

**Security Council**

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**Letter dated 19 May 2022 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council**

I am pleased to submit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Residual Mechanism for Criminal Tribunals, pursuant to paragraph 16 of Security Council resolution [1966 \(2010\)](#).

I should be grateful if you would transmit the present letter and its annexes to the members of the Security Council.

*(Signed)* Carmel Agius  
President



**Annex I to the letter dated 19 May 2022 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council**

[Original: English and French]

**Assessment and progress report of the President of the International Residual Mechanism for Criminal Tribunals, Judge Carmel Agius, for the period from 16 November 2021 to 18 May 2022**

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1. The present report, the twentieth in a series, is submitted pursuant to Security Council resolution [1966 \(2010\)](#), by which the Council established the International Residual Mechanism for Criminal Tribunals. In paragraph 16 of that resolution, the Council requested the President and the Prosecutor of the Mechanism to submit reports every six months on the progress of the work of the Mechanism.<sup>1</sup> The same reporting requirement is reflected in article 32, paragraph 2, of the statute of the Mechanism (resolution [1966 \(2010\)](#), annex 1). Information contained in the present report is also included pursuant to paragraph 10 of Council resolution [2529 \(2020\)](#).

## I. Introduction

2. The Mechanism was established by the Security Council to carry out a number of essential residual functions of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, and the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, which closed in 2015 and 2017, respectively. The Mechanism's branch in Arusha, United Republic of Tanzania, commenced operations on 1 July 2012, assuming functions derived from the International Criminal Tribunal for Rwanda, while its branch in The Hague, Netherlands, commenced operations on 1 July 2013, assuming functions derived from the International Tribunal for the Former Yugoslavia. The Mechanism has been a stand-alone institution since 1 January 2018.

3. In view of the substantially reduced nature of the residual functions, the Mechanism was set up by the Security Council to operate as a small, temporary and efficient structure, whose functions and size would diminish over time, with a small number of staff commensurate with its reduced functions (resolution [1966 \(2010\)](#)).

4. Pursuant to resolution [1966 \(2010\)](#), the Mechanism was tasked with running for an initial period of four years and, subsequently, for periods of two years, following reviews of the progress of its work, unless the Security Council decided otherwise. During the reporting period, the Council conducted its fourth such review, in line with the statement by the President of the Security Council of 31 March 2022 ([S/PRST/2022/2](#)). In connection with this process, the Office of Internal Oversight Services (OIOS) undertook a review of the methods and work of the Mechanism, issuing its report on 23 February 2022 ([S/2022/148](#)). The Mechanism subsequently submitted its fourth review report to the Security Council on 14 April 2022 ([S/2022/319](#)) and welcomes the opportunity to discuss the progress of its work with the Council and its Informal Working Group on International Tribunals.

5. In the meantime, the Mechanism notes that the progress that it made during the two-year period from 16 April 2020 to 14 April 2022 is detailed in its fourth review report. That report therefore covers five of the six-month period that are the subject of the present report. Given this temporal overlap, where possible the present report was drafted with a view to avoiding the unnecessary duplication of information and to highlighting developments that have taken place since the fourth review report was submitted. Consequently, both reports should be read in conjunction. The Mechanism trusts that this will ensure that the most useful and relevant information is provided to the members of the Security Council.

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<sup>1</sup> Unless otherwise specified, figures set out in the present report are accurate as at 18 May 2022.

6. Turning to the Mechanism's pending judicial caseload, in the case of *Prosecutor v. Marie Rose Fatuma et al. (Fatuma et al. case)*, a scheduling order has now been issued for the delivery of the appeal judgment on 29 June 2022. The appeal case of *Prosecutor v. Jovica Stanišić and Franko Simatović (Stanišić and Simatović case)* also continued apace, with the proceedings on track for completion by June 2023. In the case of *Prosecutor v. Félicien Kabuga (Kabuga case)*, a decision regarding the fitness of the accused to stand trial is still pending.

7. Alongside the pending judicial caseload, the Mechanism made decisive progress in relation to the tracking of fugitives of the International Criminal Tribunal for Rwanda. Further information is provided in paragraphs 72 and 73 below and in annex II, which contains the assessment of the Prosecutor. Solid progress was also made in other residual functions, most notably the supervision of the enforcement of sentences and the monitoring of cases referred to national jurisdictions.

8. Unfortunately, the dire situation of the eight acquitted and released persons who were relocated to the Niger in December 2021 remains unresolved (see paras. 90–93).

9. Separately, management was pleased to finally implement a meaningful return of staff to premises at all duty stations in February 2022, having had to revert to remote working earlier in the reporting period. While almost all of its pandemic-related policies have now been lifted, the Mechanism will remain vigilant in protecting the persons under its supervision or care.

10. Lastly, the Mechanism will soon experience a change in leadership. The President of the Mechanism, Judge Carmel Agius, has informed the Secretary-General of his decision to step down as head of the institution, while expressing his desire to remain on the judicial roster.

11. Wherever possible, the present report contains detailed projections of the duration of residual functions entrusted to the Mechanism, in accordance with Security Council resolution 2529 (2020), as well as a recommendation made by OIOS in 2020 that has now been closed.<sup>2</sup> It must be noted that such projections are based on information available at the time of reporting and therefore subject to modification in the event of evolving circumstances.

## II. Structure and organization of the Mechanism

### A. Organs and principals

12. The Mechanism consists of three organs: the Chambers, the Prosecutor and the Registry. The work of the Chambers and the Registry is discussed in the present annex, while annex II details the activities of the Office of the Prosecutor (the prosecution).

13. Each organ is led by a full-time principal who exercises responsibility over both Mechanism branches. President Carmel Agius (Malta) is based in The Hague, while Prosecutor Serge Brammertz (Belgium) and Registrar Abubacarr Tambadou (Gambia) are based in Arusha.

14. The current terms of the principals and judges run until 30 June 2022. In April 2022, President Agius informed the Secretary-General of his decision not to seek a further appointment as President of the Mechanism, but of his wish to remain on the judicial roster, should the Secretary-General consider it appropriate.

<sup>2</sup> S/2020/236, para. 67, and S/2022/148, paras. 48–61.

15. Following the Security Council's fourth review, the Mechanism looks forward to the issuance of a new resolution concerning the appointment of the Prosecutor, and the subsequent appointment of the judges, the Registrar and a new president by the Secretary-General.

## B. President

16. The President is the institutional head and highest authority of the Mechanism, responsible for the overall execution of its mandate, presiding over the Appeals Chamber, assigning judges to cases, and carrying out other functions specified in the statute and the Rules of Procedure and Evidence of the Mechanism.<sup>3</sup>

17. During the reporting period, the President continued to oversee the Mechanism's work and progress, and collaborated with the other principals on matters concerning the overall functioning of the institution, including budgetary issues and the coronavirus disease (COVID-19) pandemic. Further efforts were made to ensure systematic thinking and planning about the future, in line with a recommendation made by OIOS in 2020, the implementation of which remains in progress.<sup>4</sup>

18. The President also took proactive steps towards the further implementation of his core priorities.<sup>5</sup> The President is indeed satisfied with the progress made in relation to each priority since he took office in January 2019. First, a significant portion of the Mechanism's judicial caseload has been concluded or is rapidly nearing completion. Second, great strides have been made towards harmonizing and streamlining working methods across branches, with the "one Mechanism" approach gaining traction and a number of practice directions and other policy documents being issued. Third, the President has made continuous efforts to improve staff morale and performance by, inter alia, listening to staff concerns, communicating with staff members in a timely, clear and reassuring manner, and hosting town hall and other meetings when possible. As the Mechanism is a temporary and downsizing institution, the latter remains not only a fundamental priority but also a serious challenge.

19. Separately, the President addressed the Security Council in person in December 2021 to present the progress report of November 2021 (S/2021/955, annex I). During that mission, he briefed the Informal Working Group on International Tribunals and held meetings with representatives of Member States and high-level representatives of the United Nations. The President also undertook an official mission to Zagreb in November 2021, and he visited Sarajevo in April 2022 for the purpose of participating in official events commemorating the thirtieth anniversary of the siege of Sarajevo. In May 2022, the President was delighted to be able to travel to the Arusha branch for the first time since the pandemic began.

## C. Judges

20. Two related changes to the judicial roster of the Mechanism took place during the reporting period. Effective 17 November 2021, Judge Theodor Meron (United States of America) resigned from the Mechanism, thereby ending his long and distinguished service as a judge of the Mechanism and its predecessor tribunals and a former President of both the Mechanism and the International Tribunal for the

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<sup>3</sup> The Rules of Procedure and Evidence are available at [www.irmct.org/en/documents/rules-procedure-and-evidence](http://www.irmct.org/en/documents/rules-procedure-and-evidence). The responsibilities and activities of the President are set out in detail in the fourth review report of the Mechanism (S/2022/319, paras. 22–70).

<sup>4</sup> See S/2020/236, para. 66, S/2022/148, paras. 43–47, and S/2022/319, paras. 260–262.

<sup>5</sup> See S/2022/319, paras. 23–28. See also S/2021/955, annex I, paras. 18–23.

Former Yugoslavia. On 22 December 2021, the Mechanism welcomed onto its judicial roster Judge Margaret M. deGuzman (United States), who was appointed by the Secretary-General to replace Judge Meron. Judge deGuzman's arrival brings the number of female judges to 8, out of 25, and the President is hopeful that this momentum towards better gender representation at the highest levels will continue in future.

21. The current judicial roster comprises (in order of precedence): Judge Carmel Agius, President (Malta), 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 Orie (Netherlands), Judge Burton Hall (Bahamas), Judge Florence Rita Arrey (Cameroon), Judge Vagn Prüsse 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), Judge Iain Bonomy (United Kingdom of Great Britain and Northern Ireland), Judge Fatimata Sanou Touré (Burkina Faso) and Judge Margaret M. deGuzman (United States).

22. The President continued to assign on an alternating basis Judges Masanche, Sekule and Joensen as duty judge at the Mechanism's Arusha branch. As previously reported, the decision to assign judges who are resident in the United Republic of Tanzania maximizes efficiency, and their assignment is remunerated only to the extent that they exercise judicial functions in that capacity.

#### **D. Branches**

23. The Mechanism continues to function as a single, unified institution, optimizing and harmonizing its activities at both its branches, which, in accordance with article 3 of the statute, are located in Arusha and The Hague. The cooperation with the United Republic of Tanzania and the Netherlands remains excellent, and the Mechanism is grateful to both host countries for their continued support and engagement in accordance with the respective headquarters agreements.

24. At the Arusha branch, slight modifications to the premises were completed in March 2022, in anticipation of the commencement of trial in the *Kabuga* case, which is pending judicial determination. On 9 March, the remaining archives that had been stored at the Arusha International Conference Centre were finally moved to the current premises of the branch, thereby consolidating all archives of the International Criminal Tribunal for Rwanda and the Mechanism in one location.

25. With regard to The Hague branch, the Mechanism further engaged with the host country in relation to the latter's plans for the substantive refurbishment of the premises occupied by the Mechanism. The host country now estimates that the project could commence by 2025 and be completed by 2029. It has proposed that the Mechanism relocate during the period of refurbishment and offered to facilitate alternative housing for the Mechanism.

26. The Mechanism's two field offices in Kigali and Sarajevo also continued to play an important role in the implementation of its mandate. Among other activities, both field offices continued to provide protection and support services to witnesses called to appear before the Mechanism or its predecessor Tribunals, and facilitated requests

for the variation of protective measures taken pursuant to rule 86 of the Rules of Procedure and Evidence.

## E. Budget, staffing and administration

27. By its resolution [76/243](#), the General Assembly appropriated a total amount of \$89,690,200 gross for 2022. The Mechanism implemented the decision of the Assembly with regard to a reduction of resources for general temporary assistance, travel of staff, general operating expenses and supplies and materials, and it continued to actively limit its overall expenditure to that essential for the fulfilment of its mandated functions.<sup>6</sup>

28. The details and breakdown of the Mechanism's expenditure in 2022, presented in terms of funds committed, are set forth in enclosure I.

29. The Mechanism is currently preparing its budget proposal for 2023, which will continue to include requirements for the appeal proceedings in the *Stanišić and Simatović* case and the trial phase of the *Kabuga* case.

30. Regarding staffing levels, the number of general temporary assistance posts was reduced as part of the budget implementation effective 1 January 2022. Additional general temporary assistance posts will undergo downsizing through the course of 2022. Significant downsizing will be planned as part of the budget proposal for 2023 and will require a comparative review.

31. As at 18 May 2022, 184 of the 187 approved continuous posts to carry out the Mechanism's continuous functions were occupied, while an additional 251 personnel were serving as general temporary assistance to assist with ad hoc needs, including judicial work. Consistent with the flexible staffing structure of the Mechanism, those positions are short-term in nature and will fluctuate depending on the relevant workload.

32. Details of the staffing of the Mechanism by division are provided in enclosure II.

33. The Mechanism's continuous and general temporary assistance positions include nationals of 71 States, namely: Algeria, Australia, Austria, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, China, Congo, Croatia, Cuba, Democratic Republic of the Congo, Denmark, Ethiopia, Fiji, Finland, France, Gambia, Germany, Ghana, Guatemala, Haiti, India, Indonesia, Iraq, Ireland, Italy, Jamaica, Japan, Kenya, Latvia, Lebanon, Lesotho, Liberia, Madagascar, Malaysia, Morocco, Nepal, Netherlands, New Zealand, Niger, Nigeria, North Macedonia, Pakistan, Philippines, Poland, Republic of Korea, Romania, Russian Federation, Rwanda, Serbia, Sierra Leone, Slovakia, South Africa, Spain, Sudan, Sweden, Thailand, Uganda, Ukraine, United Kingdom, United Republic of Tanzania, United States, Yemen, Zambia and Zimbabwe.

34. The Mechanism continued to work towards the Secretary-General's gender parity goals, with female staff members comprising 50.27 per cent of staff at the professional level as at 18 May 2022, averaged across the two branches. When General and Field Services staff are also considered, the average percentage of female staff is lower, with a total of 41 per cent overall. Consistent with the relevant administrative instruction ([ST/AI/2020/5](#)), the Mechanism strives for improvement in this regard, where possible. Its efforts in this regard include the recruitment process,

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<sup>6</sup> In resolution [76/243](#), the General Assembly endorsed the recommendations of the Advisory Committee on Administrative and Budgetary Questions to that effect (see [A/76/577](#) and [A/76/608](#)).

where hiring managers give due consideration to gender and all recruitment exercises for international positions are reviewed by a central review body.

35. The Mechanism's dedicated focal points for gender; protection from sexual exploitation and sexual abuse; diversity, inclusion and LGBTIQI+ issues; disability and accessibility issues; and conduct and discipline engaged with staff and management to address issues arising in the workplace. During the reporting period, additional focus was placed on providing support to the focal points to ensure that they are well placed to fulfil their mandates. This included specific training in their respective areas and approval for eight hours per month of dedicated time aside from their normal duties. The Mechanism also initiated a first round of training sessions on unconscious bias, led by the Registrar. The goal is to provide such training to all staff, and additional sessions are planned later in 2022.

36. With regard to the well-being of staff, telehealth services for both physical and mental health support continued to be made accessible, including through access to an employee assistance programme, which offers counselling on a broader range of issues that have an impact on the quality of life and resilience. The Mechanism is currently implementing a new well-being platform, in cooperation with the World Food Programme, which is expected to be fully operational during the second quarter of 2022.

37. In the context of the pandemic, in late April 2022, following the successful full return of staff to the office in February 2022 and the easing of restrictions in all duty stations, the principals decided to lift almost all of the Mechanism's pandemic-related policies. The principals were advised in those and related matters by the COVID-19 Steering Committee, which also completed a full review of those policies during the reporting period. The Committee was supported, as needed, by the Registry COVID-19 Management Team.

38. Throughout the period, staff were continuously updated about the measures taken by the host countries to limit the spread of COVID-19, including the roll-out and implementation of vaccination programmes accessible to staff and their dependants.

### **III. Judicial activities**

39. The Mechanism was seized of a number of complex judicial matters during the reporting period. The President and the judges continued to engage in a wide variety of judicial activities, which, in accordance with article 8, paragraph 3, of the statute, were primarily carried out remotely. The judges on the roster are currently supported by the Chambers Legal Support Section, which comprises 17 legal officers and three administrative assistants, serving at both branches of the Mechanism.

40. The President and the judges issued a total of 143 decisions and orders during the reporting period. Of those, 108 (or approximately 3 in 4) related to the Mechanism's continuous judicial functions – including matters pertaining to the protection of victims and witnesses, assistance to national jurisdictions, the enforcement of sentences and the investigation and trial of allegations of false testimony or contempt, as well as the management of the work of Chambers and the judicial review of administrative decisions – rather than to the adjudication of the core crimes incorporated in the statute.

41. The leadership of the Chambers Legal Support Section continued to employ streamlined working methods and processes, in collaboration with other sections of the Mechanism, and to draw on resources at both branches to address judicial workload issues wherever arising.

42. With respect to the core crimes incorporated in the statute of the Mechanism, the judges, whose individual legal backgrounds are roughly evenly split between civil and common law, worked during the reporting period on one trial, at the pretrial stage of proceedings, and on an appeal from judgment.

43. In the *Kabuga* case, the accused remained detained in The Hague pending the outcome of the medical assessments ordered by the Trial Chamber to determine his general fitness for trial and his fitness to travel to Arusha and be detained there. Status conferences in the case were held on 3 February and 11 May 2022.

44. The Trial Chamber has authorized the appointment of three independent medical experts and allowed the prosecution and the defence to each appoint an expert of their own. The experts will be examined in court during the week of 30 May to 3 June 2022, and the Trial Chamber expects to issue its decision by the end of June 2022.

45. In the event that a decision is taken to commence trial, it is expected that the trial will begin after the midyear judicial recess in September 2022, to allow for the conclusion of any pretrial or logistical formalities. Such a decision may be appealed, which could have an impact on the nature of the proceedings at the start of the trial until the matter is resolved by the Appeals Chamber. The delay in Mr. Kabuga's final medical assessment was unforeseeable and beyond the control of the Trial Chamber, and it is the sole reason for the trial not to have commenced in November 2021, 12 months from the initial appearance.<sup>7</sup> As a result, the pretrial phase of the case has been extended by approximately nine months, until September 2022. The pretrial obligations of the parties are nonetheless essentially complete, and the Trial Chamber is currently using this time to adjudicate requests for the admission of evidence under rules 110, 111 and 112 of the Rules of Procedure and Evidence, which will facilitate the conduct of trial once commenced.

46. Regarding the trial phase, in the fourth review report and the progress report of November 2021, it was projected that an additional 12 months might be required for the completion of the case.<sup>8</sup> This was in view of the likely accommodations to the sitting schedule required by Mr. Kabuga's health condition and of the scope of the prosecution case, as indicated in the pretrial brief and witness list. However, following the encouragement of the presiding/pretrial judge to find ways to streamline its case, the prosecution announced at the status conference held on 11 May 2022 that it would be significantly reducing the number of hours it needed for the presentation of its case, from 168 to approximately 80 hours.

47. Accordingly, this would reduce the expected duration of the trial phase by six months, compared with the previous projection. At present, the trial is expected to commence by September 2022 and last two years. The preliminary projection for any possible appeal following judgment remains the same, that is, two years from the filing of the trial judgment to the issuance of the appeal judgment. The Trial Chamber also has the discretion, after hearing the parties at the pretrial conference, to reduce the number of witnesses, the time for the presentation of a party's case and the scope of the indictment if it is in the interests of justice to do so. As the case remains at the pretrial phase, the judges of the Trial Chamber are all working remotely except when summoned to the seat, as appropriate, for status conferences or other hearings.

48. In the *Stanišić and Simatović* case, the Appeals Chamber is seized of appeals by all three parties against the trial judgment pronounced on 30 June 2021, for which written reasons were filed on 6 August 2021. Notices of appeal were filed on

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<sup>7</sup> This time frame had been provided in the Mechanism's third review report, which was submitted before Mr. Kabuga's capture and set out preliminary projections, should a fugitive of the International Criminal Tribunal for Rwanda be apprehended (S/2020/309, para. 62).

<sup>8</sup> See S/2021/955, annex I, para. 64, and S/2022/319, para. 87.

6 September 2021. During the reporting period, the appeal briefing was concluded on 15 February 2022, following the earlier granting by the pre-appeal judge of an extension of time for the filing of all parties' respondent briefs. The first two status conferences in the appeal case were held on 16 December 2021 and 1 April 2022, respectively, and a third status conference has been scheduled for 23 June 2022. With the judges and the Chambers Legal Support Section working hard to ensure constant progress, the projected date for completion of the appeal proceedings remains the end of June 2023. All of the judges on the bench are currently carrying out their work remotely, with the exception of the President, who serves as the presiding judge of the Appeals Chamber and pre-appeal judge.

49. In addition to the proceedings relating to the core crimes incorporated in the statute, the Mechanism was seized of several matters pertaining to allegations of false testimony or contempt during the reporting period.

50. It is worth emphasizing the excellent progress made in the *Fatuma et al.* case, which is now set to be completed at the end of June 2022. Those appeal proceedings concern four of the parties to the trial case of *Prosecutor v. Anselme Nzabonimpa et al.* (*Nzabonimpa et al.* case), in which the judgment was pronounced on 25 June 2021 and written reasons for judgment were filed on 20 September 2021. The filing of briefs by the appellants and respondents in the *Fatuma et al.* case concluded on 23 November 2021. Thanks to the dedicated efforts of the judges on the bench and the Chambers Legal Support Section, the judgment in this case has now been scheduled for delivery in Arusha on 29 June 2022, in line with the original projection announced to the Security Council in the progress report of November 2021 (S/2021/955, annex I, para. 68). During the proceedings, the judges have been carrying out their work remotely, with the exception of the President, who serves as the presiding judge of the Appeals Chamber and pre-appeal judge. However, all three judges on the bench will travel to the Arusha branch for the delivery of the appeal judgment.

51. Activity related to the contempt case against Mr. Petar Jojić and Ms. Vjerica Radeta (*Jojić and Radeta* case) also continued, following a decision issued by the single judge during the previous reporting period. In this respect, on 3 September 2021, the single judge had found, inter alia, that the execution of the arrest warrants against the accused was unlikely to take place within a reasonable time. Consequently, the single judge granted the request of the amicus curiae prosecutor to take the evidence of prosecution witnesses by special deposition, in order to preserve evidence for use in a future trial in the event that the witnesses would become unavailable. The special deposition were held in The Hague on 2 and 3 March 2022.

52. The Mechanism regrets the persistent failure by Serbia to take any action in relation to the *Jojić and Radeta* case during the reporting period. In this regard, the Mechanism reiterates that all Member States, including Serbia, must abide by their obligations under Chapter VII of the Charter of the United Nations and are therefore expected to act in accordance with outstanding warrants against the two accused and to secure their arrest, detention and transfer to the custody of the Mechanism without delay.

53. Separately, in relation to a contempt matter that came to light during the trial in the *Nzabonimpa et al.* case, a single judge had directed the Registrar on 25 October 2021 to appoint an amicus curiae to investigate the matter and requested that a report be filed within 120 days of the appointment. On 1 April 2022, the single judge granted a 120-day extension of time to the amicus curiae in view of the volume and nature of the material under consideration. The amicus curiae is now expected to file a report on his investigation by 28 July 2022.

54. In a different matter, on 19 April 2022, a single judge directed the Registrar to appoint an amicus curiae to investigate two individuals and their former counsel to determine whether contempt proceedings or other appropriate action should be taken in connection with the submission of forged documents, arising out of proceedings before another single judge concerning frozen assets linked to Mr. Kabuga.

55. Turning to the judicial activity of the President, during the reporting period, the President issued a total of 47 decisions and orders. These included 18 decisions and orders relating to enforcement matters, as well as 25 assignment orders. Of the assignment orders, 16 related to rule 86 of the Rules of Procedure and Evidence. In addition to those decisions and orders, the President issued 23 decisions and orders in his separate capacity as presiding judge of the Appeals Chamber, including as pre-appeal judge in the *Stanišić and Simatović* and *Fatuma et al.* cases.

56. In the area of enforcement of sentences, the President issued eight decisions on applications for commutation of sentence or early release during the reporting period.<sup>9</sup> He is currently seized of five pending applications, four of which were filed in 2022.

57. Alongside this activity, the President again regularly monitored the situation of convicted persons as regards the COVID-19 pandemic. He continued to receive pandemic-related updates in line with his most recent orders of 1 October 2021 and 1 February 2022.<sup>10</sup>

58. The current status of the Mechanism's trial and appeal proceedings, as discussed above, is shown in enclosure III.

#### IV. Registry support for judicial activities

59. During the reporting period, the Registry continued to provide support to the Mechanism's judicial activities at both branches.

<sup>9</sup> See *Prosecutor v. Vlastimir Đorđević*, Case No. MICT-14-76-ES, Decision on the Applications for Early Release of Vlastimir Đorđević, 30 November 2021 (public redacted version); *Prosecutor v. Milivoj Petković*, Case No. MICT-17-112-ES.5, Decision on the Early Release of Milivoj Petković, 16 December 2021 (public redacted version); *Prosecutor v. Milomir Stakić*, Case No. MICT-13-60-ES, Decision on Sentence Remission and Early Release of Milomir Stakić, 22 December 2021; *Prosecutor v. Radoslav Brđanin*, Case No. MICT-13-48-ES, Decision on the Application for Early Release of Radoslav Brđanin, 1 April 2022 (public redacted version); *Prosecutor v. Bruno Stojić*, Case No. MICT-17-112-ES.3, Decision on the Application for Early Release of Bruno Stojić, 11 April 2022 (public redacted version); *Prosecutor v. Hassan Ngeze*, Case No. MICT-13-37-ES.2, Decision on the Application for Commutation of Sentence of Hassan Ngeze and Related Motions, 14 April 2022 (public redacted version); *Prosecutor v. Aloys Ntabakuze*, Case No. MICT-14-77-ES.1, Decision on the Application for Early Release of Aloys Ntabakuze, 17 May 2022 (public redacted version); and *Prosecutor v. Nebojša Pavković*, Case No. MICT-14-67-ES.2, Decision on the Application for Early Release of Nebojša Pavković, 18 May 2022 (public redacted version).

<sup>10</sup> See Case No. MICT-12-01-ES, Seventh Order for COVID-19 Updates from Enforcement States, 1 October 2021 (public redacted version); and Case No. MICT-12-01-ES, Eighth Order for COVID-19 Updates from Enforcement States, 1 February 2022 (public redacted version). See also Case No. MICT-12-01-ES, Order for COVID-19 Updates from Enforcement States, 24 April 2020 (public redacted version); Case No. MICT-12-01-ES, Second Order for COVID-19 Updates from Enforcement States, 26 June 2020 (public redacted version); Case No. MICT-12-01-ES, Third Order for COVID-19 Updates from Enforcement States, 28 August 2020 (public redacted version); Case No. MICT-12-01-ES, Fourth Order for COVID-19 Updates from Enforcement States, 30 October 2020 (public redacted version); Case No. MICT-12-01-ES, Fifth Order for COVID-19 Updates from Enforcement States, 23 February 2021 (public redacted version); and Case No. MICT-12-01-ES, Sixth Order for COVID-19 Updates from Enforcement States, 25 June 2021 (public redacted version).

60. The Judicial Records Unit at both branches processed and disseminated 1,057 filings, including 220 Registry legal submissions, amounting to a total of 11,525 pages. In The Hague, the Unit supported the *Jojić and Radeta* case proceedings in March 2022 and status conferences in the *Stanišić and Simatović* case held on 16 December 2021 and 1 April 2022. Staff from both branches continued to collaborate to support the pretrial proceedings in the *Kabuga* case, with status conferences held in The Hague on 3 February and 11 May 2022. In total, six court hearing days were serviced during the reporting period, all at The Hague branch. The support of the Judicial Records Unit of each branch in liaising with the Chambers and the parties and preparing for in-court hearings was a vital component of the smooth operation of those proceedings.

61. During the reporting period, the Language Support Services at the two branches translated over 9,000 pages. At The Hague branch, the Language Support Services provided 38 conference interpreter days and produced 384 pages of transcripts in English and French. This support related to the *Fatuma et al.*, *Kabuga* and *Stanišić and Simatović* cases. The Language Support Services also completed the translation of monitoring reports relating to cases referred to France and Rwanda pursuant to article 6 of the statute, and one trial judgment related to a case referred to Rwanda.

62. With regard to the translation of judgments into Bosnian-Croatian-Serbian, the Language Support Services in The Hague completed the translation of one Mechanism appeal judgment, leaving one Mechanism trial judgment to be translated. In addition, two appeal judgments of the International Criminal Tribunal for Rwanda were translated into French. A total of 10 judgments of both Tribunals and 4 judgments of the Mechanism are pending translation from English into French.

63. The Language Support Services in Arusha completed the translation into Kinyarwanda of three appeal judgments of the International Criminal Tribunal for Rwanda and of one trial judgment of the Mechanism. Furthermore, the Mechanism completed the translation from Kinyarwanda into French of one trial judgment and a decision in one of the referred cases. A total of 27 appeal judgments of the International Criminal Tribunal are awaiting translation into Kinyarwanda.

64. The Office for Legal Aid and Defence Matters provided financial and other assistance to 61 defence and amicus curiae teams, comprising a total of approximately 105 defence team members involved in both remunerated and pro bono services. In particular, the Office processed around 170 defence and amicus curiae invoices, travel requests and expense reports during the reporting period. The list of those eligible for assignment to suspects and accused before the Mechanism now comprises 60 admitted counsel, while the number of prosecutors and investigators eligible for assignment as amici curiae has increased to 53.

## V. Victims and witnesses

65. At the time of reporting, approximately 3,150 witnesses were benefiting from judicial or non-judicial protective measures.

66. During the reporting period, in accordance with judicial protection orders, and in collaboration with national authorities, the Witness Support and Protection Unit continued to provide security for witnesses by undertaking threat assessments and coordinating responses to security-related requirements. It also assisted with the review of material potentially breaching protective measures and facilitated contact with relocated witnesses or other witnesses, when so required.

67. At the Arusha branch, following liaison with the prosecution and the Judicial Records Unit, the Witness Support and Protection Unit assisted in the certification of

the written statements or transcripts of 14 witnesses in lieu of oral testimony in the *Kabuga* case, pursuant to rule 110 of the Rules of Procedure and Evidence. In The Hague, the Unit facilitated the testimony of one witness in the special deposition in the *Jojić and Radeta* case.

68. In relation to applications for the variation of the protective measures for witnesses in accordance with rule 86 of the Rules of Procedure and Evidence, the Unit provided significant support in The Hague branch as a result of the large number of applications received. In addition, a new cross-branch guideline was developed to address any breaches of protective measures in relation to witnesses.

69. Witnesses residing in Rwanda continued to receive medical and psychosocial services from the medical clinic located at the Kigali field office. In addition, the Witness Support and Protection Unit continued to support protected witnesses who testified before the International Criminal Tribunal for Rwanda with resolving refugee status and residency-related issues.

70. Witness protection will continue to be required in the light of the multitude of judicial protection orders that will remain in force unless rescinded or waived, or, where applicable, until the last victim or witness is deceased. In relation to relocated witnesses, the provision of support may be required until the last member of the immediate family is deceased.

## VI. Fugitives and trial and appeal readiness

71. The tracking of fugitives is within the responsibility of the Prosecutor and is discussed in annex II. As detailed therein, decisive developments took place regarding the fugitives indicted by the International Criminal Tribunal for Rwanda.

72. On 12 May 2022, the prosecution confirmed the death of Protais Mpiranya, who was indicted by the Tribunal in 2000 and alleged to have been a senior leader of the 1994 genocide against the Tutsi in Rwanda. The prosecution determined that Mr. Mpiranya had died in Harare in 2006 but that his presence in Zimbabwe and the fact of his death had been deliberately concealed by his family and associates, including up to the present time. As Mr. Mpiranya was the last fugitive of the International Criminal Tribunal for Rwanda expected to be tried before the Mechanism, his death closes the door to future trials on core crimes cases and leaves only the trial in the *Kabuga* case, which remains subject to judicial determination.

73. In a further major update, on 18 May 2022, the prosecution confirmed the death of another fugitive, Phénéas Munyarugarama, whose case had been referred to Rwanda and was expected to be tried there. Mr. Munyarugarama was indicted by the International Criminal Tribunal for Rwanda in 2002 for crimes allegedly committed in his capacity as Commander of the Gako military camp in the Bugesera region, Kigali-rural Prefecture, in 1994. The prosecution determined that he had died in Kankwela, Democratic Republic of the Congo, in 2002.

74. As a result of those developments, there now remain only four fugitives indicted by the International Criminal Tribunal for Rwanda: Fulgence Kayishema, Aloys Ndimbati, Charles Ryandikayo and Charles Sikubwabo. Their cases are expected to be tried in Rwanda, subject to the conditions set out in the relevant referral decisions. Nonetheless, their arrest and prosecution continue to be a top priority for the Mechanism.

75. With respect to its future workload, the Mechanism stands ready to conduct proceedings in the event that the accused in the *Jojić and Radeta* case are transferred to the Mechanism. It is also mindful that new contempt or false testimony proceedings

may be initiated at any time and that the referral of any case to a national jurisdiction, including the cases of the four fugitives expected to be tried by Rwanda, may be revoked.

## VII. Detention facilities

76. At the United Nations Detention Facility in Arusha and the United Nations Detention Unit in The Hague, the Mechanism detains persons awaiting trial, appeal or other judicial proceedings before the Mechanism, as well as persons otherwise detained on the authority of the Mechanism, such as convicted persons awaiting transfer to an enforcement State.

77. While the United Nations Detention Facility does not currently house any detainees, it will need to remain operational for the detention of Mr. Kabuga in anticipation of his potential transfer from The Hague to Arusha. The United Nations Detention Facility also maintains custodial capacity to accommodate potential detained witnesses in the *Kabuga* case, or any other individuals who may be apprehended and transferred to Arusha in the future.

78. The United Nations Detention Unit currently houses five detainees. Mr. Kabuga continues to be detained at the Unit, pending judicial determination of, inter alia, his fitness to stand trial. After conviction following their retrial, Messrs. Stanišić and Simatović are detained pending disposition of their appeals. Two additional convicted detainees, Radoslav Brđanin and Ratko Mladić, are awaiting transfer to States for the enforcement of their respective sentences.<sup>11</sup>

79. The United Nations Detention Unit will continue to be required for the duration of the appeal proceedings in the *Stanišić and Simatović* case and until the detained persons are acquitted, released or transferred to enforcement States, after which a reduced, residual custodial capacity for other individuals potentially appearing before the Mechanism may have to be arranged.

80. Both detention facilities are regularly inspected by the International Committee of the Red Cross (ICRC) to ensure that the Mechanism's rules of detention<sup>12</sup> are properly applied and that both facilities operate in accordance with international standards. ICRC was able to conduct an in-person inspection of the United Nations Detention Unit in The Hague at the end of March 2022.

81. In the context of COVID-19, the United Nations Detention Unit is cautiously moving towards a regime closer to that in place before the pandemic, bearing in mind that a possible reintroduction of restrictions may be required at any time.

82. The Mechanism takes its duty of care towards detainees very seriously. It remains cognizant of paragraph 11 of resolution 2529 (2020), in which the Security Council recalled the importance of ensuring the rights of persons detained on the authority of the Mechanism in accordance with applicable international standards, including those related to health care. In this respect, the Mechanism underscores its established legal and regulatory framework, which supports full compliance with that

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<sup>11</sup> Mr. Brđanin was returned to the United Nations Detention Unit on a temporary basis in September 2021. See *Prosecutor v. Radoslav Brđanin*, Case No. MICT-13-48-ES, Order for the Transfer of Radoslav Brđanin to the United Nations Detention Unit on a Temporary Basis, 25 August 2021. Mr. Mladić is awaiting transfer following the confirmation of his conviction on appeal. See *Prosecutor v. Ratko Mladić*, Case No. MICT-13-56-A, Judgment, 8 June 2021 (public redacted version).

<sup>12</sup> Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Mechanism or Otherwise Detained on the Authority of the Mechanism, 5 November 2018.

duty, including through the Mechanism's Regulations on the Complaints Procedure for Detainees,<sup>13</sup> regular status conferences<sup>14</sup> and the aforementioned ICRC inspections.

## VIII. Enforcement of sentences

83. Forty-six persons convicted by the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia or the Mechanism are currently serving their sentences in the territory of 13 Member States, subject to the supervision of the Mechanism. During the reporting period, the Mechanism continued to engage actively with existing and potential enforcement States to increase its enforcement capacity for both branches and to try to secure enforcement agreements for all sentences, including those of the convicted persons currently housed in the United Nations Detention Unit in The Hague.

84. With respect to the Arusha branch, following the transfer of three convicted persons from Mali to Senegal during the reporting period<sup>15</sup> and the recent death of another convicted person,<sup>16</sup> 27 convicted persons are currently serving their respective sentences in three enforcement States: Benin (17), Mali (2) and Senegal (8).

85. With respect to The Hague branch, 19 persons convicted by the International Tribunal for the Former Yugoslavia are currently serving their sentences under the supervision of the Mechanism, in 10 States: Austria (1), Estonia (3), Finland (2), France (1), Germany (4), Italy (1), Norway (1), Poland (3), Sweden (1) and the United Kingdom (2). As reported above, there are currently two convicted persons at the United Nations Detention Unit who are awaiting transfer to an enforcement State.<sup>17</sup>

86. ICRC and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment continued to serve as independent inspecting bodies and monitored the conditions of imprisonment to ensure that international standards of detention were being met.<sup>18</sup> The Mechanism, in coordination with national authorities and the United Nations Development Programme, took steps to address the recommendations of those inspecting bodies.

87. Bearing in mind the particular vulnerability of prison populations, the Mechanism also continued to monitor the situation of its convicted persons in relation to the COVID-19 pandemic. Pursuant to the relevant orders issued by the President (see para. 57), the Registry continued to engage with all enforcement States to obtain

<sup>13</sup> MICT/25, 5 December 2018. See also International Residual Mechanism for Criminal Tribunals, Rules of Detention, rules 91–96; Regulations on the Disciplinary Procedure for Detainees, MICT/24, 5 December 2018, regulations 8 and 10; and Regulations on the Supervision of Visits to and Communications with Detainees, MICT/23, 5 December 2018, regulation 23.

<sup>14</sup> See Rules of Procedure and Evidence, rule 69.

<sup>15</sup> Jean Kambanda, Jean de Dieu Kamuhanda and Tharcisse Renzaho. See *Prosecutor v. Jean Kambanda*, Case No. MICT-13-32-ES.1, Order Designating the State in which Jean Kambanda is to Serve the Remainder of His Sentence, 16 December 2021; *Prosecutor v. Jean de Dieu Kamuhanda*, Case No. MICT-13-33-ES.1, Order Designating the State in which Jean de Dieu Kamuhanda is to Serve the Remainder of His Sentence, 16 December 2021; *Prosecutor v. Tharcisse Renzaho*, Case No. MICT-12-03-ES.1, Order Designating the State in which Tharcisse Renzaho is to Serve the Remainder of His Sentence, 16 December 2021.

<sup>16</sup> See *Prosecutor v. François Karera*, Case No. MICT-12-24-ES.1, Registrar's Filing in Relation to the Death of Mr. François Karera, 19 May 2022 (public with confidential and ex parte annex).

<sup>17</sup> Information on the Mechanism's enforcement functions, including the locations where convicted persons are serving their sentences, is available at [www.irmct.org/en/about/functions/enforcement-of-sentences](http://www.irmct.org/en/about/functions/enforcement-of-sentences).

<sup>18</sup> These include the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

updated and relevant information on, inter alia, measures taken in their respective prisons to prevent the potential spread of COVID-19.

88. The Mechanism wishes once again to express its sincerest gratitude to each of the 13 States listed above. Their outstanding support and cooperation continue to be of paramount importance to the Mechanism and ensure that it can keep fulfilling its duties in this area.

89. It is expected that the Mechanism's functions relating to the supervision of the enforcement of sentences will continue until the last prison sentence has been served, subject to rule 128 of the Rules of Procedure and Evidence, which provides that all sentences must be supervised by the Mechanism during the period of its functioning and that the Security Council may designate a body to assist it and to proceed to supervise the enforcement of sentences after the Mechanism legally ceases to exist. In this respect, the Mechanism notes that 17 individuals are currently serving life sentences, while 15 convicted persons will complete their sentences between 2030 and 2040 and another 8 only after 2040. Of the latter group, the longest three sentences will be fully served in 2044. Furthermore, a majority of the individuals currently serving life sentences will only be eligible to be considered for pardon, commutation of sentence or early release after 2030, even if they may seek such relief beforehand. Three convicted persons serving a life sentence will not become eligible to be considered for pardon, commutation of sentence or early release before 2038.

## IX. Relocation of acquitted and released persons

90. Regarding the nine persons who were released or acquitted by the International Criminal Tribunal for Rwanda or the Mechanism and were residing in a safehouse in the United Republic of Tanzania, significant developments took place during the reporting period.<sup>19</sup>

91. The Registry's efforts in finding a relocation State for the released and acquitted persons resulted in the signing of an agreement between the United Nations and the Government of the Niger on 15 November 2021 (Relocation Agreement). The signing was followed by the relocation of eight of the nine released or acquitted persons on 6 December 2021, upon their signed consent. One acquitted person declined the offer of relocation. Unexpectedly, on 27 December 2021, the Niger issued an order expelling the relocated persons from its territory, citing "diplomatic reasons".

92. Following that decision, the Registrar immediately commenced to intervene at the diplomatic level and continues to date to strategize and lead the Mechanism's efforts to resolve this predicament.<sup>20</sup> Accordingly, the Registrar is using his good offices in diplomatic efforts with more than 30 Member States to encourage the Niger to comply fully with its obligations under the Relocation Agreement. Simultaneously, the Registry has intensified its efforts to identify other potential relocation States that may welcome the eight relocated persons, in the event that it becomes necessary. The Registrar maintains regular contact with the Niger concerning this matter and, together with the President, has sought the support of the Security Council and other stakeholders in impressing upon the Niger the need to adhere fully to both the letter and spirit of the Relocation Agreement. In addition, the Registry has designated a focal point who can be contacted directly by the relocated persons.<sup>21</sup>

<sup>19</sup> These developments are set out in detail in the fourth review report (see [S/2022/319](#), paras. 230–243).

<sup>20</sup> See, for example, *In the Matter of François-Xavier Nzuwonemeye et al.*, Case Nos. MICT-13-43, MICT-14-75 and MICT-12-27, Instruction to the Registrar, 30 December 2021.

<sup>21</sup> See [S/2022/36](#).

93. Notwithstanding the efforts already undertaken by the Mechanism, the Secretariat, a number of Member States and others contributing to the goals of the United Nations, the situation remained unresolved at the time of reporting. In addition to the Mechanism's core mandated activities, this new issue has presented a major increase in the Mechanism's workload, in both the Registry and the Chambers. The Mechanism respectfully reiterates its request for support from the Security Council in impressing upon the Niger the need to comply fully with its obligations under the Relocation Agreement, and it would welcome any other support that the Council deems appropriate under the current circumstances.

94. In a separate update, on the day of submission of the present report, the Mechanism learned of the death of Jérôme-Clément Bicamumpaka, the acquitted person who had declined the offer of relocation to the Niger. While this update falls just outside the reporting period, the Mechanism nevertheless considers it important to inform the Security Council that the total number of acquitted and released persons within the Mechanism's purview is now eight.

## X. Cooperation of States

95. The Mechanism depends upon the cooperation of States to fulfil many of its mandated functions, including those related to the enforcement of sentences and to the tracking, arrest and surrender of the remaining fugitives indicted by the International Criminal Tribunal for Rwanda.

96. In respect of the latter function, the Mechanism wishes to acknowledge and praise the Member States and authorities involved in the investigation leading to the confirmation of the death of the fugitives Protais Mpiranya and Phénéas Munyarugarama.<sup>22</sup> The Mechanism is heartened by the outstanding assistance provided and hopes that these developments will encourage other Member States to do their part in supporting its mandate. Indeed, the full support and cooperation of all Member States remains crucial in ensuring that the last fugitives indicted by the International Criminal Tribunal for Rwanda, as well as the accused in the *Jojić and Radeta* case, are finally brought to justice. The Mechanism again urges all Member States to honour their responsibilities under Chapter VII of the Charter.

97. Turning to the Mechanism's relationship with the States most directly affected by its work, the Mechanism continued to discuss means by which cooperation with the Government of Rwanda could be enhanced, in line with paragraph 23 of Security Council resolution 2256 (2015).

98. In resolution 1966 (2010), the Security Council requested the Mechanism to cooperate with Rwanda and the countries of the former Yugoslavia to facilitate the establishment of information and documentation centres. During the reporting period, notable progress was made regarding the establishment in Zagreb of an information centre on the International Tribunal for the Former Yugoslavia, including its proposed location and the time frame for its opening. The Mechanism remains committed to facilitating the establishment of similar information centres with other stakeholders in the region of the former Yugoslavia.

99. The Mechanism, together with the European Union and with additional support from Switzerland, also continued its Information Programme for Affected Communities.<sup>23</sup> During the reporting period, as part of the Programme, a total of 150 secondary school history teachers participated in six workshops held by the Mechanism on using the archives of the International Tribunal for the Former

<sup>22</sup> See annex II for further information.

<sup>23</sup> See [www.irmct.org/en/mip](http://www.irmct.org/en/mip) for further information.

Yugoslavia and the Mechanism. The third cycle of its video lecture series, entitled “International law and facts established before the ICTY”, continued, benefiting postgraduate law students from 12 universities across the former Yugoslavia. In connection with the series, the second annual essay-writing competition was successfully completed. The winning students are currently undertaking month-long fellowships at The Hague branch, and their essays will be published in the Mechanism’s *2022 Essay Volume*. The Mechanism also launched an online exhibition entitled “War in Bosnia: 1992–1995”, published in conjunction with the thirtieth anniversary of the start of the conflict. Lastly, the Mechanism contributed to four lectures on the legacy of the International Tribunal hosted by local groups or organizations and addressed to young people, journalists and researchers from the region.

100. The Mechanism is pleased that its Information Programme for Affected Communities continued to be well received during the reporting period, with its social media campaigns having reached over 4 million people since January 2019. The Mechanism wishes to sincerely thank the European Union and its Member States, as well as Switzerland, for their generous support.

## **XI. Assistance to national jurisdictions**

101. The Registry processed 20 requests for assistance from national authorities or parties to domestic proceedings in relation to domestic proceedings concerning individuals allegedly implicated in the genocide against the Tutsi in Rwanda or the conflict in the former Yugoslavia. It provided 240 documents during the reporting period.

102. The Mechanism also received and considered numerous requests, pursuant to rule 86 of the Rules of Procedure and Evidence, for the variation of protective measures granted to witnesses who testified in cases before the ad hoc Tribunals or the Mechanism.<sup>24</sup> Consistent with the trend in previous reporting periods, there was an increased number of such requests in The Hague, leading to an upsurge in workload within the Registry in The Hague branch.

## **XII. Cases referred to national jurisdictions**

103. Following confirmation of the conclusion of two referred cases during the reporting period, the Mechanism now exercises its monitoring function in respect of only two cases. While certain pandemic-related restrictions remained in place, the monitors were able to resume travel and meet in person with the accused persons and the relevant stakeholders.

104. As mentioned in previous reports, three cases referred to Rwanda were being monitored with pro bono assistance from the Kenyan Section of the International Commission of Jurists. In the case against Bernard Munyagishari, the accused had previously filed a notice for review of his appeal judgment before the Supreme Court of Rwanda. On 25 November 2021, the Supreme Court affirmed the decision of the Court of Appeal, thereby bringing the case to conclusion. The case against Jean Uwinkindi has also concluded, following the review judgment of the Supreme Court of Rwanda, which reaffirmed the decision of the Court of Appeal and denied Mr. Uwinkindi’s applications for review of the Court of Appeal judgment. While the review judgment was issued on 25 June 2021, the Mechanism deeply regrets that it

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<sup>24</sup> Comprehensive information and guidance regarding the submission of requests for assistance is available at [www.irmct.org/en/documents/requests-assistance](http://www.irmct.org/en/documents/requests-assistance).

was only made aware of the judgment in February 2022. Both men are currently serving life sentences in Rwanda. This leaves only the case against Ladislas Ntaganzwa, which remains in the appeal phase. It has been reported to the Mechanism that, as a result of backlogs due to the COVID-19 pandemic, an appeal hearing is yet to be scheduled.

105. In the case of Laurent Bucyibaruta, referred to France, the trial began on 9 May 2022 before the Paris Court of Assize and is expected to end on 12 July 2022. Proceedings in this case are monitored by a Mechanism-appointed staff member, who previously served as an interim monitor.

106. As can be seen, the Mechanism's monitoring function with respect to cases referred to national jurisdictions is in its last stages. Nevertheless, should any of the four remaining fugitives indicted by the International Criminal Tribunal for Rwanda and expected to be tried in Rwanda be arrested in future, the Mechanism will be required to monitor the related proceedings in accordance with its statutory obligation.

### **XIII. Archives and records**

107. The Mechanism is currently responsible for the management of approximately 4,000 linear metres of physical records and 2.7 petabytes of digital records of the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism.

108. The preservation of digital records from the ad hoc Tribunals continued throughout the reporting period. A total of 14.9 terabytes of digital records were ingested into the digital preservation system, including more than 3,656 files in a variety of formats. The Mechanism Archives and Records Section will continue the work of strengthening the Mechanism's digital preservation programme by further developing institutional capacity and capability for digital preservation.

109. Work with audiovisual records slowed significantly during the reporting period. Projects in both branches were paused indefinitely owing to funding being redirected to higher priority court-related needs. Prior to the pause, the Mechanism Archives and Records Section in The Hague assessed over 2,200 physical audiovisual records to determine their preservation needs. Separate from that project, more than 500 recordings were digitized. At the Arusha branch, 74 hours of recordings were prepared for final review and approval.

110. Over 364,000 judicial records are currently available through the unified court records database, which brings together all public judicial records of the ad hoc Tribunals and the Mechanism. Access to public judicial records continued to increase: they were accessed by 18,053 users during the reporting period. Separately, the Mechanism Archives and Records Section received and responded to 63 external requests for access to records under the access policy for the records held by the Mechanism. The largest groups of researchers were documentary filmmakers and academics.

111. Work continued on developing a publicly accessible catalogue containing descriptions of the archives, prepared in accordance with international standards, and over 900 new catalogue entries were created.

112. Lastly, a physical exhibition entitled "The role of expert witnesses at the ad hoc Tribunals and the Mechanism" was installed at both branches of the Mechanism and features selected materials from the Tribunals' archives.

## **XIV. External relations**

113. Public court sessions, such as the status conferences in the *Kabuga* and *Stanišić and Simatović* cases, were streamed on the Mechanism's website, and the External Relations Office coordinated the release and transmission of the official audiovisual recordings to international and regional media outlets. During the reporting period, the Mechanism's website recorded more than 460,000 page views and over 325,000 visitors.

114. On-site group visits recommenced in strict compliance with relevant COVID-19 protocols. The Arusha branch welcomed visitors from, inter alia, the Nelson Mandela Institute for Education and Rural Development, the Arusha East Africa Training Institute, the Eastern and Southern African Management Institute and the Pan African Lawyers Union. The Hague branch welcomed onto its premises students from the Strathmore University Law School, the Wolfson College of the University of Oxford and the International Moot Court project. The External Relations Office also continued its virtual-visit programme by hosting a number of online visits and presentations for legal professionals and students from around the world, including Rwanda and the countries of the former Yugoslavia.

115. In addition to those activities, the Mechanism developed social media campaigns to mark the International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and of the Prevention of this Crime (9 December 2021), Human Rights Day (10 December 2021), the anniversary of the Mechanism (22 December 2021), the International Day of Commemoration in memory of the victims of the Holocaust (27 January 2022), International Women's Day (8 March 2022), the International Day of Women Judges (10 March 2022), the International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims (24 March 2022) and the International Day of Reflection on the 1994 Genocide against the Tutsi in Rwanda (7 April 2022). Lastly, the Mechanism's libraries in Arusha and The Hague processed over 1,400 research requests, loans and other enquiries.

## **XV. Reports of the Office of Internal Oversight Services**

116. As set out above, OIOS recently undertook an evaluation of the Mechanism's methods and work, resulting in the issuance of a report in 2022. The overall result of this exercise reflects the full closure of two of the four open recommendations from the previous OIOS evaluations and, significantly, no new recommendations have been added.<sup>25</sup> In addition, the Mechanism notes with satisfaction the recognition by OIOS that significant efforts and progress have been made in respect of the two remaining recommendations, and this in spite of the fact that the period under review was dominated by the COVID-19 pandemic.<sup>26</sup>

117. In its report of 2022, OIOS also highlighted that, notwithstanding such significant challenges, major accomplishments in respect of completing the Mechanism's important mandate had been achieved.<sup>27</sup> Furthermore, the Mechanism is satisfied that, throughout the report, the OIOS evaluation team identified many positive practices that had been put in place and the results that the Mechanism had achieved. The Mechanism is pleased with the overall findings of OIOS, which demonstrate the institution's commitment to implementing the recommendations, but

<sup>25</sup> See [S/2022/148](#), summary and paras. 36–42 and 48–61, and [S/2022/319](#), paras. 250 and 251.

<sup>26</sup> See [S/2022/148](#), paras. 12–35 and 43–47, and [S/2022/319](#), paras. 252–262.

<sup>27</sup> [S/2022/148](#), para. 11.

also in successfully and concretely moving towards the completion of its important judicial mandate.

118. Separately, the Mechanism continued to benefit from regular audits by OIOS, including an ongoing audit of judicial records and court operations, which is close to finalization. With regard to earlier OIOS audits, the Mechanism continued to follow up on and implement diligently any open or outstanding recommendations.

119. In addition to its engagement with OIOS, the Mechanism is annually audited by the Board of Auditors. On 11 April 2022, the Board commenced a five-week site visit to The Hague branch to conduct an audit of the Mechanism's financial statements for 2021.

## XVI. Conclusion

120. Every two years, the Security Council embarks on a review of the progress of the work of the Mechanism. The fourth review concluded recently, on 13 May 2022, and is followed back-to-back by the submission of the present biannual progress report. During the reporting period, the Mechanism secured important progress, evidenced by the scheduling for 29 June 2022 of the appeal judgment in the *Fatuma et al.* case and the completion of investigations into the fugitives Protais Mpiranya and Phénéas Munyarugarama.

121. The main tasks now ahead are concluding the *Stanišić and Simatović* case in a fair and efficient manner and reaching clarity in relation to the commencement of trial in the *Kabuga* case, which is still pending judicial determination. It should be noted, however, that the Mechanism's judicial activity is not limited to the core trials and appeals. At any time, numerous other judicial proceedings or matters are being dealt with in parallel. These may relate to contempt issues, the review of judgments, enforcement matters, detention responsibilities, the protection of witnesses and assistance to national jurisdictions. While such longer-term responsibilities will continue for the foreseeable future, the Mechanism is in the meantime taking significant steps towards streamlining its operations. Ultimately, just as the Security Council was responsible for the establishment of the Mechanism, it will be up to the Council to determine the longevity of the Mechanism and to decide whether, and when, some of the Mechanism's functions may appropriately be discharged by other bodies.

122. The Mechanism is encouraged by the progress that it has been able to make during the past six months and thanks all judges and staff, as well as non-staff personnel, for their ongoing efforts and contribution. Moreover, the support from the Mechanism's valued host countries, its 13 enforcement States, the United Nations Secretariat and other key stakeholders, such as the European Union, has been crucial for the discharge of its varied responsibilities during the reporting period – and indeed throughout the institution's first decade of operations. At the same time, the undermining of the Mechanism by certain quarters, the ongoing plight of the persons relocated to the Niger and the persistent failure of Serbia to comply with its international obligations indicate that much more remains to be done by States at both the international and national levels.

123. Lastly, the Mechanism will pay close attention to the results of the evaluation and review that took place during the reporting period. It looks forward to engaging with the Security Council and its Informal Working Group on International Tribunals in relation to the Council's review and to implementing the recommendations arising therefrom. The Mechanism reiterates, however, that it cannot carry out its mandate alone and will continue to rely on the cooperation and good faith of Member States for the achievement of this joint endeavour.

## Enclosure I

### International Residual Mechanism for Criminal Tribunals: approved appropriations and expenditure for 2022

Table 1

#### Approved appropriations for the period from 1 January to 31 December 2022 (net of staff assessment)

(United States dollars)

		<i>Chambers</i>	<i>Office of the Prosecutor</i>	<i>Registry</i>	<i>Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals</i>	<i>Mechanism</i>
Arusha	Post	–	2 821 000	11 291 700	–	14 112 700
	Non-post <sup>a</sup>	902 000	5 761 700	17 585 300	4 699 700	28 948 700
<b>Subtotal</b>		<b>902 000</b>	<b>8 582 700</b>	<b>28 877 000</b>	<b>4 699 700</b>	<b>43 061 400</b>
The Hague	Post	–	1 223 800	5 377 600	–	6 601 400
	Non-post	887 800	5 329 400	25 210 500	–	31 427 700
<b>Subtotal</b>		<b>887 800</b>	<b>6 553 200</b>	<b>30 588 100</b>	<b>–</b>	<b>38 029 100</b>
New York	Post	–	–	112 600	–	112 600
	Non-post	–	–	1 700	–	1 700
<b>Subtotal</b>		<b>–</b>	<b>–</b>	<b>114 300</b>	<b>–</b>	<b>114 300</b>
Office of Internal Oversight Services	Post	–	–	156 100	–	156 100
	Non-post	–	–	16 400	–	16 400
<b>Subtotal</b>		<b>–</b>	<b>–</b>	<b>172 500</b>	<b>–</b>	<b>172 500</b>
Overall	Post	–	4 044 800	16 938 000	–	20 982 800
	Non-post	1 789 800	11 091 100	42 813 900	4 699 700	60 394 500
<b>Total</b>		<b>1 789 800</b>	<b>15 135 900</b>	<b>59 751 900</b>	<b>4 699 700</b>	<b>81 377 300</b>

<sup>a</sup> Non-post includes all commitment items other than posts, such as general temporary assistance, travel and rental of premises.

Table 2  
**Expenditure (net of staff assessment) as at 1 May 2022 (per Umoja)**

(United States dollars)

		<i>Chambers</i>	<i>Office of the Prosecutor</i>	<i>Registry</i>	<i>Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals</i>	<i>Mechanism</i>
Arusha	Post	–	932 295	3 869 650	–	4 801 945
	Non-post	112 320	1 389 923	4 003 078	1 534 894	7 040 215
<b>Subtotal</b>		<b>112 320</b>	<b>2 322 218</b>	<b>7 872 728</b>	<b>1 534 894</b>	<b>11 842 160</b>
The Hague	Post	–	452 971	1 822 493	–	2 275 464
	Non-post	324 304	1 645 693	7 853 719	–	9 823 715
<b>Subtotal</b>		<b>324 304</b>	<b>2 098 664</b>	<b>9 676 212</b>	<b>–</b>	<b>12 099 179</b>
New York	Post	–	–	–	–	–
	Non-post	–	–	–	–	–
<b>Subtotal</b>		<b>–</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>–</b>
Office of Internal Oversight Services	Post	–	–	56 464	–	56 464
	Non-post	–	–	1 616	–	1 616
<b>Subtotal</b>		<b>–</b>	<b>–</b>	<b>58 080</b>	<b>–</b>	<b>58 080</b>
Overall	Post	–	1 385 266	5 748 607	–	7 133 873
	Non-post	436 624	3 035 616	11 858 413	1 534 894	16 865 547
<b>Total</b>		<b>436 624</b>	<b>4 420 882</b>	<b>17 607 020</b>	<b>1 534 894</b>	<b>23 999 420</b>

Table 3  
**Percentage of the annual budget expended as at 1 May 2022**

		<i>Chambers</i>	<i>Office of the Prosecutor</i>	<i>Registry</i>	<i>Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals</i>	<i>Mechanism</i>
Arusha	Post	–	33.0	34.3	–	34.0
	Non-post	12.5	24.1	22.8	32.7	24.3
<b>Subtotal</b>		<b>12.5</b>	<b>27.1</b>	<b>27.3</b>	<b>32.7</b>	<b>27.5</b>
The Hague	Post	–	37.0	33.9	–	34.5
	Non-post	36.5	30.9	31.2	–	31.3
<b>Subtotal</b>		<b>36.5</b>	<b>32.0</b>	<b>31.6</b>	<b>–</b>	<b>31.8</b>

		<i>Chambers</i>	<i>Office of the Prosecutor</i>	<i>Registry</i>	<i>Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals</i>	<i>Mechanism</i>
New York	Post	–	–	–	–	0.0
	Non-post	–	–	n/a	–	n/a
<b>Subtotal</b>		–	–	–	–	–
Office of Internal Oversight Services	Post	–	–	36.2	–	36.2
	Non-Post	–	–	9.9	–	9.9
<b>Subtotal</b>		–	–	<b>33.7</b>	–	<b>33.7</b>
Overall	Post		34.2	33.9	–	34.0
	Non-post	24.4	27.4	27.7	32.7	27.9
<b>Total</b>		<b>24.4</b>	<b>29.2</b>	<b>29.5</b>	<b>32.7</b>	<b>29.5</b>

## Enclosure II

**International Residual Mechanism for Criminal Tribunals: staffing\***

Table 1  
**Staff numbers by branch and organ**

<i>Category</i>	<i>Arusha branch</i>	<i>The Hague branch</i>	<i>Chambers<sup>a</sup></i>	<i>Office of the Prosecutor</i>	<i>Registry<sup>b</sup></i>	<i>Mechanism overall</i>
All staff	211	224	26	98	311	435
Staff on continuous posts	127	57	9	28	147	184
Staff on general temporary assistance positions	84	167	17	70	164	251
International staff (Field Service and Professional and higher categories)	116	98	20	62	132	214
Local (General Service)	95	126	6	36	179	221

<sup>a</sup> Chambers staffing data include the Office of the President and excludes judges.

<sup>b</sup> Registry staffing data include the Immediate Office of the Registrar, the Legal Team, the Archives and Records Section, the Witness Support and Protection Unit, the Judicial Records and Court Operations Unit, the Language Support Services, the External Relations Office, the Office for Legal Aid and Defence Matters, the Division of Administration, the Security and Safety Section, and the United Nations Detention Facility and the United Nations Detention Unit.

Table 2  
**Geographical representation by regional group**

	<i>Arusha branch</i>	<i>The Hague branch</i>	<i>Mechanism overall (percentage)<sup>a</sup></i>
<b>Nationalities</b>	37	55	70
All staff			
African	163	16	179 (41)
Asia-Pacific	12	17	29 (6.6)
Eastern European	2	40	42 (9.6)
Latin American and Caribbean	1	8	9 (2)
Western European and Other States	33	143	176 (40)
International staff (Field Service and Professional and higher categories)			
African	68	3	71 (33)
Asia-Pacific	12	5	17 (7.9)
Eastern European	2	17	19 (8.8)
Latin American and Caribbean	1	4	5 (2)
Western European and Other States	33	70	103 (47)

\* The data in the tables in the present enclosure represent the number of staff employed as at 18 May 2022.

	<i>Arusha branch</i>	<i>The Hague branch</i>	<i>Mechanism overall (percentage)<sup>a</sup></i>
Local staff (General Service)			
African	95	13	108 (49)
Asia-Pacific	–	12	12 (5.4)
Eastern European	–	23	23 (10)
Latin American and Caribbean	–	4	4 (1.8)
Western European and Other States	–	73	73 (33)

<sup>a</sup> As percentages are rounded to the nearest decimal, the total may not add up exactly to 100 per cent.

**Group of African States:** Algeria, Burkina Faso, Burundi, Cameroon, Congo, Democratic Republic of the Congo, Egypt, Ethiopia, Gambia, Ghana, Kenya, Lesotho, Liberia, Madagascar, Morocco, Niger, Nigeria, Rwanda, Sierra Leone, South Africa, Sudan, Uganda, United Republic of Tanzania, Zambia and Zimbabwe.

**Group of Asia-Pacific States:** Bahrain, Cambodia, China, Fiji, India, Indonesia, Iraq, Japan, Lebanon, Malaysia, Nepal, Pakistan, Republic of Korea, Philippines and Thailand.

**Eastern European Group:** Bosnia and Herzegovina, Bulgaria, Croatia, North Macedonia, Poland, Romania, Russian Federation, Serbia, Slovakia and Ukraine.

**Latin American and Caribbean Group:** Brazil, Cuba, Guatemala, Haiti, Jamaica and Peru.

**Group of Western European and other States:** Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Ireland, Italy, Netherlands, New Zealand, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland and United States of America.

Table 3  
**Gender representation**

	<i>Arusha branch</i>		<i>The Hague branch</i>		<i>Mechanism</i>
	<i>Arusha (percentage)</i>	<i>Kigali field office (percentage)</i>	<i>The Hague (percentage)</i>	<i>Sarajevo field office (percentage)</i>	<i>Overall (percentage)</i>
Professional staff (all levels)	62	7	96	2	167
Male	37 (59)	7 (100)	37 (38)	2 (100)	83 (49)
Female	25 (40)	–	59 (61)	–	84 (50)
Professional staff (P-4 and above)	19	3	28	1	51
Male	11 (57.8)	3 (100)	9 (32)	1 (100)	24 (47)
Female	8 (42)	–	19 (67.8)	–	27 (52.9)
Field Service staff (all levels)	41	6	–	–	47
Male	25 (60.9)	4 (66)	–	–	29 (61.7)
Female	16 (39)	2 (33)	–	–	18 (38)
General Service staff (all levels)	77	18	123	3	221
Male	54 (70)	14 (77)	74 (60)	2 (66)	144 (65)
Female	23 (29.8)	4 (22)	49 (39.8)	1 (33)	77 (34.8)
All staff	180	31	219	5	435
Male	116 (64)	25 (80.6)	111 (50.6)	4 (80)	256 (58.8)
Female	64 (35.5)	6 (19)	108 (49)	1 (20)	179 (41)

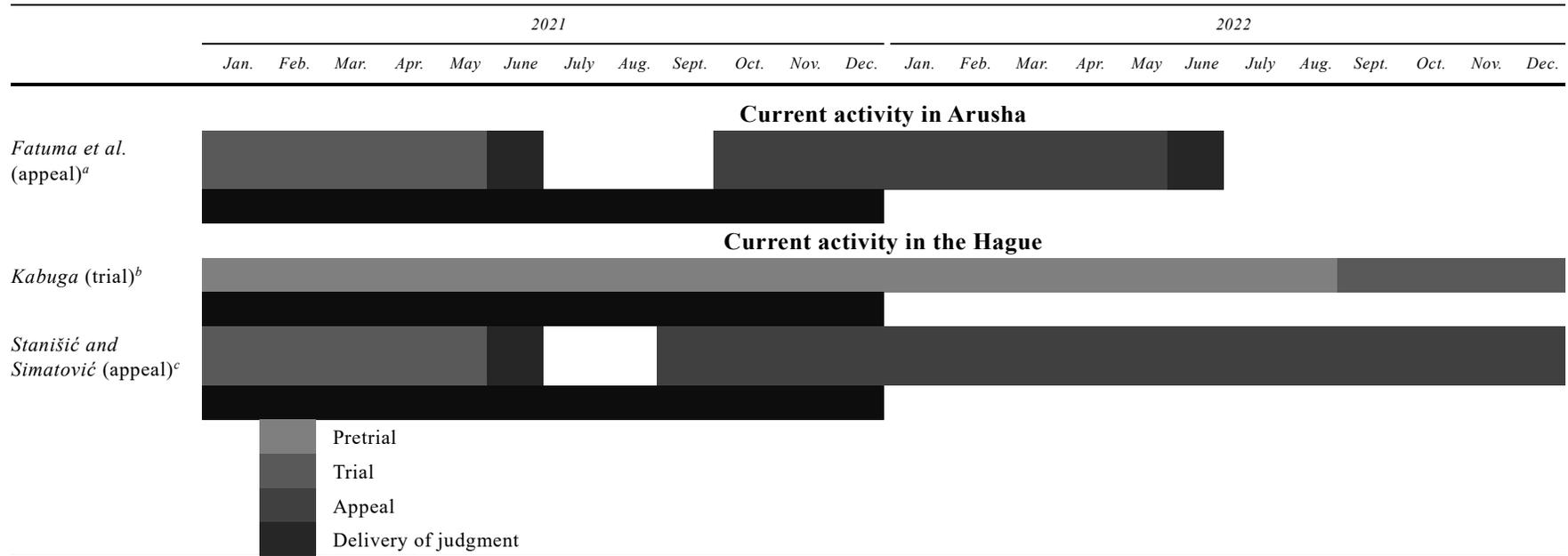
Table 4  
**Staff by organ**

	<i>Arusha branch</i>	<i>The Hague branch</i>	<i>Mechanism overall</i>
Chambers (including the Office of the President)	9	23	32
Office of the Prosecutor	46	52	98
Registry	157	148	305
Immediate Office of the Registrar	6	2	8
Legal Team	6	7	13
Archives and Records Section	8	10	18
Witness Support and Protection Unit	10	5	15
Judicial Records and Court Operations Unit	4	4	8
Language Support Services	15	21	36
External Relations Office	2	3	5
Office for Legal Aid and Defence Matters	–	2	2
Division of Administration	41	56	97
Security and Safety Section	57	34	91
United Nations Detention Facility and United Nations Detention Unit	8	4	12

## Enclosure III

## International Residual Mechanism for Criminal Tribunals: status of trial and appeal proceedings, 2021–2022

(On the basis of information available as at 18 May 2022 and subject to change)



<sup>a</sup> The trial judgment was delivered in June 2021, as projected, and written reasons were filed in September 2021. The appeal briefing concluded in November 2021, and the appeal judgment has been scheduled for delivery on 29 June 2022.

<sup>b</sup> Following the single judge's order of 21 October 2020, the accused was temporarily transferred to The Hague branch on 26 October 2020 for a detailed medical assessment. Following unforeseeable delays in the final medical assessment, a decision on the accused's fitness to stand trial and to travel to Arusha remains pending.

<sup>c</sup> The trial judgment was delivered in June 2021, as projected, and written reasons were filed in August 2021. The appeal briefing concluded in February 2022, and the projection for completion of the appeal proceedings is June 2023.

**Annex II to the letter dated 19 May 2022 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council**

[Original: English and French]

**Progress report of the Prosecutor of the International Residual Mechanism for Criminal Tribunals, Serge Brammertz, for the period from 16 November 2021 to 18 May 2022**

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## I. Overview

1. The Prosecutor submits the present twentieth progress report pursuant to Security Council resolution 1966 (2010), covering developments between 16 November 2021 and 18 May 2022.
2. During the reporting period, the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals continued to focus on its three priorities: (a) completing trials and appeals expeditiously; (b) locating and arresting the remaining fugitives indicted by the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994; and (c) assisting national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda. The Office relies on the full cooperation of States to carry out its mandate successfully in those areas.
3. The Prosecutor is pleased to report to the Security Council that, during the reporting period, the files of two more fugitives – Protais Mpiranya and Phénéas Munyarugarama – were closed, following confirmation that both were deceased. There are now only four remaining fugitives indicted by the International Criminal Tribunal for Rwanda, and all so-called “major” fugitives, whose cases remained with the Mechanism, have been accounted for. The successful closure of those files testifies to the Council’s determination that all outstanding genocide fugitives be accounted for. It is also a key step towards completion of this critical residual function. The Office of the Prosecutor will continue to work intensively to account for the four remaining fugitives and hopes to be able to report progress in future reports.
4. Similarly, during the reporting period, the Office of the Prosecutor continued to work expeditiously to complete the remaining trials and appeals. At the Arusha branch, the prosecution in the *Kabuga* case advanced its trial preparations and litigated important matters to facilitate the commencement of trial. At The Hague branch, the prosecution completed written briefings in the *Stanišić and Simatović* and *Fatuma et al.* appeal proceedings, and is now preparing for oral arguments in the *Stanišić and Simatović* case.
5. Regarding the national prosecution of war crimes committed in Rwanda, the results achieved by the Office of the Prosecutor in tracking the remaining fugitives indicted by the International Criminal Tribunal for Rwanda bring further attention to the approximately one thousand genocide fugitives being sought by the Prosecutor General of Rwanda. More justice for crimes committed during the 1994 genocide against the Tutsi in Rwanda is still urgently needed. During the reporting period, the Office of the Prosecutor further engaged with the Prosecutor General of Rwanda concerning the request by the Rwandan authorities for assistance in locating, investigating and prosecuting those fugitives. The Office has been identifying persons living outside Rwanda who may be reasonably suspected to be responsible for participating in the genocide against the Tutsi but who have not yet been investigated or prosecuted. The Office is also reviewing its evidence collection to identify additional cases. The Office calls upon Member States to continue to provide full support to the accountability process, whether in the courtrooms of the Mechanism, in Rwanda or in third-party States.
6. Regarding the national prosecution of war crimes committed in the former Yugoslavia, the Office of the Prosecutor continued to support the further implementation of the completion strategy of the International Tribunal for the

Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991. With the closure of the Tribunal, further accountability for the crimes now depends fully on national judiciaries in the countries of the former Yugoslavia. At the request of Governments and stakeholders in the region, the Office continued to provide vital assistance during the reporting period, in particular by providing access to its evidence and expertise. Important progress was made by national authorities with respect to cases for which the Office is providing direct support. At the same time, progress in national justice initiatives has been slow in recent years, in particular as a result of the large backlog of cases that remain. Similarly, many commitments that have been made by Governments of the region to supporting war crimes justice, the search for missing persons and reconciliation remain unrealized.

7. In managing its work, the Office of the Prosecutor continued to be guided by the Security Council's views and requests as set forth in, inter alia, paragraphs 18 to 20 of resolution 2256 (2015) and paragraphs 7 and 8 of resolution 2422 (2018). During the reporting period, the Office of Internal Oversight Services issued its biennial evaluation of the methods and work of the Mechanism. With respect to the Office, OIOS found that steps taken by the Office reflected a focus on operationalizing the Council's mandate. OIOS again favourably assessed the methods and work of the Office, noting that even with a "skeletal staff number", it flexibly reconfigured operations as necessary to deliver results and redeployed its resources to where they were most required.

## II. Trials and appeals

8. During the reporting period, the Office of the Prosecutor litigated one case at pretrial (the *Kabuga* case) and two appeal proceedings (the *Fatuma et al.*, formerly *Nzabonimpa et al.*, case and the *Stanišić and Simatović* case).

9. This judicial activity is temporary in nature, and the Office of the Prosecutor is undertaking all steps in its control to expedite the completion of those proceedings.

### A. Update on the progress of trials

#### *Kabuga*

10. On 16 May 2020, Félicien Kabuga was arrested in Paris after more than two decades as a fugitive. He is charged with six serious international crimes: genocide, direct and public incitement to commit genocide, conspiracy to commit genocide, persecution as a crime against humanity, extermination as a crime against humanity, and murder as a crime against humanity. On 24 February 2021, the Trial Chamber granted the prosecution's request to amend the indictment in the *Kabuga* case. The amended indictment will promote a more expeditious trial while appropriately reflecting the scale of the crimes committed and Kabuga's alleged criminal responsibility.

11. During the reporting period, the prosecution ensured its readiness for commencement of the trial and took steps to promote the swift presentation of its evidence. In particular, it made efforts to submit significant portions of its evidence in writing, with the aim of limiting the number of witnesses to be called to testify and minimizing in-courtroom time required for viva voce witnesses. The prosecution took statements for 23 witnesses under rule 110, while also submitting seven motions for the admission of 56 prior statements under rules 110 to 112. It expects that those

measures, if accepted by the Trial Chamber, will significantly reduce the time required to present its evidence.

12. During the reporting period, the prosecution made 72 filings on matters related to the case, and responded to 14 filings by the defence. In particular, the prosecution was required to litigate effectively critical matters raised by the defence, including matters related to the accused's health. Since the beginning of the case, the prosecution has disclosed over 15,370 files comprising approximately 292,000 pages to the defence.

13. The prosecution is facing an immense workload in relation to the case, arising from both the complexity of the charges against Kabuga and the significant ancillary litigation. The Office of the Prosecutor is making every effort to manage the workload through the flexible redeployment of resources from throughout the Office in accordance with its "one office" policy, including the assignment of staff from the appeals and legal advisory team to support the trial team.

## **B. Update on the progress of appeals**

### **1. *Fatuma et al.***

14. On 25 June 2021, the single judge convicted Augustin Ngirabatware, Anselme Nzabonimpa, Jean de Dieu Ndagijimana and Marie Rose Fatuma for contempt of court, while acquitting Dick Prudence Munyeshuli. The written judgment followed on 20 September 2021.

15. On 18 October 2021, the prosecution filed its notice of appeal asserting three grounds of appeal against the single judge's judgment. In its first ground of appeal, the prosecution argued that the single judge had erred in fact and/or law in failing to find that Munyeshuli was criminally responsible for committing contempt by disclosing protected information in violation of court orders. In its second ground of appeal, the prosecution argued that the single judge had erred in fact and/or law in declining to enter a conviction against Munyeshuli for committing contempt through prohibited indirect contact with protected witnesses. In its third ground of appeal, the prosecution argued that the single judge had erred in fact and/or law in determining that Ngirabatware's contempt sentence should run concurrently with the sentence that he was already serving for genocide. On 8 December, the prosecution filed its response to Fatuma's appeal, followed by its replies to the responses of Munyeshuli and Ngirabatware to the prosecution's appeal, thereby completing its written appellate arguments on 16 December.

### **2. *Stanišić and Simatović***

16. On 30 June 2021, the Trial Chamber convicted Jovica Stanišić and Franko Simatović for aiding and abetting the crimes of murder, deportation, forcible transfer and persecution as crimes against humanity and murder as a war crime. Both men were sentenced to 12 years of imprisonment. The written judgment followed on 6 August 2021.

17. On 6 September 2021, the prosecution filed its notice of appeal asserting two grounds of appeal against the Trial Chamber's judgment. In its first ground of appeal, the prosecution argued that the Trial Chamber had erred in fact and/or law in failing to hold Stanišić and Simatović criminally responsible as members of a joint criminal enterprise. In its second ground of appeal, the prosecution argued that the Trial Chamber had erred in law and/or fact in failing to hold them criminally responsible for aiding and abetting the crimes in the Serbian autonomous region of Krajina, the Serbian autonomous region of Eastern Slavonia, Baranja and Western Sirmium,

Zvornik, Doboј and Sanski Most. On 31 January 2022, the prosecution filed its responses to the appeals by Stanišić and Simatović, followed by its replies to their responses to the prosecution’s appeal, thereby completing its written appeal arguments on 15 February.

### **C. Other proceedings**

18. At the order of a single judge of the Mechanism, the Office of the Prosecutor continued to conduct one investigation into alleged contempt crimes under the Mechanism’s jurisdiction. The prosecution is complying with directions from the court and submitting regular progress reports, as directed. There have been significant delays in receiving responses to requests for assistance submitted to Serbia in this court-ordered investigation. Nonetheless, the prosecution expects that an indictment will be finalized in the coming months. In addition, the Office continues to receive and monitor information concerning suspected contempt crimes within the Mechanism’s jurisdiction and take appropriate steps in accordance with the Prosecutor’s mandate under article 14 of the Mechanism’s statute. Using the “one office” policy, the Office has absorbed the requirements for those investigations within existing resources.

### **D. Cooperation with the Office of the Prosecutor**

19. The Office of the Prosecutor continues to rely on the full cooperation of States to successfully and efficiently complete its mandate. Access to documents, archives and witnesses by the Office is critical for ongoing Mechanism trial and appeal proceedings, as well as in relation to locating and arresting fugitives and witness protection.

20. During the reporting period, cooperation with the Office of the Prosecutor was generally satisfactory.

21. In relation to Rwanda, the Office of the Prosecutor is grateful for the support provided to date, in particular by the Office of the Prosecutor General and heads of law enforcement agencies. The continued cooperation and assistance from the Rwandan authorities has been instrumental in the prosecution’s efforts in the *Kabuga* case, as well as in fugitive tracking.

22. In relation to Serbia, there were some significant delays in responding to requests for assistance from the Office of the Prosecutor in relation to a court-ordered investigation. Serbia also failed to serve orders on a number of individuals and companies compelling them to cease and desist from publishing and distributing protected information. The Prosecutor raised that matter with the Minister of Justice of Serbia. The Office regretfully notes that, while positive responses were received to some requests, others were not executed within reasonable time periods. The Office encourages Serbia to promptly provide cooperation and implement court orders and trusts that, moving forward, similar issues will not arise.

23. Cooperation and support from States outside the former Yugoslavia and Rwanda, as well as from international organizations, remain integral to the successful completion of Mechanism activities. The Office of the Prosecutor again acknowledges the support that it received during the reporting period from Member States and international organizations, including the United Nations and its agencies, the European Union, the North Atlantic Treaty Organization, the Organization for Security and Cooperation in Europe and the International Criminal Police Organization.

24. The international community continues to play an important role in providing incentives for States to cooperate with the Mechanism and undertake the national prosecution of war crimes. The support of the European Union remains a key tool for ensuring continued cooperation with the Mechanism. Assistance is also increasingly needed to support the national prosecution of war crimes cases in Rwanda and the countries of the former Yugoslavia.

### **E. Conditional early release**

25. The Office of the Prosecutor continues to engage actively in work related to applications for early release by providing its views on those applications to the President. During the reporting period, one convicted person, Milivoj Petković, was granted early release by the President, subject to conditions, on 16 December 2021. The Office will continue to follow closely the implementation of the conditional early release regime.

## **III. Fugitives**

26. The Office of the Prosecutor is pleased to report that it has accounted for the whereabouts two more fugitives, Protais Mpiranya and Phénéas Munyarugarama. As a result, four fugitives files have been completed since May 2020 – including all of the so-called “major” fugitives whose cases remained with the Mechanism – and now only four fugitives indicted by the International Criminal Tribunal for Rwanda – Fulgence Kayishema, Aloys Ndimbati, Charles Ryandikayo and Charles Sikubwabo – are at large. The Office hopes that the victims and survivors of the genocide against the Tutsi in Rwanda find some measure of solace in those results and gain renewed confidence that the accountability process for the harm that they suffered continues.

27. On 12 May 2022, the Office of the Prosecutor announced that it had confirmed the death of Protais Mpiranya. Mpiranya was the last of the major fugitives indicted by the International Criminal Tribunal for Rwanda and alleged to have been a senior leader of the genocide against the Tutsi. As former Commander of the Presidential Guard of the Rwandan Armed Forces, he had been charged with eight counts of genocide, complicity in genocide, crimes against humanity and war crimes, notably for the murders of senior moderate Rwandan leaders and 10 United Nations peacekeepers at the start of the genocide.

28. Following a challenging and intensive investigation, the Office of the Prosecutor determined that Mpiranya died in Harare on 5 October 2006 as a result of complications from pulmonary tuberculosis. From 1999 to 2002, Mpiranya was a senior commander in the Forces démocratiques de libération du Rwanda (FDLR), deployed to the Kasai and Katanga Provinces of the Democratic Republic of the Congo. Following the publication of the indictment by the International Criminal Tribunal for Rwanda against him, Mpiranya fled to Zimbabwe in late 2002, where he resided until his death. His presence in Zimbabwe, and later the fact of his death, were deliberately concealed by the concerted efforts of his family and associates, including up to the present time. Those efforts obstructed investigations and prevented the identification of his remains until earlier in 2022.

29. With respect to the assistance of Zimbabwe with the Mpiranya investigation, the Office of the Prosecutor can report that cooperation was provided to exhume the grave site identified by the Office, allowing for a positive DNA analysis. The Office appreciates the efforts by the Inter-Ministerial Task Force to assist with this important task. More broadly, a number of key requests from the Office to Zimbabwe related to that investigation remain pending, in particular contemporaneous documentary

evidence of Mpiranya's presence in Zimbabwe. It has also become evident that cooperation from Zimbabwe will be needed with respect to other fugitives who still remain at large. The Office trusts that Zimbabwe will respond positively to resolve outstanding matters and, moving forward, provide cooperation to enable the Office to track additional fugitives successfully.

30. On 18 May 2022, the Office of the Prosecutor announced that it had confirmed the death of Phénéas Munyarugarama. As a Lieutenant Colonel and Commander of the Gako military camp of the Rwandan Armed Forces, Munyarugarama was charged with a total of eight counts of genocide, complicity in genocide, direct and public incitement to commit genocide and crimes against humanity. Munyarugarama was alleged, inter alia, to be responsible for mass killings, attacks and sexual violence against Tutsi civilians at various locations in the Bugesera region, as well as the attacks on Tutsi refugees at the Ntarama and Nyamata Catholic churches.

31. As a result of a detailed investigation, the Office of the Prosecutor was able to conclude that Munyarugarama had died on or about 28 February 2002 in Kankwala, Democratic Republic of the Congo. Munyarugarama was at that time serving as a senior leader in FDLR. As part of an internal reorganization within FDLR, he and others were travelling from North Kivu and South Kivu to meet other senior FDLR commanders. Munyarugarama became ill and quickly after passed away.

32. The investigation of the Office of the Prosecutor was impeded by challenges in getting access to Munyarugarama's grave site, which is in a remote and dangerous area of the Democratic Republic of the Congo. To complete this file, the Office changed its approach, identifying and interviewing a large number of persons present at the time of Munyarugarama's death. The consistent and compelling evidence from those witnesses, including family members and FDLR associates, established the facts of his death to the required level of confidence.

33. The successful results achieved in fugitive tracking, recently and for the past several years, follow from the improved methodologies and practices instituted by the Prosecutor following his appointment. These include the use of advanced investigative techniques, such as financial, telecommunications and social media information, and intensive diplomatic engagement. The appointment of a new leader of the Fugitives Tracking Team and the redeployment of the Chief of Staff to serve as co-leader were also of decisive importance in the Mpiranya and Munyarugarama investigations. The Office of the Prosecutor will continue to strengthen and adjust its efforts as it implements its strategies to account for the four remaining fugitives.

34. In this regard, the top priority for the Office of the Prosecutor is now Fulgence Kayishema. Since 2018, this investigation has been significantly impeded by challenges in obtaining cooperation from South Africa. In the past year, the Prosecutor and the Fugitives Tracking Team have undertaken every effort to resolve those challenges and finally put cooperation with South Africa on the right track. These efforts have begun to produce results. In early April 2022, South Africa formally notified the Office that it had finally approved the latter's request that South Africa establish a South African police investigative team and authorize it to work directly with the Office's Fugitives Tracking Team at an operational level. The Office and the investigative team will meet shortly after the end of the reporting period to discuss and agree on the way forward.

35. As with its other successful investigations, locating Kayishema will depend on the full and effective cooperation of South Africa, as well as other countries. The Office of the Prosecutor has a proven track record of implementing sophisticated investigative strategies and exploiting multi-source evidence to uncover the tracks left by fugitives and, ultimately, establish their whereabouts. This work, however, requires rapid and comprehensive assistance from national authorities, which have

unique access to key evidence and information. The Office trusts that the South African investigative team will work hand in hand with the Office and that all South African authorities will provide their full support to those efforts.

36. With respect to the other three remaining fugitives, the Office of the Prosecutor is pursuing viable strategies and leads and fully expects progress in its investigations into their past and current whereabouts. The Office will report on developments as additional resources are redeployed to this work.

37. The results achieved during the reporting period emphasize again the importance of the mandate of the Office of the Prosecutor to account for all remaining fugitives indicted by the International Criminal Tribunal for Rwanda. For the victims and survivors of their crimes, it is vital that the fugitives not be allowed to simply disappear. They must be brought to trial for their crimes, or it must be confirmed that they can cause no further harm. For the Security Council and international justice, accounting for all fugitives demonstrates that impunity for serious international crimes will not be tolerated. The Office remains grateful to the Council, the United Nations and the international community for their continuing support for this critical work.

#### **IV. Assistance to national war crimes prosecutions**

38. National prosecutions remain essential to achieving greater justice for the victims of war crimes, crimes against humanity and genocide committed in the former Yugoslavia and Rwanda. The Office of the Prosecutor is mandated to assist and support national prosecutions of those crimes, in accordance with the completion strategies of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, resolution 1966 (2010) and the Mechanism's statute. The effective prosecution of those crimes is fundamental to building and sustaining the rule of law, establishing the truth of what occurred and promoting reconciliation in the affected countries. Third-party States are also undertaking prosecution against suspects who are present in their territory for crimes committed in Rwanda and the former Yugoslavia.

39. The Office of the Prosecutor continued its efforts, within existing resources, to support, monitor 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 all relevant counterparts and undertakes a range of initiatives to assist and build capacity in national criminal justice sectors.

##### **A. War crimes committed in Rwanda**

###### **1. Completion strategy of the International Criminal Tribunal for Rwanda**

40. The closure of the International Criminal Tribunal for Rwanda was not an end to the justice process for the victims of the genocide against the Tutsi in Rwanda. All those who participated in the genocide must be held accountable. The Mechanism and national courts are now responsible for continuing the work of the Tribunal and ensuring the full implementation of its completion strategy by bringing more perpetrators to justice.

41. The Office of the Prosecutor is fully committed to undertaking all efforts to locate and arrest the four remaining fugitives indicted by the International Criminal Tribunal for Rwanda. As reported above, the Office continues to achieve results. The Mechanism continues to monitor the progress of the two ongoing cases referred under rule 11 bis of the Rules of Procedure and Evidence of the Tribunal to the national

courts of France and Rwanda. The case against Laurent Bucyibaruta was referred to France in 2007, while Ladislas Ntaganzwa was transferred to Rwanda in 2016, following the referral of his case in 2012.

42. At the same time, national authorities now have primary responsibility for the continued implementation of the completion strategy of the International Criminal Tribunal for Rwanda. The Prosecutor General of Rwanda is currently searching for more than a thousand fugitives. Courts in countries around the world continue to process cases of crimes committed during the genocide against the Tutsi in Rwanda. Consistent with the principle of complementarity and national ownership of post-conflict accountability, prosecutions by the Rwandan justice sector in accordance with international due process and fair trial standards are in principle the most advantageous accountability mechanism.

43. With the commemoration in April 2022 of the twenty-eighth anniversary of the genocide against the Tutsi, it is evident that more attention is urgently needed to the still immense backlog of cases against alleged “génocidaires”. The Prosecutor General of Rwanda has identified more than one thousand such persons living outside Rwanda. In the course of its activities to track the remaining fugitives under its jurisdiction and provide assistance to national authorities, the Office of the Prosecutor has been identifying persons who may be reasonably suspected of being responsible for participating in the genocide but who have not yet been investigated or prosecuted by judicial authorities in the countries where they may currently be found. Similarly, law enforcement and prosecutorial authorities, as well as civil society and others, also continue to identify such persons, in particular in Europe.

44. That so many suspected perpetrators of genocide have fled to third countries where they enjoy seeming impunity should be of significant concern. Victims and survivors of the genocide cannot understand how those who wronged them now live in new homes in new countries. For the international community, the still large backlog of cases undermines the accomplishments achieved through the International Criminal Tribunal for Rwanda and support for Rwandan justice efforts.

45. The Office of the Prosecutor will ensure that it provides essential assistance to find solutions to this ongoing challenge. During the reporting period, the Office and the Prosecutor General of Rwanda continued discussions concerning the request by the Rwandan authorities for assistance in locating, investigating and prosecuting Rwandan nationals suspected of genocide, in particular those living outside Rwanda. The Office is currently reviewing lists and files of suspects who were investigated but not indicted by the Prosecutor of the International Criminal Tribunal for Rwanda in the light of the completion strategy. It is expected that these efforts will result in the handover of investigative dossiers that will significantly advance efforts by Rwanda to ensure more comprehensive accountability for genocide crimes.

46. The Office of the Prosecutor and the Prosecutor General of Rwanda have now commenced further discussions concerning the latter’s request for direct assistance with tracking and locating fugitives. It is crucial that the momentum achieved by the Office’s recent results be harnessed to ensure that fugitive génocidaires sought by the Rwandan authorities are also accounted for. While those discussions are at an early stage, it has been agreed that such support would be needed across a range of different elements, from identifying strategies to providing operational assistance with building-capacity. The Office encourages the international community to continue its efforts to support and strengthen the Rwandan criminal justice sector by providing financial assistance and capacity-building, as needed.

47. It is essential that those who bear individual criminal responsibility for crimes committed during the genocide against the Tutsi be investigated, located and prosecuted. Twenty-eight years after the genocide, significant steps towards justice

have been achieved, but more remains to be done. The Office of the Prosecutor stands ready to provide support and assistance to the Rwandan authorities, as well as other national justice sectors. The Office calls upon all Member States to ensure that all possible efforts are undertaken to continue the implementation of the completion strategy of the International Criminal Tribunal for Rwanda and support more justice for more victims of the genocide.

## 2. Genocide denial

48. Fifteen years ago, the Appeals Chamber of the International Criminal Tribunal for Rwanda held that the facts of the genocide committed in Rwanda were established beyond any dispute and thus constituted facts of common knowledge. It concluded in particular that it was a universally known fact that, between 6 April and 17 July 1994, there was a genocide in Rwanda against the Tutsi ethnic group. Establishing that and other facts about the genocide was one of the most important contributions of the Tribunal to re-establishing peace and security in Rwanda and promoting reconciliation between the affected communities.

49. Yet, today, genocide denial continues. Efforts to minimize the scale of the death and destruction or detract attention from the judicially established facts of the genocide are intolerable and unacceptable. There are no other facts or circumstances that in any way alter the truth that, over just 100 days in Rwanda, hundreds of thousands of innocents were senselessly targeted, murdered, tortured, raped and forced to flee their homes because they were Tutsi. Genocide ideology continues to present clear risks to international peace and security. Ideologies of discrimination, division and hate are factors promoting conflict and crimes in places around the globe.

50. The Office of the Prosecutor firmly rejects genocide denial and is committed to promoting education and remembrance as key tools in the fight against genocide ideology. The Prosecutor continues to highlight the importance of those efforts. The Office further reiterates its commitment to vigorously investigating and prosecuting those who interfere with witnesses with the aim of undermining the established facts of the genocide committed in Rwanda.

## 3. Cases referred to France

51. Laurent Bucyibaruta, prefect of Gikongoro, was indicted by the International Criminal Tribunal for Rwanda in June 2005 on six counts of genocide, direct and public incitement to commit genocide, complicity in genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. The indictment was referred by the Tribunal to France for trial on 20 November 2007, as Bucyibaruta had already been located in that country. The investigation by the French authorities was completed in 2018. On 24 December 2018, the investigating judge issued a decision that the case should proceed to trial, which was appealed by the accused and the civil parties. On 21 January 2021, the appeals court confirmed the decision. The final appeal to the court of cassation was heard on 14 April 2021, and a decision rejecting the appeal was issued on the same date.

52. The trial proceedings in the *Bucyibaruta* case commenced on 9 May 2022, fourteen-and-a-half years after the case was referred to France for trial, and almost seventeen years after the indictment against Bucyibaruta was confirmed by the International Criminal Tribunal for Rwanda. Following completion of the trial, appeal proceedings can be expected. The Office of the Prosecutor encourages the French authorities to process expeditiously investigations and prosecutions for crimes committed during the genocide against the Tutsi in Rwanda.

#### **4. Cases referred to Rwanda**

53. With two referred cases already completed, the only remaining ongoing referred case in Rwanda is against Ladislav Ntaganzwa, bourgmestre of Nyakizu commune. He was indicted by the International Criminal Tribunal for Rwanda in June 1996, with the amended indictment charging him with five counts of genocide, direct and public incitement to commit genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 20 March 2016. On 28 May 2020, the High Court issued its trial judgment, convicting him of genocide and the crimes against humanity of extermination, rape and murder, acquitting him of incitement to commit genocide and sentencing him to life imprisonment. The date of the appeal hearing has not yet been scheduled.

54. The Office of the Prosecutor recognizes the efforts of the Rwandan authorities to complete trial and appeal proceedings expeditiously in cases referred by the International Criminal Tribunal for Rwanda under rule 11 bis of its Rules of Procedure and Evidence. The *Uwinkindi* and *Munyagishari* cases were each completed within approximately eight years following the transfer of the accused to Rwanda. The Office continues to seek the arrest of additional fugitives indicted by the Tribunal whose cases have also been referred to Rwanda and fully expects that their trials and appeals will be expeditiously completed in accordance with international fair trial standards.

### **B. War crimes committed in the former Yugoslavia**

#### **1. Completion strategy of the International Tribunal for the Former Yugoslavia**

55. As emphasized by the Prosecutor of the International Tribunal for the Former Yugoslavia in his final completion strategy report (S/2017/1001, annex II), the end of the Tribunal's mandate was always envisaged in the completion strategy not as the end of justice for war crimes committed in the former Yugoslavia but as the beginning of the next chapter. With the closure of the Tribunal, further accountability for the crimes now depends fully on national authorities in the countries of the former Yugoslavia. The work of the Tribunal created a solid foundation for national judiciaries to continue to implement the completion strategy and secure more justice for more victims.

56. More than 15 years after the adoption of the completion strategy, national judiciaries have achieved progress in accountability for war crimes, albeit unevenly among countries. Looking forward, national judiciaries continue to face a very large backlog of war crimes cases to process, with several thousand cases remaining across the region. Most importantly, much more remains to be done to bring to justice senior- and mid-level suspects who worked together with or were subordinate to senior war criminals prosecuted and convicted by the International Tribunal for the Former Yugoslavia.

#### **2. Denial and glorification**

57. The Office of the Prosecutor has regularly reported that the denial of crimes and the non-acceptance of facts established in the judgments of the International Tribunal for the Former Yugoslavia were widespread throughout the region of the former Yugoslavia. Convicted war criminals are often glorified as heroes. Students in different countries, including within Bosnia and Herzegovina itself, are taught widely different and irreconcilable versions of the recent past. The Office has expressed its grave concern in this regard and called for urgent attention to those issues. Acceptance

of the truth of the recent past is the foundation for reconciliation and healing among communities in the former Yugoslavia.

58. Unfortunately, negative developments continued during the reporting period. In Croatia, the President praised convicted war criminals Slobodan Praljak and Milivoj Petković, even after Petković had written a public letter accepting his convictions and personal responsibility for his crimes. High-level Serbian officials continued to delegitimize publicly facts established by the International Tribunal for the Former Yugoslavia and the Mechanism. Furthermore, the authorities of Bosnia and Herzegovina, Croatia and Serbia regularly fail to take adequate steps to address public displays, in the form of murals and plaques, dedicated to convicted war criminals.

59. The Office of the Prosecutor calls upon all officials and public figures in the region to act responsibly and put the victims and civilian suffering at the forefront in all activities. They should publicly condemn the denial of crimes and glorification of war criminals, rather than supporting them with public rhetoric, divisive actions and funds. A break with the rhetoric of the past is long overdue, and leadership in favour of reconciliation and peacebuilding is urgently needed.

### **3. Regional judicial cooperation**

60. Judicial cooperation among the countries of the former Yugoslavia is essential to ensure that those responsible for war crimes are held accountable. Many suspects are not present in the territory where they are alleged to have committed the crimes. Yet Governments in the region refuse to extradite their citizens on war crimes charges, despite regularly extraditing persons accused of committing other serious crimes, such as organized crime, corruption and economic crimes. As reported in the Mechanism's thirteenth progress report (S/2018/1033), regional judicial cooperation in war crimes matters among the countries of the former Yugoslavia is at its lowest level in years and faces immense challenges. Decisive action is needed to reverse the current negative trends and ensure that war criminals do not find safe haven in neighbouring countries. Solutions are available and well known; the commitment and willingness to use them are now required.

61. During the reporting period, the Office of the Prosecutor continued its efforts to improve regional judicial cooperation in war crimes matters. In its most recent initiative, the Office has supported improved cooperation and the transfer of investigative files from Serbia to Bosnia and Herzegovina. As a result, there have been no further arrests on war crimes charges of Bosnian nationals crossing the border into Serbia. Rather, the Serbian judicial authorities have shared evidentiary files concerning suspects with the Prosecutor's Office of Bosnia and Herzegovina for further processing. The Office will continue to advocate and work to ensure that previous commitments by Bosnia and Herzegovina and Serbia regarding the exchange of information on relevant ongoing investigation and the transfer of indictments are honoured.

62. Unfortunately, there was little improvement in other important areas during the reporting period. No progress was made in the matter of Novak Djukić, which was extensively covered in the Mechanism's fifteenth progress report (S/2019/888). The category II case against Mirko Vručinić, who absconded to Serbia in 2020 before completion of his trial in Bosnia and Herzegovina, remains stalled, with Vručinić continuing to evade accountability for his alleged crimes. Similarly, Milomir Savčić, who was standing trial in Bosnia and Herzegovina for his alleged involvement in the Srebrenica genocide, has fled to Serbia, from where he cannot be extradited. Judicial

cooperation between Kosovo<sup>28</sup> and Serbia in war crimes matters has not improved. Long-standing negotiations between Croatia and Serbia to establish an agreement on a framework for war crimes cases, previously reported in the Mechanism's fourteenth progress report (S/2019/417), remain at a standstill. The Office of the Prosecutor urges prosecution offices, judiciaries and ministries of justice throughout the former Yugoslavia to resolve these and other matters urgently and proactively and to put regional judicial cooperation in war crimes matters on the right track.

#### 4. Registration of judgments

63. In his previous reports, the Prosecutor touched upon the need for the countries in the former Yugoslavia to register criminal convictions entered by the International Tribunal for the Former Yugoslavia and the Mechanism into domestic criminal records. Today in the countries of the former Yugoslavia, the domestic criminal records of many international war criminals do not reflect their convictions. In that sense, from the perspective of domestic legal orders, it is almost as if the crimes had never happened and the perpetrators had never been convicted. This matter is vitally important for the rule of law, reconciliation and stability in the former Yugoslavia, as well as a fundamental issue of cooperation with the Mechanism.

64. No further progress was made during the reporting period. Bosnia and Herzegovina still failed to register a single judgment. In Serbia, judgments are only being registered for convicted persons granted early release by the President of the Mechanism instead of for all convicted persons.

65. The Office of the Prosecutor strongly encourages all countries of the former Yugoslavia to resolve any national obstacles swiftly and ensure that the convictions entered by the Tribunal or the Mechanism against their nationals are registered in domestic criminal records. The Office hopes to be able to report in the near future that this matter has been fully addressed.

#### 5. Bosnia and Herzegovina

66. In preparation for the present report and to continue engagement with national authorities, the Prosecutor visited Sarajevo from 5 to 7 April 2022, where he met the Minister for Foreign Affairs, Bisera Turković, and the Acting Chief Prosecutor, Milanko Kajganić. He further visited Banja Luka on 8 April, where he met with the Chief Prosecutor of the Republika Srpska, Mahmut Svraka.

67. The Office of the Prosecutor continued its close cooperation and collaboration with the Acting Chief Prosecutor and his staff, including through assistance on concrete cases, strategic support and activities to transfer lessons learned. The Office is committed to continuing to support the work of the Prosecutor's Office of Bosnia and Herzegovina, in particular in the mutual goal of successfully implementing the National War Crimes Strategy.

68. The remaining backlog at the Prosecutor's Office of Bosnia and Herzegovina consists of 319 cases against 3,727 perpetrators. Of those, 197 cases against 2,508 persons are complex cases, which are expected to be prosecuted at the State level, while 122 cases against 1,219 persons are cases of less complexity that can be transferred to lower-level prosecution offices.

69. Of the 197 complex cases, 97 cases against 633 persons are under investigation, and the 100 remaining cases against 1 875 persons are in the pre-investigative phase.

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<sup>28</sup> References to Kosovo shall be understood to be in the context of Security Council resolution 1244 (1999).

In the reporting period, the Prosecutor's Office of Bosnia and Herzegovina completed investigations and filed 16 indictments against 48 suspects.

70. Of the 122 cases of less complexity, 56 cases against 323 persons are under investigation, and 66 cases against 896 persons are in the pre-investigative phase. During the reporting period, five cases against 13 persons were transferred to lower-level prosecution offices for further processing.

71. In total, during the reporting period, the Prosecutor's Office of Bosnia and Herzegovina concluded 36 investigations against 172 suspects.

72. The Office of the Prosecutor is already providing direct case assistance to the Prosecutor's Office of Bosnia and Herzegovina, as well as responding to large numbers of requests for assistance. The Office of the Prosecutor continues to develop this collaboration and cooperation in two key areas.

73. First, a large number of investigations and cases handled by the Prosecutor's Office of Bosnia and Herzegovina concern suspects or indicted accused who are believed to be residing in other countries in the region, including Croatia, Montenegro and Serbia. Of the cases against identified suspects, 141 suspects in 62 investigations and indicted cases and 141 suspects in 48 pre-investigation cases are known to be currently living outside of Bosnia and Herzegovina. A total of 182 of those people are believed to be living in Croatia, Montenegro or Serbia, while 100 are believed to be living in other countries. The Office of the Prosecutor continues to assist the Prosecutor's Office of Bosnia and Herzegovina to transfer those investigative files and cases, and in particular key cases and files involving senior- and mid-level accused, to the jurisdictions where the suspects or accused reside for further processing.

74. Second, the Office of the Prosecutor is collaborating with the Prosecutor's Office of Bosnia and Herzegovina to strengthen the latter's organizational and working practices and ensure that outstanding recommendations made by Judge Joanna Korner in her expert review report are implemented. To support progress by the Prosecutor's Office of Bosnia and Herzegovina in relation to the outstanding recommendations, the Office of the Prosecutor has agreed to share its experience, regulations and practices as a model for the Prosecutor's Office of Bosnia and Herzegovina to adapt and build on. The Office of the Prosecutor will continue to assist the Prosecutor's Office of Bosnia and Herzegovina in this area and expects that such changes will improve results.

75. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, significant results have been achieved to date in accountability for war crimes in Bosnia and Herzegovina; however, it is clear that much more remains to be done. There is a strong foundation for continued justice in Bosnia and Herzegovina. The Office of the Prosecutor and the Prosecutor's Office of Bosnia and Herzegovina continue to strengthen their cooperation. Yet there remains an enormous backlog of cases, and efforts still need to be intensified. The Office of the Prosecutor encourages further progress to prevent any regression and will continue to work with the Prosecutor's Office of Bosnia and Herzegovina and other prosecution offices in that country. The Office of the Prosecutor further encourages the Prosecutor's Office of Bosnia and Herzegovina to continue to strengthen its engagement with the victim community, including in relation to the so-called "rules of the road" files.

## **6. Croatia**

76. In preparation for the present report and to continue engagement with national authorities, the Prosecutor visited Zagreb from 11 to 12 April 2022, where he met

with the Minister of Justice and Public Administration, Ivan Malenica, and the State Attorney General of Croatia, Zlata Hrvoj-Sipek.

77. While the Office of the Prosecutor continues to engage with the Croatian authorities regarding continued war crimes justice in Croatia and the region, the situation is increasingly difficult. There is little improvement to report, and many issues are becoming more severe. Rather than serving as a model for the region, Croatia is now lagging its neighbours across almost every indicator of progress.

78. The Government of Croatia has not yet withdrawn its conclusion of 2015 by which it directed its Ministry of Justice not to provide judicial cooperation in cases where Croatian police and military staff were being investigated by prosecution offices in other countries. The conclusion continues to apply and interfere with the delivery of war crimes justice. The Office of the Prosecutor urges the Government of Croatia to revisit the policy and ensure the independence of criminal justice processes.

79. The policy is preventing the justice process from moving forward and has the effect of promoting impunity. The Croatian authorities have not yet facilitated the transfer of an important pending category II case. More broadly, the Ministry of Justice and Public Administration of Croatia is blocking the processing of numerous requests for assistance from neighbouring prosecution offices. Since 2015, prosecuting authorities in Bosnia and Herzegovina and Serbia have sent over 80 requests for assistance to Croatia that have not been responded to. Those are not controversial cases – more than 90 per cent of the requests for assistance that Bosnia and Herzegovina has sent to Croatia relate to direct perpetrators who murdered, abducted, raped and detained people and committed other crimes. The Croatian authorities have been unable to explain satisfactorily why a member of the European Union is effectively promoting impunity at the expense of war crimes victims in the region by not providing the legal aid requested by other countries.

80. Separately, the *Glavaš* case, a category II case previously referred to the State Attorney's Office of Croatia, remains at retrial following the revocation by the Constitutional Court of a convicting judgment in 2009 upheld by the Supreme Court of Croatia on formalistic grounds. Formerly Major General in the Croatian Army and Member of the Croatian Parliament, Branimir Glavaš is accused of being responsible for the torture and execution of Croatian Serb civilians, including one victim who was forced to drink car battery acid and then shot. The Office of the Prosecutor will continue to monitor developments and hopes to report in future that the retrial is being conducted expeditiously.

81. More generally, war crimes justice in Croatia still faces significant challenges. The large majority of cases, which concern Serb perpetrators accused of committing crimes against Croatian victims, continue to be conducted in absentia because the Serbian authorities will not extradite the accused to Croatia and the Croatian authorities will not transfer the cases to Serbia on the grounds that Serbia does not prosecute perpetrators for command responsibility. The Office of the Prosecutor continues to engage with the countries concerned to find solutions to the stalemate.

82. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, war crimes accountability in Croatia is not on the right track. No other country in the region applies a deliberate political policy to prevent the justice process from moving forward. The State Attorney's Office is prevented by this policy from providing support to regional partners. The Office of the Prosecutor stands ready to provide assistance to the State Attorney's Office as requested, and will continue to engage with the Croatian authorities to finally allow the justice process to proceed unimpeded.

## **7. Montenegro**

83. At the request of the Montenegrin authorities, the Office of the Prosecutor has developed over the past few years its assistance to Montenegro in relation to justice for war crimes committed in the conflict in the former Yugoslavia. It is well understood that, to date, insufficient justice for war crimes has been achieved in Montenegro.

84. As previously reported, the Office of the Prosecutor, in November 2019, prepared and handed over to the Special State Prosecutor's Office an investigative dossier concerning more than 15 suspects. Many of those persons are suspected of horrific crimes of sexual violence, including sexual slavery, rape, torture, enforced prostitution and trafficking in persons for sexual exploitation, while others are suspected of the torture and execution of civilians. The preliminary investigation by the Special State Prosecutor's Office into the crimes presented in the dossier continued to progress during the reporting period. The Special State Prosecutor's Office continued to cooperate with the Prosecutor's Office of Bosnia and Herzegovina, which is in possession of relevant evidence and has already prosecuted related cases. The Office of the Prosecutor continues to provide the requested assistance and support to the Special State Prosecutor's Office so that the investigations may be swiftly completed and indictments prepared.

85. Important reforms in domestic law to support war crimes justice are also needed. As previously reported, drawing on its expertise, the Office of the Prosecutor identified legislative changes that would allow for the introduction of evidence from the International Tribunal for the Former Yugoslavia and the Mechanism in Montenegrin proceedings and facilitate the effective prosecution of conflict-related sexual violence cases. Draft legislative reforms have been prepared and await government consideration. The Office will continue to provide support, as requested, to ensure progress in those and other important areas.

86. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, war crimes justice in Montenegro is only beginning. There has been almost no accountability for Montenegrin citizens who committed crimes during the conflict. Nonetheless, the Montenegrin authorities have accepted that far more needs to be done and took some steps during the reporting period towards ensuring that Montenegro can achieve much more justice and meet its commitments. The Office of the Prosecutor is committed to providing the support needed and hopes to be able to report in future that war crimes justice in Montenegro is achieving concrete results.

## **8. Serbia**

87. In preparation for the present report and to continue engagement with national authorities, the Prosecutor visited Belgrade from 4 to 6 May 2022, where he met with the President of Serbia, Aleksandar Vučić, the Minister of Justice, Maja Popović, and the Chief War Crimes Prosecutor, Snežana Stanojković.

88. The Serbian authorities reiterated their commitment to strengthening cooperation with the Office of the Prosecutor as a means to support the implementation of the National War Crimes Strategy and the prosecutorial strategy. The Serbian authorities acknowledge that regional judicial cooperation in war crimes matters is not satisfactory and that efforts need to be made to improve cooperation as an important element in regional relations. The Serbian authorities and the Office will continue to work closely together to expedite the processing of war crimes cases in Serbia.

89. During the reporting period, the Serbian War Crimes Prosecutor's Office filed eight indictments. Three are based on investigations conducted by that Office, and five were transferred from Bosnia and Herzegovina. As of the end of the reporting period, the Serbian War Crimes Prosecutor's Office had 18 active investigations against 67 known suspects and 14 investigations against unknown suspects. Judgments were issued in five cases during the reporting period, all of which resulted in convictions.

90. The direct engagement of the Office of the Prosecutor with the Serbian War Crimes Prosecutor's Office continues. Positive steps have been taken, but challenges remain. Proceedings in the three category II cases transferred to the Serbian War Crimes Prosecution Office through mutual legal assistance from Bosnia and Herzegovina are ongoing. In addition, the Office has continued to engage actively with the Serbian War Crimes Prosecutor's Office in relation to two case files involving senior-level accused that had previously been handed over.

91. The case files handed over by the Office of the Prosecutor provided an enormous volume of evidence documenting the responsibility of the individuals concerned, building on a strong foundation of key facts proven before the Tribunal. During the reporting period, the Chief War Crimes Prosecutor issued an indictment in one case and continued the investigation in relation to the other. The Office welcomes the Serbian War Crimes Prosecutor's Office's indictment of Milenko Živanović, former Commander of the Drina Corps of the Bosnian Serb Army, and the highest ranking person in Serbia to be charged with war crimes. At the same time, as discussed by the Office of the Prosecutor and the Serbian War Crimes Prosecutor's Office, it is important to ensure that the indictment reflects the immense gravity of the crimes committed and the full scope of Živanović's responsibility. The Office of the Prosecutor has in this regard facilitated discussions to transfer a related indictment against Živanović from Bosnia and Herzegovina to Serbia. The Office of the Prosecutor continues to provide a range of other assistance, including case strategies, assistance with understanding the evidence available, the provision of additional evidence and support on witness protection issues.

92. The fact that progress has been made demonstrates both the value of intensified cooperation between the Office of the Prosecutor and the Serbian War Crimes Prosecutor's Office and that prosecutions of complex cases involving senior- and mid-level officials for serious crimes are possible in Serbia.

93. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, Serbia finds itself at an important juncture. Although impunity for many well-established crimes continues, Serbia has the opportunity to put war crimes justice on the right course. Victims, the public and other stakeholders rightly expect clear signs that war crimes justice in Serbia is heading in the right direction, and decisive steps are urgently needed to show that investments are bearing fruit and that there is the will to realize the commitments made in the National War Crimes Strategy. Important case files involving senior- and mid-level officials have been transferred to Serbia. These and other complex cases need to be appropriately processed, and developments in this regard will be an important indicator for the future.

### **C. Access to information and evidence**

94. The Office of the Prosecutor possesses extensive evidence and invaluable expertise that can greatly benefit national justice efforts. The Yugoslavia-related evidence collection comprises more than nine million pages of documents, tens of thousands of hours of audio and video recordings and thousands of artefacts, most of

which was not introduced into evidence in any proceeding before the International Tribunal for the Former Yugoslavia and is thus only available from the Office. The Rwanda-related evidence collection comprises more than one million pages of documents. This evidence is highly valuable to national authorities prosecuting serious international crimes committed in Rwanda and the countries of the former Yugoslavia, as well as to the search for missing persons. In addition, the staff members of the Office have a unique insight into the crimes and the cases that can assist national prosecutors to prepare and prove their indictments.

95. During the reporting period, the Office of the Prosecutor continued to receive a large volume of requests for assistance from national judiciaries and international organizations.

96. In relation to Rwanda, the Office of the Prosecutor received four requests for assistance from four Member States, three of which have been processed. One request was submitted by the Canadian authorities, one by the French authorities, one by the Dutch authorities and one by the British authorities. In total, the Office handed over more than 541 documents comprising approximately 19,000 pages of evidence. In addition, it filed two submissions related to witness protective measures and access to evidence.

97. In relation to the former Yugoslavia, the Office of the Prosecutor received 122 requests for assistance from seven Member States and two international organizations. Forty-one requests for assistance were submitted by the authorities of Bosnia and Herzegovina, one by Croatia, eight by Serbia, three by the Netherlands, three by the United States of America, one by Germany and one by Austria. In total, the Office handed over more than 3,900 documents comprising nearly 136,900 pages of evidence and 23 audiovisual records. In addition, it filed 11 submissions related to witness protective measures and/or access to evidence.

98. The significant growth in recent years in requests for assistance received by the Office of the Prosecutor – since 2018, an average of 362 requests have been submitted each year, compared with 111 in 2013, which represents a 226 per cent increase – has not been met by proportional increases in related resources. As a result, a backlog of approximately 265 requests older than six months has developed, while the total number of outstanding requests at the end of the reporting period stood at 308. The Office underlines that national authorities rely heavily on its support to meet their important responsibilities to achieve further justice for serious international crimes committed in Rwanda and the former Yugoslavia. To avoid critical risk to the success of national investigations and prosecutions, as well as the search for missing persons, it is vital for the Office to receive support for its reasonable resource requests in relation to those activities.

99. The joint European Union/Mechanism project to support domestic accountability for war crimes continued during the reporting period. Under the project, national authorities can request direct assistance from the Office of the Prosecutor on concrete investigations and prosecutions, including with regard to regional judicial cooperation. In addition, the Office is preparing additional investigative dossiers for transfer to relevant prosecution services concerning five unindicted suspects for their involvement in the murder, displacement and deportation, torture and unlawful detention of civilians, as well as the destruction of property and cultural heritage. During the reporting period, the Project provided legal, evidentiary and strategic assistance with respect to nine requests that entailed handing over 71 documents comprising 3,246 pages of evidence and three audiovisual records. The project also assisted with securing the cooperation of witnesses for domestic proceedings.

## **D. Capacity-building**

100. The Office of the Prosecutor continued its efforts, within its existing limited resources, to build capacity in national judiciaries prosecuting war crimes. It focuses its capacity-building efforts on the Great Lakes region, East Africa and the former Yugoslavia. Strengthening national capacities supports the principle of complementarity and national ownership of post-conflict accountability. Owing to the coronavirus disease (COVID-19) pandemic, the Office delayed some training activities that were planned during the reporting period, yet it was still able to provide virtual training programmes to national counterparts to facilitate their access to its evidence collection. In March 2022, the Office conducted training on the prosecution of sexual violence crimes for East African prosecutors from Kenya, Rwanda and Uganda.

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

## **E. Missing persons**

102. The search for persons still missing from the conflict in the former Yugoslavia continues to be consistently identified as one of the most important outstanding issues. Significant results have been achieved, with approximately 30,000 missing persons found and identified. Unfortunately, the families of 10,000 missing persons still do not know the fates and whereabouts of their loved ones. The search for and exhumation of remains from mass graves and the subsequent identification of the remains need to be accelerated. Further progress on those issues is a humanitarian imperative and fundamental to reconciliation in the former Yugoslavia. Missing persons from all sides of the conflict must be located, identified and returned to their families.

103. During the reporting period, the Office of the Prosecutor and the International Committee of the Red Cross (ICRC) continued their cooperation pursuant to the memorandum of understanding signed in October 2018. This important agreement enables ICRC to have access to the evidence collection of the Office to obtain information that may assist for purely humanitarian purposes in clarifying the fate and whereabouts of persons who are still missing. The Office and ICRC are also working jointly, in accordance with their respective mandates, to analyse information, identify new leads and provide files to domestic missing persons authorities for action. From 16 November 2021 to 15 May 2022, the Office responded to 136 requests for assistance from ICRC and handed over 2,067 documents comprising nearly 99,000 pages as well as 11 audiovisual records. The Office further continued to provide extensive investigative assistance and operational support to national authorities searching for missing persons.

104. Support provided by the Office of the Prosecutor contributed to the overall process of clarifying the fate and whereabouts of missing persons. During the reporting period, information from the Office assisted in clarifying the fate and whereabouts of 19 missing persons. Overall, in the three-and-a-half years since initiating its cooperation with ICRC, the Office has searched for information in its evidence collection concerning approximately 4,230 missing persons.

## V. Other residual functions

105. The Office of the Prosecutor continued to perform its responsibilities in respect of other residual functions.

106. During the reporting period, the Office of the Prosecutor continued to prepare a large volume of records for archiving, while also engaging in an extensive process to finalize its retention schedules. It also continued to respond to requests for access, research requests and other enquiries. The Office will continue to monitor the volume of activities and litigation and will report as appropriate.

## VI. Management

107. In the Mechanism's recent fourth review report submitted to the Security Council on 14 April 2022 (S/2022/319), the Office of the Prosecutor provided extensive information concerning its management practices, offered comments concerning the evaluation performed by the Office of Internal Oversight Services and reported on the successful implementation of the only outstanding audit recommendation addressed to the Office. In the interests of brevity, that information is incorporated here by reference.<sup>29</sup>

## VII. Conclusion

108. The Office of the Prosecutor achieved significant results during the reporting period by accounting for two additional fugitives indicted by the International Criminal Tribunal for Rwanda, including the last remaining major fugitive, Protais Mpiranya. There are now only four remaining fugitives, the top priority being Fulgence Kayishema. To bring those to justice, the Office will continue to apply the methods and practices that have resulted in four fugitives being accounted for in the past two years and expects to report in future on progress in this work. The Office trusts that it will continue to enjoy the full support of the Security Council to deliver on the commitment to accounting for all persons indicted by the International Criminal Tribunal for crimes committed during the genocide against the Tutsi in Rwanda. The victims deserve nothing less.

109. The Office of the Prosecutor continued to undertake every effort to contribute to the expeditious completion of the remaining trials and appeals. The Office took important steps to reduce the time required to present the prosecution case in the *Kabuga* case, and appeal proceedings are fully under way in the *Stanišić and Simatović* and *Fatuma et al.* cases.

110. Significant challenges remain with respect to the national prosecution of war crimes in the former Yugoslavia and Rwanda. The Office of the Prosecutor continued its engagement with national authorities and remains committed to providing its full support, including by responding to requests for assistance, transferring knowledge gained and lessons learned and providing assistance on concrete cases.

111. The Office of the Prosecutor welcomes the Security Council's biennial review of the Mechanism's work, and in this regard it is grateful to OIOS for its recent evaluation. With respect to the Office, OIOS found that steps taken by the Office reflected a focus on operationalizing the Council's mandate. OIOS again favourably assessed the methods and work of the Office, noting that even with a "skeletal staff

<sup>29</sup> S/2022/319, paras. 158–170.

number”, it flexibly reconfigured operations as necessary to deliver results and redeployed its resources to where they were most required.

112. In all of its endeavours, the Office of the Prosecutor relies upon and gratefully acknowledges the support of the international community, especially that of the Security Council.

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