit in The Hague in October 2020, both Registry branches worked closely together in supporting pretrial proceedings in the *Kabuga* case and facilitated a status conference on 1 June 2021, with all participants present in the courtroom. At the Arusha branch, the Registry facilitated the proceedings in the *Nzabonimpa et al.* case, including the hearing of the closing arguments and the subsequent delivery of the judgment on 25 June 2021. At the Hague branch, the Registry supported trial proceedings in the *Stanišić and Simatović* case, including the delivery of the trial judgment on 30 June 2021. The Registry further supported the appeal proceedings in the *Mladić* case, including the appeal hearing on 25 and 26 August 2020 and the delivery of the appeal judgment on 8 June 2021. The risk of exposure to the COVID-19 virus of all participants was minimized through, inter alia, alterations to the courtrooms, implementation of practical safety measures, issuance of policies and guidelines and the facilitation of remote participation for judges, parties and witnesses, as necessary.

68. During the reporting period, the Registry processed 2,327 judicial filings, amounting to 38,664 pages. The Registry's Language Support Services provided translations of judgments and other documents into and from English, French, Bosnian/Croatian/Serbian, Kinyarwanda and other languages, as required, as well as interpretation services. A particular milestone was the completion of the translation of all trial judgments issued by the International Criminal Tribunal for Rwanda into Kinyarwanda. These judgments are now publicly available in the unified court records database. The database is the public interface of the Mechanism's unified judicial database and brings together all the public judicial records of the ad hoc Tribunals and the Mechanism. As at 30 June 2021, over 355,500 public judicial records are available through the unified court records database, including approximately 29,000 hours of audiovisual recordings. Its launch on 1 September 2020 was one of the highlights of the reporting period and since then the database has been accessed over 22,320 times.

69. Furthermore, the Registry provided assistance to 58 remunerated and pro bono defence teams, comprising a total of 125 team members.

70. Pursuant to article 15 (4) of its statute and consistent with the Mechanism's commitment to efficiency, the Registry continues to maintain rosters of qualified candidates to ensure that staff can be recruited expeditiously to support further court proceedings, in particular with regard to the *Kabuga* case or in the event of the apprehension of another fugitive.

C. Support for other mandated activities

1. Witness support and protection

71. The Mechanism is responsible for the protection of witnesses who testified before the ad hoc Tribunals and witnesses who have appeared or may appear before

the Mechanism. Approximately 3,150 witnesses currently benefit from protective measures.

72. The Witness Support and Protection Unit at both branches ensures the security of witnesses by undertaking threat assessments and coordinating responses to security-related requirements. The Unit also guarantees that protected witness information remains confidential and continues to contact witnesses regarding the rescission, variation or augmentation of judicial protective measures. The Unit implemented 38 judicial orders related to protected witnesses and other witness-related matters and facilitated the President's determination of early release applications by providing comprehensive witness-related information when requested.

73. The medical clinic at the Kigali Field Office continued to provide medical and psychosocial assistance to witnesses, with a focus on those who were victims of sexual or gender-based violence during the genocide against the Tutsi in Rwanda.

74. Furthermore, the Witness Support and Protection Unit at the Arusha branch facilitated the appearance of 12 witnesses, including two accused, who provided testimony in the *Nzabonimpa et al.* contempt case.

75. The Hague branch Unit continued to support witness activity in the *Stanišić and Simatović* case, which included facilitating the appearance of five witnesses.

2. Detention facilities

76. As at 30 June 2021, the United Nations Detention Facility in Arusha housed one convicted person pending his imminent transfer to the designated enforcement State, following the pronouncement of the trial judgment in the *Nzabonimpa et al.* case.

77. As at 30 June 2021, the United Nations Detention Unit in The Hague housed three detainees: Kabuga who is temporarily detained in The Hague, as well as Stanišić and Simatović whose provisional release had been terminated in view of the trial judgment on 30 June 2021. In addition, during the reporting period two convicted persons were transferred to States to serve their sentences, while one was awaiting transfer to an enforcement State and another was returned from an enforcement State to the United Nations Detention Unit. Hence, two convicted persons awaiting their transfer also currently remain in The Hague.

78. Both detention facilities maintained custodial capacity for the return of individuals who were released pending ongoing proceedings at the Mechanism.

3. Enforcement of sentences

79. The Mechanism relies greatly on the cooperation of States for the enforcement of sentences. As at 30 June 2021, the Mechanism was overseeing the enforcement of the sentences of 49 individuals.

80. A total of 28 persons convicted by the International Criminal Tribunal for Rwanda were serving their sentences in three States, while 21 persons convicted by the International Tribunal for the Former Yugoslavia were serving their sentences in 12 States.

81. The Mechanism is grateful to all Member States that have assumed additional responsibilities by agreeing to enforce the sentence of one or more convicted persons and to those considering enforcing sentences in the future. The Mechanism would not be able to fulfil its mandate without this crucial support.

4. Assistance to national jurisdictions

82. During the reporting period, the Registry processed 67 requests for assistance, by national authorities or parties to national proceedings, in connection with national proceedings related to the genocide against the Tutsi in Rwanda or the conflicts in the former Yugoslavia.

5. Relocation of acquitted and released persons

83. The Mechanism continued to proactively pursue the resettlement of persons acquitted or released by the International Criminal Tribunal for Rwanda, including through bilateral meetings with Member States. Despite these endeavours, the number of these persons in Arusha remained at nine, representing a heavy responsibility for the institution. The Mechanism recalls Security Council resolution [2529 \(2020\)](#) and urges Member States to increase their efforts towards finding a durable solution to this matter, which has been ongoing for more than 17 years.

6. Monitoring of referred cases

84. During the reporting period, the Mechanism continued to monitor three cases referred to Rwanda with pro bono assistance from the Kenyan Section of the International Commission of Jurists.

85. The *Ntaganzwa* case is in the appeal phase, following the delivery of the trial judgment on 28 May 2020. The appeal judgment in the *Uwinkindi* case was delivered on 24 December 2020 by the Court of Appeal of Rwanda. Jean Uwinkindi filed a notice for review of the appeal judgment before the Supreme Court of Rwanda on 21 January 2021, which is under consideration. Furthermore, on 7 May 2021, the Court of Appeal of Rwanda confirmed the 20 April 2017 trial judgment in the *Munyagishari* case.

86. The Mechanism also continued to monitor the last remaining case referred to France with the assistance of an internal monitor from the Mechanism. On 21 January 2021, the Investigating Chamber ordered an indictment and referral of the *Bucyibaruta* case to the Paris Cour d'Assises. The trial is scheduled to take place from 9 May to 1 July 2022.

87. Finally, in a case referred to Serbia by the International Tribunal for the Former Yugoslavia in March 2007, the accused was found unfit to stand trial shortly thereafter. While the Office of the Prosecutor still remains apprised of any developments concerning the health of the accused, there is no expectation that his status will change.

7. Archives and records management

88. The Mechanism Archives and Records Section is currently responsible for the management of 4,400 linear metres of physical records and approximately three petabytes of digital records generated by the ad hoc Tribunals and the Mechanism.

89. The Mechanism continued the ingest of digital records into its digital preservation system. Thus far, 240.8 terabytes of digital records, including 203,827 files in a variety of formats, have been ingested. The Mechanism Archives and Records Section also continued the preservation of audiovisual recordings currently stored on obsolete physical media at the Hague branch. During the reporting period over 51,300 physical audiovisual records were assessed to determine preservation needs. The Arusha branch continued to create publicly accessible audiovisual recordings of judicial proceedings from the International Criminal Tribunal for Rwanda, making an additional 991 hours of recordings available.

90. The Mechanism Archives and Records Section responded to 143 enquiries about, and requests for, access to the archives during the reporting period. The Section further continued to make progress in the development of a publicly accessible catalogue containing descriptions of the archives of the ad hoc Tribunals, which is expected to be launched in 2022. On 9 April 2021, the Mechanism commenced an online exhibition commemorating the 1994 genocide against the Tutsi in Rwanda and reflecting on the history of the International Criminal Tribunal for Rwanda.

8. External relations and information-sharing

91. 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. The External Relations Office also facilitated public and media access to the Mechanism's judicial proceedings.

92. At the Hague branch, the Mechanism, with the support of the European Union and Switzerland, continued to work on a project focused on informing affected communities and younger generations in the region of the former Yugoslavia about the legacy of the International Tribunal for the Former Yugoslavia and the ongoing work of the Mechanism, and on facilitating access to the archives.

VI. Conclusion

93. As demonstrated in the present report, the Mechanism continued adapting to the different working realities caused by the global health crisis. With perseverance, flexibility and swift actions it was able not only to ensure business continuity throughout, but to make great strides in the fulfilment of its mandate. Notably, three landmark judgments were issued in accordance with envisaged timelines, without compromising the rights of the accused or the health and safety of participants in the proceedings. The Mechanism will build upon this momentum to make further progress in the discharge of its duties, with a particular focus on the next stage of its core judicial workload.

94. The Mechanism has, moreover, approached the challenges encountered as an opportunity to augment communication and coordination between the three organs and the two duty stations, and to further streamline its operations. Hence, in the face of unpredictable and exceptionally difficult circumstances, the Mechanism demonstrated its unrelenting commitment to maintaining anticipated timelines and, generally, to making progress in its important work. It thereby continued to serve as a successful model for efficiently conducting international criminal trials.

95. The Mechanism's achievements are only possible owing to the remarkable dedication, hard work and resourcefulness of its judges, staff members and members of defence teams, who have continued their crucial work throughout a most trying year. The Mechanism also wishes to express gratitude to its outstanding host States, the United Republic of Tanzania and the Netherlands. Finally, it expresses sincere appreciation for the ongoing support provided by the General Assembly and the Security Council, as well as the Office of Legal Affairs of the Secretariat.