

**Security Council**

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Letter dated 16 November 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 would be grateful if you could transmit the present letter and its annexes to the members of the Security Council.

(Signed) Graciela **Gatti Santana**
President



Annex I to the letter dated 16 November 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 Graciela Gatti Santana, for the period from 19 May to 15 November 2022

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1. The present report, the twenty-first 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.¹ The same reporting requirement is reflected in article 32, paragraph 2, of the statute of the Mechanism (resolution [1966 \(2010\)](#), annex I). Information contained in the present report is also included pursuant to paragraph 12 of Council resolution [2637 \(2022\)](#).

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 over 10 years ago, 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. 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 concluded its fourth such review, culminating in the adoption on 22 June 2022 of resolution [2637 \(2022\)](#). Subsequently there was a change in leadership at the Mechanism, with Judge Graciela Gatti Santana (Uruguay) assuming the presidency on 1 July, taking over from Judge Carmel Agius (Malta), who had served as President since January 2019. On the same date, 1 July 2022, the Mechanism marked 10 years since the commencement of operations at the Arusha branch.

5. The Mechanism welcomes the ongoing support of the Security Council for its important work and mandate, as reflected in resolution [2637 \(2022\)](#), and notes the Council's reaffirmation of its determination to combat impunity for serious international crimes and the necessity of bringing to justice all persons indicted by the ad hoc Tribunals. The Mechanism is also encouraged that, in the resolution, the Council addressed a number of issues of concern to both the Mechanism and the international community, as raised in its fourth review report ([S/2022/319](#)). These include the continued need for State cooperation with regard to the enforcement of sentences and fugitive tracking, as well as the problems faced by the Mechanism in

¹ Unless otherwise specified, figures set out in the present report are accurate as at 15 November 2022.

the relocation of acquitted persons and of convicted persons who have completed their sentence.

6. The Mechanism takes resolution [2637 \(2022\)](#) extremely seriously. As requested by the Security Council therein, it has already commenced implementation of the recommendations of the Informal Working Group on International Tribunals as set out in the resolution, and it continues to work towards the full implementation of outstanding recommendations made by the Office of Internal Oversight Services (OIOS), having undergone a related review of the methods and work of the Mechanism earlier in the year ([S/2022/148](#)). The leadership has paid very close attention to the particular focus on the future of the Mechanism in the resolution, including with respect to providing clear and focused projections of completion timelines for all of the Mechanism's activities, as well as options regarding the transfer of its remaining activities in due course.

7. In this respect, as set out further below, the new President announced that one of the core priorities of her presidency would be to lead efforts in developing a comprehensive strategy to guide the Mechanism's continuing transition from an operational court to a truly residual institution. Under her leadership, the Mechanism is now actively engaged in planning how to achieve the transition as efficiently, effectively and fairly as possible. The Mechanism is most grateful for the guidance and constructive inputs provided by the Security Council, the Informal Working Group on International Tribunals and OIOS during the review and evaluation processes in 2022, and looks forward to further fruitful interactions with those bodies during the coming months.

8. With regard to its plans to become a purely residual institution, the Mechanism is pleased to report that a number of its current activities are expected to be completed in the near future, such as fugitive tracking (as detailed in annex II), cases related to the core crimes incorporated in its statute and the monitoring of cases referred to national jurisdictions. After that, the Mechanism will continue to discharge its responsibilities in relation to its long-term mandated functions, which include dealing with other judicial matters as they arise, providing assistance to national jurisdictions, protecting victims and witnesses, managing the archives and supervising the enforcement of sentences. It is important to remain mindful that the Security Council has tasked the Mechanism with a range of residual functions that will continue after the existing caseload has been concluded, unless and until the Council decides otherwise. In the meantime, the duration and potential transfer of those mandated activities is being assessed in the light of paragraph 11 of resolution [2637 \(2022\)](#). The Mechanism has contacted other international criminal courts and tribunals, seeking to benefit from lessons learned in respect of managing the transfer of residual functions. The Mechanism anticipates carrying out in-depth internal discussions among all three organs and presenting developments on that front in the next report.

9. As set out in the present report, the Mechanism made further decisive progress in relation to its pending judicial caseload over the past six months. After disposing of the contempt case of *Prosecutor v. Marie Rose Fatuma et al.* (*Fatuma et al.* case) on 29 June, the Mechanism is left with two main cases, both relating to the core crimes incorporated in its statute. On 29 September, the trial proceedings in *Prosecutor v. Félicien Kabuga* (*Kabuga* case) commenced at The Hague branch, following the Trial Chamber's decision of 13 June 2022 concerning the accused's fitness to stand trial. Meanwhile, the judges and Chambers staff continued to work on the appeal proceedings in *Prosecutor v. Jovica Stanišić and Franko Simatović* (*Stanišić and Simatović* case), which remain on track for completion by June 2023, notwithstanding a change in the presiding judge resulting from the new presidency of the Mechanism. All cases have continued to advance in line with the projections announced in the previous progress report of the Mechanism ([S/2022/404](#)).

10. By contrast, the predicament of the eight acquitted and released persons who were relocated to the Niger in December 2021 remains unresolved (see paras. 98–102). As the situation has a serious impact on the rights of the individuals concerned, it is crucial that a sustainable solution be found urgently. Regrettably, the contempt case against Petar Jojić and Vjerica Radeta (*Jojić and Radeta* case) is another instance in which a State has not honoured its international obligations, as Serbia continues to refuse to take action to arrest and surrender the accused persons.

11. To the extent possible, the present report contains detailed projections of the duration of residual functions entrusted to the Mechanism, in accordance with resolution 2637 (2022).² 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. As established in article 4 of the statute, 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 contains details the activities of the Office of the Prosecutor (the prosecution). Each organ is led by a full-time principal who exercises responsibility over both Mechanism branches.

13. For the first part of the reporting period, the Mechanism was headed by Judge Carmel Agius as President. Having informed the Secretary-General in April 2022 of his decision not to seek a further appointment as President, Judge Agius completed his final term of office as President on 30 June 2022. He was reappointed by the Secretary-General as a judge of the Mechanism for a further two-year term, commencing on 1 July. The Mechanism takes this opportunity to thank Judge Agius and to pay tribute to his outstanding and dedicated stewardship of the institution since January 2019, including throughout the peak of the coronavirus disease (COVID-19) pandemic. Judge Graciela Gatti Santana was appointed by the Secretary-General as the new President of the Mechanism for a two-year term, effective 1 July 2022. Like her predecessor, she is based in The Hague.

14. The Prosecutor of the Mechanism, Serge Brammertz, was reappointed by the Security Council in resolution 2637 (2022) for a period of two years, commencing on 1 July 2022. Subsequently, the Registrar, Abubacarr Tambadou, was also reappointed by the Secretary-General for a new two-year term, effective on the same date. The Prosecutor and the Registrar are based in Arusha. The current terms of all three principals run until 30 June 2024.

B. President

15. 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.³

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

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

16. Until the conclusion of his tenure on 30 June, Judge Agius continued to oversee the work and progress of the Mechanism, focusing specifically on the fair, efficient and timely conclusion of judicial activities, the harmonization of practices and procedures of the two branches and the fostering of high staff morale and performance. He addressed the Security Council for the final time in June 2022 to present the most recent progress report. 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. Also in June, he undertook a final official mission to Rwanda, before concluding his presidency at the Arusha branch, where he and the other members of the bench rendered the appeal judgment in the *Fatuma et al.* case.

17. Immediately upon taking office on 1 July, and having closely examined resolution 2637 (2022), Judge Gatti Santana set about developing the core priorities of her presidency. These are: (a) to focus on the efficient, effective and fair conclusion of the remaining trial and appeal proceedings; (b) to lead efforts in developing a comprehensive strategy to guide the Mechanism's continuing transition from an operational court to a truly residual institution, including by exploring options regarding the transfer of activities to other bodies, as appropriate, with due regard for judicial independence and the rights of persons under the Mechanism's care; and (c) to consolidate the achievements of the ad hoc Tribunals and the Mechanism, while further enhancing inter-organ and inter-branch coordination and collaboration.

18. As set out above, the President's attention will be concentrated on steering the Mechanism through the next phase of its lifespan, which will be focused on the Mechanism's long-term residual activities. In doing so, she is committed to collaborating closely with the other principals on matters concerning the overall functioning of the institution, including budgetary issues, and to ensuring systematic thinking and planning about the future, in line with a recommendation made by OIOS in 2020 that the Mechanism strives to fulfil on an ongoing basis.⁴ Since assuming the leadership, Judge Gatti Santana has convened three meetings of the Mechanism Coordination Council, which is composed of the President, the Prosecutor and the Registrar. In addition, she has held meetings with section chiefs at both branches and has regularly engaged with representatives of the Staff Union. Separately, the new President is determined to address issues of gender parity within the Mechanism, including in her capacity as an International Gender Champion.

19. Judge Gatti Santana commenced her presidency in Arusha, where she attended a brief handover ceremony with the outgoing President and met staff members at the Lakilaki premises. Shortly thereafter, she paid an official visit to Bosnia and Herzegovina in July 2022 to participate in the twenty-seventh commemoration of the Srebrenica genocide. While in Sarajevo, she addressed members of the diplomatic corps at a dedicated briefing. In September, she travelled on mission to Rwanda, where she met high-level government officials and members of the Rwandan judiciary and national prosecution, as well as representatives of victims' associations, and visited a number of memorial sites in and around Kigali. Following the conclusion of the mission, she met the President of the United Republic of Tanzania in Dar es Salaam.

20. In October 2022, the President addressed the General Assembly to present the tenth annual report of the Mechanism. While in New York, she met representatives of Member States and high-level representatives of the United Nations, including the President of the General Assembly. In total, since taking office, she has held more than 55 bilateral meetings, including with government officials and representatives of

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

the diplomatic corps and international organizations, including United Nations Secretariat officials.

C. Judges

21. Article 8, paragraph 1, of the statute provides that the Mechanism shall have a roster of 25 independent judges. According to Article 8, paragraph 3, the judges shall only be present at the seat of the Mechanism's branches when necessary, as requested by the President, and insofar as possible shall otherwise carry out their functions remotely. In line with article 8, paragraph 4, judges of the Mechanism shall not be remunerated for being on the judicial roster, but will receive compensation only for the days on which they exercise their functions.

22. In June 2022, the Secretary-General reappointed all 25 judges of the Mechanism for a further two-year term, from 1 July 2022 to 30 June 2024.

23. As from 1 July, when the new President commenced her term of office, there was a change in the order of precedence of the judges of the Mechanism. The current judicial roster comprises (in order of precedence): Judge Graciela Gatti Santana, President (Uruguay), 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 Carmel Agius (Malta), Judge Alphons Orié (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 Ivo Nelson de Caires Batista Rosa (Portugal), Judge Seymour Panton (Jamaica), Judge Elizabeth Ibanda-Nahamya (Uganda), Judge Yusuf Aksar (Türkiye), 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 deGuzman (United States of America).

24. Upon taking office, the President announced her intention to convene an in-person plenary of Mechanism judges in The Hague later in 2022. The Mechanism is pleased to confirm that, with the cessation of almost all travel and other restrictions related to the COVID-19 pandemic, the plenary session will be held shortly after the end of the current reporting period. Over two and a half days, from 28 to 30 November, the judges of the Mechanism will meet in person at The Hague branch for a series of discussions on numerous issues. The topics to be canvassed include proposed amendments to the Rules of Procedure and Evidence and legal and other matters of concern to the judges and to the institution more generally. The Mechanism looks forward to being able to report on the successful conclusion of the plenary and, where appropriate, on the results of certain discussions, in its next six-month report.

25. Separately, during the reporting period, both Presidents assigned on an alternating basis Judges Masanche, Sekule and Joensen as duty judge at the 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

26. In accordance with article 3 of the statute, the Mechanism has two branches, located in Arusha and The Hague. During the reporting period, the Mechanism continued to function as a single, unified institution, optimizing and harmonizing its activities at both branches. Moreover, cooperation with the United Republic of Tanzania and the Netherlands remained excellent, and the Mechanism is grateful to both host countries for their continued support and engagement in accordance with the respective headquarters agreements.

27. At the Arusha branch, the courtroom is used as a location for remote participation for the *Kabuga* case. It is anticipated that the courtroom will be used to hear at least 10 detained witnesses via videoconference in the coming months. As a result, the United Nations Detention Facility in Arusha, which is scheduled to close at the end of the year, underwent slight modifications to house the detained witnesses during the period of their testimony in Arusha.

28. With regard to The Hague branch and the proposed substantive refurbishment of the building occupied by the Mechanism, the host country had previously proposed that the Mechanism temporarily move out during the refurbishment process. However, the host country is now encouraging the Mechanism to consider permanently moving to alternative premises. As the size and scope of the Mechanism's operations are progressively decreasing, the principals are in general agreement with seeking alternative smaller housing following the conclusion of the *Kabuga* case, and it is expected that the assessments of possible alternatives will result in a decision by the end of 2022.

29. The Mechanism's two field offices in Kigali and Sarajevo also continued their important role in the implementation of the Mechanism's mandate. The field offices once more provided 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. It is expected that the Kigali field office will also play a role in hearing, via videoconference, a number of Rwanda-based witnesses in the *Kabuga* case, thereby ensuring the smooth conduct of proceedings. To that end, minor low-cost modifications have been made, including the furnishing of witness waiting rooms and ensuring wheelchair access for witnesses, where required. Owing to operational necessities, the Sarajevo field office will be closed from 1 April 2023.

E. Budget, staffing and administration

30. The Mechanism continued to operate under the approved budget of \$89,690,200 gross for 2022. With the commencement of the trial proceedings in the *Kabuga* case in late September, the peak rate of expenditure is expected in the fourth quarter of 2022. The decision of the Trial Chamber on 13 June 2022 to commence the trial in The Hague necessitated some reprioritization of funding; for example, travel-related commitments rose slightly in excess of the appropriation. Despite the operational changes, the Mechanism expects to be able to fully support the remaining operational and judicial activities in 2022 within its approved budgetary resources.

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

32. Following the presentation to the Programme Planning and Budget Division at United Nations Headquarters of the budget proposal for 2023, the Mechanism sent the proposal to the Advisory Committee on Administrative and Budgetary Questions.

On 24 October 2022, the Committee held a review meeting, requesting clarifications from the Mechanism with regard to the performance report for 2021, the resources for posts and positions, the downsizing exercise, the outsourcing of functions and the overall requirements for current expenditure and posing questions relating to the *Kabuga* case. The Committee also sought information on the recommendations of oversight bodies. The Mechanism addressed all questions in a timely manner. It is projected that the Committee's report on the budget proposal for 2023 and the performance report for 2021 will be issued at the end of November 2022, and will be followed by a review by the Fifth Committee of the General Assembly in December 2022.

33. Regarding staffing levels, following the reduction in the number of general temporary assistance posts as part of the implementation of the budget for 2022, additional posts will undergo downsizing at the end of 2022, with further downsizing planned as part of the budget proposal for 2023 following the comparative review exercise.

34. At the time of reporting, 185 of the 187 approved continuous posts to carry out the Mechanism's continuous functions were occupied. An additional 257 personnel were serving as general temporary assistance to address ad hoc needs, out of a total of 309 such positions, leaving 52 currently vacant. Consistent with the flexible staffing structure of the Mechanism, those positions are short-term in nature and will fluctuate depending on the relevant workload.

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

36. The Mechanism's continuous and general temporary assistance positions include nationals of 70 States, namely: Algeria, Australia, Austria, Bahrain, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Cambodia, Cameroon, Canada, China, Congo, Croatia, Cuba, Democratic Republic of the Congo, Denmark, Egypt, Ethiopia, Fiji, Finland, France, Gambia, Germany, Ghana, Guatemala, Haiti, India, Indonesia, Iraq, Ireland, Italy, Jamaica, Japan, Kenya, Lebanon, Lesotho, Liberia, Madagascar, Malaysia, Morocco, Nepal, Netherlands, New Zealand, Niger, Nigeria, North Macedonia, Pakistan, Peru, Philippines, Poland, Republic of Korea, Russian Federation, Rwanda, Serbia, Sierra Leone, Slovakia, South Africa, Spain, Sudan, Sweden, Thailand, Uganda, Ukraine, United Kingdom, United Republic of Tanzania, United States, Zambia and Zimbabwe.

37. In pursuit of the Secretary-General's gender parity goals, the Mechanism continued to strive for improvement in line with the relevant administrative instruction ([ST/AI/2020/5](#)), in particular during recruitment processes. At the time of reporting, female staff members comprised 52 per cent of staff at the professional level averaged across the two branches. Notably, however, the average percentage of female staff remains lower when General and Field Services staff are also taken into account, with a total of 41 per cent overall. The Mechanism is determined to continue its efforts to increase gender parity across its staff.

38. During the reporting period, the Mechanism continued its efforts to provide increased support to the various focal points in order to facilitate the fulfilment of their mandates. To that end, specific training was given to the Mechanism's focal points in their respective areas (gender; protection from sexual exploitation and sexual abuse; diversity, inclusion and LGBTQI+ issues; disability and accessibility issues; and conduct and discipline) and they were allotted eight hours per month of time, set aside from their normal duties, to dedicate to their focal point responsibilities. Throughout June, July and October, the focal point for diversity, inclusion and LGBTQI+ issues (known as the focal point for diversity, equity and inclusion from October) delivered mandatory workshops on diversity and inclusion for staff at all duty stations. With the appointment of a UN Globe representative in September, the Mechanism joined the

United Nations family in supporting the goal of eliminating homophobia and transphobia in the workplace and supporting an inclusive community with equal opportunities and dignity for all. In November, the Mechanism appointed two staff members to the United Nations anti-racism advocates' network in order to contribute to leading the change articulated by the Secretary General in addressing racism and promoting dignity for all in the workplace.

39. With regard to the well-being of staff, the Mechanism recruited a Stress Counsellor during the reporting period, who commenced her work in mid-September. While based in Arusha, she is available to staff at all duty stations, both in person or virtually. Since her arrival, she has held in-person and virtual group counselling sessions for sections in both branches of the Mechanism and has hosted several webinars, providing staff members with information on stress management and coping mechanisms, in particular in the light of the downsizing exercise anticipated to take effect at the end of the year.

40. In relation to the ongoing COVID-19 pandemic, the situation at all four duty stations continues to be stable, and operations remain unconstrained by restrictions, including those related to travel. The Mechanism continues to carefully monitor the situation and stands ready to reinstate any pandemic-related measures that may be warranted.

III. Judicial activities

41. 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 15 legal officers and three administrative assistants, serving at both branches of the Mechanism.

42. The former President, the current President and the judges issued a total of 117 decisions and orders during the reporting period. Of those, 75 (or approximately 2 in 3) 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 contempt or false testimony, as well as the management of the work of the Chambers and the judicial review of administrative decisions – rather than to the adjudication of the core crimes incorporated in the statute.

43. 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.

A. Proceedings related to core crimes

44. 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 and on an appeal from judgement.

45. The current status of the Mechanism's trial and appeal proceedings is reflected in enclosure III.

Trial proceedings

46. In the *Kabuga* case, on 13 June 2022, the Trial Chamber decided that the accused had not demonstrated that he was unfit for trial. That decision followed the provision of reports by five experts, namely three independent experts appointed pursuant to orders of the Chamber, one prosecution expert and one defence expert. The Chamber held a hearing for the examination of three of the experts, as well as the parties' oral submissions on the matter, on 31 May, 1 June and 7 June. After considering extensive medical evidence and the submissions of the parties, the Chamber decided to commence the trial at The Hague branch until further order because the risks of disruption to Mr. Kabuga's familiar surroundings might have a material and adverse impact on the ability to swiftly commence and conclude the proceedings, which is of paramount importance given Mr. Kabuga's age and fragile health. The Trial Chamber further implemented a monitoring regime by a panel of three independent experts, which will file its first report in December 2022. On 12 August 2022, the Appeals Chamber dismissed an appeal by the defence and affirmed the Trial Chamber's decision of 13 June 2022 to commence trial. The Trial Chamber made use of the extended pretrial phase of the case to adjudicate matters related to the prosecution's anticipated evidence. In total, during that period, the Trial Chamber issued 12 decisions related to 93 witnesses, which will greatly increase the efficiency of the trial.

47. The Trial Chamber held the pretrial conference on 18 August 2022. At the conference, the Chamber ordered that the trial would start in September 2022 and adopted the prosecution's revised witness list and time estimates for the presentation of its case, being approximately 40 hours. The Chamber also announced the modalities of the trial, based on medical advice for accommodating Mr. Kabuga's health situation: namely, that the Chamber would sit three days a week (Tuesday, Wednesday and Thursday) for two hours per day, between 10.00 a.m. and 12.00 p.m. The Chamber noted that, in the event that Mr. Kabuga waived his right to participate in the proceedings either in person or via videoconference from the United Nations Detention Unit in The Hague, the Chamber would consider sitting an additional session in the afternoon. Following the pretrial conference, the President recomposed the bench, replacing herself and in addition appointing a reserve judge in order to mitigate the risks of substantial trial disruptions in the event that a member of the bench became unavailable during the course of the trial. The Chamber is currently composed of Judge Bonomy, presiding, Judge Ibanda-Nahamya, Judge El Baaj and Judge deGuzman as reserve judge.

48. In accordance with the projections made in the previous progress report (S/2022/404, para. 45), the trial in the *Kabuga* case commenced on 29 September 2022 with the opening statements of the prosecution. The defence gave the first part of its opening statement on 30 September, reserving the remainder of its statement for the opening of its case. Witness testimony commenced on 5 October. On 6 October, the Trial Chamber placed on record the evidence and associated exhibits of 47 witnesses, whose written evidence had previously been deemed appropriate for admission once the trial commenced. The witnesses will not be appearing in court. On 12 October, the Chamber granted the prosecution's request to hear a number of witnesses via videoconference from the Arusha branch or the Kigali field office in order to facilitate the smooth and efficient conduct of trial. On 4 November, the Appeals Chamber upheld an earlier decision of the Trial Chamber concerning the composition of Mr. Kabuga's defence team. As at 15 November, the Trial Chamber had heard 10 of the approximately 50 witnesses that the prosecution anticipates will give in-court testimony. As indicated in the previous progress report (*ibid.*, para. 47), the trial phase of the case is expected to last two years and is anticipated to conclude in September 2024. That projection will be updated as the case progresses to take account of any unforeseen issues or any major health-related delays.

Appeal proceedings

49. 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. The briefing of the three appeals concluded on 15 February 2022. The first status conferences in the appeal were held on 16 December 2021 and 1 April and 23 June 2022. Following the appointment of Judge Gatti Santana as President of the Mechanism and her assumption of the role of presiding judge of the Appeals Chamber, the bench of the Chamber seized of this case was reconstituted, with Judge Gatti Santana replacing Judge Agius as the presiding and pre-appeal Judge. The bench is currently composed of Judge Gatti Santana, presiding, Judge Muthoga, Judge N'gum, Judge Aksar and Judge Hoefler. Judge Gatti Santana, in her capacity as pre-appeal judge, held a status conference on 22 September, at which she informed the parties of her intention to hold the next status conference on 19 January 2023, and stated that the Appeals Chamber anticipates the in-person appeals hearing to be held during the week of 23 January 2023. Notwithstanding the change in the composition of the Chamber, the judges and the Chambers Legal Support Section continued to work diligently to ensure constant progress, and the appeal proceedings are projected to be completed by June 2023. All judges on the bench are currently carrying out their work remotely, with the exception of the President.

Termination of proceedings

50. In other proceedings relating to the core crimes incorporated in the statute, on 14 September 2022, a single judge issued an order terminating the proceedings against Protais Mpiranya. Mr. Mpiranya was initially indicted by the International Criminal Tribunal for Rwanda in 2000 and the operative indictment against him was confirmed in 2012. He was the last fugitive of the Tribunal expected to be tried before the Mechanism, if apprehended. Following a motion to terminate the proceedings filed by the prosecution on 26 August 2022, the single judge examined the evidence presented by the prosecution, including a recent forensic report containing DNA analysis of exhumed remains identified as those of Mr. Mpiranya, and determined that there was sufficient information to establish that Mr. Mpiranya was deceased.

51. On 31 August 2022, the prosecution filed a similar request for the termination of the proceedings against Phénéas Munyarugarama on account of his death. Mr. Munyarugarama was initially indicted by the International Criminal Tribunal for Rwanda in 2002 and the operative indictment against him was confirmed in 2012. Shortly thereafter, the proceedings concerning Mr. Munyarugarama were referred by the Tribunal to the authorities of Rwanda, pursuant to rule 11 bis of the Rules of Procedure and Evidence of the Tribunal. In view of the referral, on 20 September 2022, a single judge invited the Government of Rwanda to make submissions in response to the prosecution's request for the termination of the proceedings against Mr. Munyarugarama. A decision on the prosecution's request is pending.

Review proceedings

52. No review proceedings were requested, initiated or undertaken by the Mechanism during the reporting period. In that regard, article 24 of the statute provides for the possibility of review proceedings when a new fact has been discovered that was not known at the time of the proceedings and that could have been a decisive factor in reaching a decision. An application for such a review may be submitted by the convicted person or, within one year of the pronouncement of the final judgment, by the Prosecutor. Such an application, if submitted, does not lead automatically to review proceedings. On the contrary, a review would take place only if the Chamber, after a preliminary examination, agreed that the new fact, if proved,

could have been a decisive factor in reaching a decision. Moreover, as reiterated by the Appeals Chamber during the reporting period, as a matter of principle it is not for the Mechanism to assist a convicted person whose case has reached finality with any new investigation that he or she would like to conduct, or any new motion that he or she may wish to bring, by assigning legal assistance at the expense of the Mechanism.⁵

53. The Mechanism notes that its latent residual function concerning review proceedings could be triggered at any time up until the death of the last of the persons convicted by the ad hoc Tribunals or the Mechanism. Notwithstanding that possibility, which is inherent in judicial systems around the globe, the Mechanism observes that such an application is most likely to be submitted only by convicted persons who are still serving their sentence in prison. There are currently 47 such persons and their number is expected to steadily decrease over time (see paras. 87–97).

B. Proceedings related to contempt or false testimony

54. Alongside the above-mentioned proceedings relating to core crimes, the Mechanism was seized of several matters pertaining to allegations of contempt during the reporting period, in accordance with article 1, paragraph 4 (a), of the statute. There are no ongoing matters concerning possible false testimony as provided for by article 1, paragraph 4 (b). Pursuant to the statute, before proceeding to try any person alleged to be responsible for contempt or false testimony, the Mechanism must consider referring the case to the authorities of a State, and such a consideration is to take into account the interests of justice as well as of expediency.

55. In the *Fatuma et al.* case, the appeal judgment was delivered in Arusha on 29 June 2022, in line with the original projection announced to the Security Council in the progress reports of November 2021 (S/2021/955, para. 68) and May 2022 (S/2022/404, para. 50). In its judgment, the Appeals Chamber unanimously dismissed Ms. Fatuma's appeal, setting aside the sentence of time served imposed on her by the single judge and sentencing her to 11 months of imprisonment. In addition, the Chamber unanimously granted the prosecution's appeal in its entirety. As a result, the Chamber entered a conviction against Dick Prudence Munyeshuli for contempt and sentenced him to five months of imprisonment. It also set aside Augustin Ngirabatware's concurrent sentence of 2 years of imprisonment and, by a majority, imposed on him a sentence of 2 years of imprisonment, to be served consecutively with the sentence of 30 years of imprisonment that he is already serving.

56. Separately, in relation to a possible contempt matter that came to light during the trial in the case of *Prosecutor v. Anselme Nzabonimpa et al.* (*Nzabonimpa et al.* case), a single judge directed the Registrar on 25 October 2021 to appoint an amicus curiae to investigate the matter and requested that a report to be filed within 120 days of the appointment. Following the appointment of the amicus curiae on 30 November, the single judge authorized three extensions of time, on 1 April, 28 July and 28 September 2022, respectively, 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 25 November 2022.

57. Regarding the *Jojić and Radeta* case, the Mechanism deeply regrets that Serbia once more failed to take any action during the reporting period to arrest and surrender the accused persons. In that respect, the Mechanism reiterates that all Member States,

⁵ *Prosecutor v. Gaspard Kanyarukiga*, Case No. MICT-22-126-R, Decision on Motion for Legal Aid, 30 June 2022, p. 1. See also *Prosecutor v. Gaspard Kanyarukiga*, Case No. MICT-22-126-R, Decision on Requests for Appeals Against the Appeals Chamber's Decision on Motion for Legal Aid, 22 July 2022, pp. 1–2.

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.

58. 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. The Registrar appointed the amicus curiae on 23 May. On 19 September, the single judge stayed the 120-day deadline for the filing of the investigation report, pending the resolution of an interim matter. A new date for the filing of the report will be set when the matter is decided.

C. Judicial activity of the President

59. The former President and the current President issued a total of 54 decisions and orders during the reporting period. These included 26 decisions and orders relating to enforcement matters, of which 10 concerned detainees in the United Nations Detention Unit, as well as 25 orders related to assignment. Of the latter, nine orders related to rule 86 of the Rules of Procedure and Evidence. In addition to those decisions and orders, the current President issued one order in her separate capacity as presiding judge of the Appeals Chamber, as well as a further order in her capacity as preappeal judge in the *Stanišić and Simatović* case.

60. In the area of enforcement of sentences, the former President and the current President issued a total of five decisions on applications for early release during the reporting period. Four of those applications were denied.⁶ The fifth, by Radoslav Brđanin, was granted owing to the existence of compelling humanitarian grounds and subject to a number of conditions, allowing him to be released a few days before his death.⁷ The President is currently seized of one pending application, which was filed in 2022.

61. Alongside this activity, the President regularly monitored the situation of convicted persons as regards the COVID-19 pandemic. Pandemic-related updates were received

⁶ *Prosecutor v. Radislav Krstić*, Case No. MICT-13-46-ES.1, Decision on the Application for Early Release of Radislav Krstić, 15 November 2022 (public redacted version); *Prosecutor v. Radivoje Miletić*, Case No. MICT-15-85-ES.5, Decision on the Application for Early Release of Radivoje Miletić, 24 June 2022; *Prosecutor v. Milan Lukić*, Case No. MICT-13-52-ES.1, Decision on the Application for Early Release of Milan Lukić, 24 June 2022 (public redacted version); *Prosecutor v. Stanislav Galić*, Case No. MICT-14-83-ES, Decision on the Application for Early Release of Stanislav Galić, 17 June 2022.

⁷ *Prosecutor v. Radoslav Brđanin*, Case No. MICT-13-48-ES, Reasons for the 3 September 2022 Decision on the Application for Early Release of Radoslav Brđanin, 26 September 2022 (public redacted version), pp. 1 and 57; and *Prosecutor v. Radoslav Brđanin*, Case No. MICT-13-48-ES, Decision on the Application for Early Release of Radoslav Brđanin, 3 September 2022. See also *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.

during the reporting period in line with orders issued on 1 February and 1 August 2022.⁸ The President also issued a decision concerning a challenge to an administrative decision of the Registrar in relation to the acquitted and released persons.⁹

D. Continuous judicial activities

62. With respect to judicial activities other than those focused on core crimes, contempt or false testimony or the President's exercise of responsibilities in relation to assignment, enforcement and administrative review, the Mechanism remains responsible for discharging a number of more discrete, yet important, continuous judicial functions. These include: adjudicating applications for information on or the rescission, variation or augmentation of protective measures, as provided for in rule 86 of the Rules of Procedure and Evidence; requests for the assistance of the Mechanism in obtaining testimony of a person under the Mechanism's authority, in line with rule 87 of the Rules; issues pertaining to the non bis in idem principle, as enshrined in article 7 of the statute and rule 16 of the Rules; submissions seeking the reclassification of judicial filings for reasons of transparency or, conversely, reasons of security; and the possibility of initiating declassification proceedings in accordance with rule 155 of the Rules. The list is not exhaustive, and experience shows that unforeseen issues that demand the Mechanism's attention can arise at any time, as best illustrated during the reporting period in relation to the acquitted and released persons, as set out in paragraphs 98 to 102 below.

63. During the reporting period, single judges of the Mechanism issued 10 orders and decisions concerning applications for information on or the rescission, variation or augmentation of protective measures. In doing so, the Mechanism discharged its residual functions in relation to both the protection of victims and witnesses, in line with article 20 of the statute, and to responding to requests for assistance from national authorities, as set out in article 28, paragraph 3. Single judges also issued five orders and decisions in relation to the possible reclassification of judicial filings. Separately, the Appeals Chamber issued a decision concerning one of the acquitted and released persons, in which it denied a motion to reconsider a decision in 2019 affirming that the Mechanism did not have the power, under article 28 of the statute, to compel a State to accept an acquitted person on its territory.¹⁰

⁸ See Case No. MICT-12-01-ES, Ninth Order for COVID-19 Updates from Enforcement States, 1 August 2022 (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, Seventh Order for COVID-19 Updates from Enforcement States, 1 October 2021 (public redacted version); Case No. MICT-12-01-ES, Sixth Order for COVID-19 Updates from Enforcement States, 25 June 2021 (public redacted version); Case No. MICT-12-01-ES, Fifth Order for COVID-19 Updates from Enforcement States, 23 February 2021 (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, Third Order for COVID-19 Updates from Enforcement States, 28 August 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); and Case No. MICT-12-01-ES, Order for COVID-19 Updates from Enforcement States, 24 April 2020 (public redacted version).

⁹ *In the Matter of François-Xavier Nzuwonemeye et al.*, Case No. MICT-22-124, Decision on the Request of François-Xavier Nzuwonemeye for Review of an Administrative Decision, 16 September 2022.

¹⁰ *Prosecutor v. François-Xavier Nzuwonemeye*, Case No. MICT-13-43, Decision on Motion for Reconsideration, 15 November 2022.

IV. Registry support for judicial activities

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

65. The Judicial Records Unit at both branches processed and disseminated 824 filings, including 216 Registry legal submissions, amounting to a total of 7,532 pages. In The Hague, the Unit supported the status conferences in the *Stanišić and Simatović* case held on 23 June and 22 September. Staff from both branches provided coordinated support for the pretrial and trial proceedings in the *Kabuga* case, in which the following in-court hearings were supported in The Hague: the hearing of expert witnesses and oral submissions of the parties on 31 May, 1 June and 7 June; the pretrial conference on 18 August; and the opening statements on 29 and 30 September, followed by the commencement of the presentation of evidence in early October 2022. The Arusha branch hosted the testimony of detained witnesses via videoconference from Arusha in November, requiring close cooperation with The Hague branch, where the majority of court participants in the case are situated. In total, nine court hearing days were serviced during the reporting period, all at The Hague branch. The Judicial Records Unit at both branches played an instrumental role in facilitating the smooth conduct of proceedings, through efficient coordination with all relevant stakeholders involved and continuous liaison with the Chambers and the parties. Its support for the judicial functions of the Mechanism will continue to be required after the main cases have finished.

66. During the reporting period, the Language Support Services at the two branches collectively translated approximately 9,000 pages, with a notable increase in the workload relating to translation requests in the *Kabuga* case. In both branches, largely in relation to the *Kabuga* case, the Language Support Services provided 153 conference interpreter days and produced nearly 2,000 pages of transcripts in English and French. It also completed the translation of monitoring reports relating to cases referred to France and Rwanda pursuant to article 6 of the statute, as well as of one trial judgment and two appeal judgments rendered in the cases referred to Rwanda.¹¹

67. Considerable progress was made in relation to the translation of judgments of the ad hoc Tribunals and the Mechanism. The availability of all judgments in languages that the accused and convicted persons understand is a critical part of ensuring fair and open judicial proceedings and, in the context of the long-term judicial functions of the Mechanism, is also closely linked to the ability of convicted persons to file requests for the review of a judgment. With regard to the translation of judgments into French, the Language Support Services in The Hague completed the translation of the trial judgment in the *Nzabonimpa et al.* case and the appeal judgment in the *Fatuma et al.* case. A total of nine judgments of the ad hoc Tribunals and three of the Mechanism currently remain to be translated from English into French. As for the translation of judgments into Bosnian-Croatian-Serbian, only one trial judgment of the Mechanism, in the *Stanišić and Simatović* case, remains to be translated. It is worth noting, however, that several of the pending translations are near completion. The Language Support Services in Arusha completed the translation into Kinyarwanda of three appeal judgments of the International Criminal Tribunal for Rwanda and one appeal judgment of the Mechanism. There are 24 appeal judgments of the Tribunal that remain to be translated into Kinyarwanda, two of which are near completion. The translation of judgments into French and

¹¹ *Prosecutor against Bernard Munyagishari*, Case No. RPA/GEN 00004/2019/CA, Appeal Judgement, 7 May 2021; *Prosecutor against Jean Uwinkindi*, Case No. RPA 00002/2016/CA, Review Judgement, 24 December 2020; and *Prosecutor against Ladislav Ntaganzwa*, Case No. RP/GEN 00001/2016/HC/HCCI, Trial Judgement, 28 May 2020.

Kinyarwanda may be affected in the coming period owing to the demands of the trial in the *Kabuga* case.

68. The Office for Legal Aid and Defence Matters provided financial and other assistance to 60 defence and amicus curiae teams, comprising a total of approximately 85 team members involved in both remunerated and pro bono services. The Office processed around 70 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 53 admitted counsel, while the number of prosecutors and investigators eligible for assignment as amici curiae has increased to 54.

V. Victims and witnesses

69. Pursuant to article 20 of the statute, the Mechanism is responsible for the protection of witnesses who have testified in cases completed by the ad hoc Tribunals, as well as witnesses who have appeared or may appear before the Mechanism. At the time of reporting, approximately 3,160 witnesses were benefiting from judicial or non-judicial protective measures.

70. In accordance with judicial protection orders, and in collaboration with national authorities, the Witness Support and Protection Unit at both branches continued to provide security for witnesses by undertaking threat assessments and coordinating responses to security-related requirements during the reporting period.

71. The Witness Support and Protection Unit worked collaboratively with both branches in preparation for the commencement of the trial proceedings in the *Kabuga* case, identifying resource and logistical requirements in anticipation of various modalities and locations for witness testimony in the case. The Unit successfully facilitated the testimony of four expert witnesses at The Hague branch for a pretrial procedural hearing regarding Mr. Kabuga's fitness to stand trial. In addition, the Unit effectively coordinated the appearance of seven witnesses providing testimony from The Hague and three detained witnesses providing testimony via videoconference from Arusha, with an additional seven detained witnesses anticipated throughout the rest of November 2022.

72. In parallel, the Witness Support and Protection Unit also addressed the continued filing of applications received from national jurisdictions for the variation of protective measures of witnesses, pursuant to rule 86 of the Rules of Procedure and Evidence, and implemented six judicial orders involving 25 witnesses.

73. Witnesses residing in Rwanda, including protected witnesses in the *Kabuga* case, continued to receive medical, nutritional 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.

74. The mandated operations of the Mechanism in this regard are expected to be required in the years to come, in order to give proper effect to the 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

75. The tracking of fugitives is within the responsibility of the Prosecutor and is discussed in annex II. As detailed therein, the prosecution continued its dedicated efforts to track the remaining fugitives indicted by the International Criminal Tribunal for Rwanda.

76. In its previous progress report, the Mechanism announced that the prosecution had confirmed the death of two fugitives of the International Criminal Tribunal for Rwanda: Mr. Mpiranya, who was the last fugitive expected to be tried before the Mechanism, and Mr. Munyarugarama, whose case had been referred to Rwanda and was expected to be tried there. As stated above, one of the relevant cases before the Mechanism was formally closed during the reporting period, with a single judge terminating the proceedings against Mr. Mpiranya on 14 September 2022 (see para. 50).

77. There 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, as set out in greater detail in annex II.

78. With respect to its future workload, the Mechanism will be required to maintain trial readiness to support ad hoc judicial activities, including following the transfer to the Mechanism of the accused in the *Jojić and Radeta* case, the initiation of possible new review proceedings or contempt proceedings and any proceedings resulting from the potential revocation of the referral of the four fugitive cases expected to be tried by Rwanda.

VII. Detention facilities

79. 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.

80. Following the decision by the Trial Chamber on 13 June 2022 to commence the trial proceedings in the *Kabuga* case in The Hague, the United Nations Detention Facility maintained custodial capacity for the detained witnesses in the case. The United Nations Detention Facility housed six detained witnesses in connection with the *Kabuga* case during the reporting period. Upon completion of the hearing of all detained witnesses' testimonies, the Facility will no longer be required. In the event that the trial in the *Kabuga* case may potentially be transferred to Arusha at a later date, the Mechanism will be able to revive such capacity, in consultation with the host country.

81. The United Nations Detention Unit currently houses four detainees. Following the decision by the Trial Chamber on 13 June 2022 to commence the trial proceedings in the *Kabuga* case in The Hague, Mr. Kabuga continues to be detained at the Unit. After conviction following their retrial, Mr. Stanišić and Mr. Simatović are detained pending disposition of their appeals. One additional convicted detainee, Ratko Mladić, is awaiting transfer to a State for the enforcement of his sentence. Another convicted detainee, Mr. Brđanin, was granted conditional early release in September 2022 on the basis of compelling humanitarian grounds, shortly before his death that same month (see para 60.).

82. The United Nations Detention Unit will continue to be required for the duration of the judicial proceedings in the *Kabuga* case, subject to a potential determination that the trial can be transferred to the Arusha branch, and for the appeal proceedings in the *Stanišić and Simatović* case projected to conclude during the first half of 2023. Moreover, the Unit will be required until all of the above-mentioned detained persons are acquitted, released or transferred to enforcement States.

83. The Mechanism will conduct an assessment of its detention responsibilities in the light of paragraph 11 of resolution 2637 (2022), and is in the process of exploring all suitable alternatives for any detention needs that it may have, following the anticipated conclusion of its current requirements.

84. Both detention facilities are regularly inspected by the International Committee of the Red Cross (ICRC) to ensure that the Mechanism's rules of detention¹² are properly applied and that the facilities operate in accordance with international standards.

85. In the context of the COVID-19 pandemic, the United Nations Detention Unit continues to move cautiously towards a regime closer to that in place prior to the pandemic, while taking into account the possibility that restrictions may need to be reintroduced if circumstances so warrant.

86. The Mechanism takes its duty of care towards detainees very seriously. It bears in mind paragraph 13 of resolution 2637 (2022), 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. The Mechanism's established legal and regulatory framework supports full compliance with that duty, including through the Mechanism's Regulations on the Complaints Procedure for Detainees,¹³ regular status conferences¹⁴ and the aforementioned ICRC inspections.

VIII. Enforcement of sentences

87. Pursuant to article 25 of the statute, the Mechanism supervises the enforcement of sentences pronounced by the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda or the Mechanism. Such sentences are enforced in accordance with the applicable law of the enforcing State and with international standards of detention, subject to the supervision of the Mechanism.

88. In connection with that area of responsibility, and according to article 26 of the statute, the President has the authority to decide on requests for pardon or for the commutation of sentences by persons convicted by the ad hoc Tribunals or the Mechanism. While article 26 of the statute, like the corresponding provisions in the statutes of the ad hoc Tribunals, does not specifically mention requests for the early release of convicted persons, the Rules of Procedure and Evidence reflect the President's powers to deal with such requests and the long-standing practice of the ad hoc Tribunals and the Mechanism in that respect.

89. Regarding the designation of the State in which a convicted person is to serve his or her sentence, following the delivery of a final judgment, the President makes

¹² 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.

¹³ 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.

¹⁴ See Rules of Procedure and Evidence, rule 69.

the decision in accordance with article 25 of the statute, rule 127 of the Rules of Procedure and Evidence and the relevant practice direction,¹⁵ on the basis of information provided by the Registrar and any other enquiries that the President chooses to make.

90. 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.¹⁶

91. With respect to the Arusha branch, 27 persons convicted by the International Criminal Tribunal for Rwanda are currently serving their sentences under the supervision of the Mechanism, in three enforcement States: Benin (17), Mali (2) and Senegal (8).

92. Regarding The Hague branch, 19 persons convicted by the International Tribunal for the Former Yugoslavia continue to serve 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 is currently one convicted person at the United Nations Detention Unit awaiting transfer to an enforcement State.

93. In addition, four convicted persons who were granted conditional early release by the Mechanism remain under the supervision of the Mechanism until their sentences have been completed.¹⁷ During the reporting period, the Mechanism concluded its supervision of the enforcement of the sentence of one convicted person, who was conditionally released from the United Nations Detention Unit in September and died shortly thereafter (see para. 60).

94. ICRC and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment continue to serve as independent inspecting bodies and regularly monitor the conditions of imprisonment to ensure that international standards of detention are being met.¹⁸ The recommendations of these inspecting bodies are considered and addressed by the Mechanism, in coordination with national authorities and the United Nations Development Programme.

95. Notwithstanding the fact that the COVID-19 pandemic decreased in severity during the reporting cycle, the Mechanism continued to monitor the situation of its convicted persons in relation to the pandemic, bearing in mind the particular vulnerability of prison populations. Pursuant to the relevant orders issued by the President (see para. 61), the Registry continued its engagement with all enforcement States to obtain updated and relevant information on, inter alia, measures taken in their respective prisons to prevent and mitigate the potential spread of COVID-19.

¹⁵ Practice Direction on the Procedure for Designation of the State in which a Convicted Person is to Serve His or Her Sentence of Imprisonment, MICT/2 Rev.1, 24 April 2014.

¹⁶ Information in relation to 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.

¹⁷ *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. Sreten Lukić*, Case No. MICT-14-67-ES.4, Decision on the Application for Early Release of Sreten Lukić, 7 October 2021 (public redacted version); *Prosecutor v. Valentin Ćorić*, Case No. MICT-17-112-ES.4, Further Redacted Public Redacted Version of the Decision of the President on the Early Release of Valentin Ćorić and Related Motions, 16 January 2019; and *Prosecutor v. Aloys Simba*, Case No. MICT-14-62-ES.1, Public Redacted Version of the President's 7 January 2019 Decision on the Early Release of Aloys Simba, 7 January 2019.

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

96. The Mechanism wishes to commend and sincerely thank the 13 States listed above. They have demonstrated their commitment to international criminal justice by willingly assuming the additional and weighty responsibilities of enforcement, and their ongoing support and cooperation are critical to the Mechanism's ability to carry out that aspect of its mandate. The Mechanism strongly urges other States to follow their lead in sharing the burden of enforcing the sentences of persons convicted by the ad hoc Tribunals or the Mechanism. Unfortunately, unless additional enforcement States come forward, the Mechanism will struggle to continue to fulfil its duties in this important area.

97. The enforcement of sentences remains one of the main mandated functions of the Mechanism, and it is projected that this long-term residual activity will require support until the last prison sentence has been served. This is 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 after 2040.

IX. Relocation of acquitted and released persons

98. The Mechanism regrets that, notwithstanding the extensive efforts undertaken in the past six months by the Mechanism, the Secretariat, a number of Member States and others contributing to the goals of the United Nations, the situation of the eight acquitted and released persons who were relocated to the Niger on 6 December 2021, pursuant to an agreement between the United Nations and the Government of the Niger on 15 November 2021 (Relocation Agreement), remains unresolved.

99. The situation continues to have a serious detrimental impact on the rights of the relocated persons, whose identification documents have been removed from them and who are living under de facto house arrest in the Niger. The Mechanism emphasizes that they are in theory free men, who were either acquitted by the International Criminal Tribunal for Rwanda or released after serving their sentences. In addition, the ongoing predicament again presented an increase in the Mechanism's workload during the reporting period, within both the Registry and the Chambers.

100. The Registry maintains regular contact with United Nations representatives in the Niger in order to keep apprised of the situation. In addition, the Registry continues to engage in diplomatic efforts with a view to finding a viable solution, in the event that efforts to encourage the Niger to abide by the terms of the Relocation Agreement remain unfruitful. These diplomatic efforts include the identification of other potential relocation States that may be willing to accept the relocated persons. In October 2022, the Registrar travelled to the Niger to engage with representatives of the Government on the situation. Moreover, both the outgoing President and the incoming President of the Mechanism continued to raise the matter in bilateral meetings with Member States and other stakeholders. The Mechanism has in the meantime decided to extend the lease of the house where the relocated persons are residing in Niamey for an additional year.

101. The Mechanism was encouraged by the Security Council's focus on the situation of the relocated persons in resolution [2637 \(2022\)](#), in which the Council, inter alia, emphasized the importance of finding an expeditious and durable solution, including as part of a reconciliation process, and reiterated its call upon all States to cooperate with and render all necessary assistance to the Mechanism in that context.

102. As recognized by the Security Council, the Mechanism will require the support of Member States in order to satisfactorily resolve the matter. In the meantime, the Mechanism again respectfully requests support from the Council in impressing upon the Niger the need to fully comply with its obligations under the Relocation Agreement, and would welcome any further support that the Council deems appropriate in the current circumstances.

X. Cooperation of States

103. Pursuant to article 28 of the statute, States are required to cooperate with the Mechanism in the investigation and prosecution of persons covered under the statute and to comply with orders and requests for assistance in relation to cases before the Mechanism. States are also required to respect the statute owing to its adoption by the Security Council pursuant to Chapter VII of the Charter of the United Nations.

104. The Mechanism depends heavily 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.

105. The full support and cooperation of all Member States remains crucial to ensuring that the four remaining fugitives indicted by the International Criminal Tribunal for Rwanda are finally brought to justice. Such assistance from Member States was instrumental in leading to the prosecution's confirmation of the death of the fugitives Mr. Mpiranya and Mr. Munyarugarama during the previous reporting period. While the Mechanism is determined to make further breakthroughs in this area, its ability to do so will depend on the meaningful cooperation and support of States, in particular those States in whose territory fugitives are suspected of being located. The Mechanism reminds all States of their continuing obligations under article 28 of the statute, as well as the Security Council's most recent call to States, in resolution [2637 \(2022\)](#), to intensify cooperation with and render all necessary assistance to the Mechanism in order to achieve the arrest and surrender of all remaining fugitives as soon as possible.

106. Likewise, with respect to the accused in the *Jojić and Radeta* case, the Mechanism urges all States to honour their responsibilities under Chapter VII of the Charter of the United Nations and do their utmost to ensure that the outstanding arrest warrants and orders of surrender are executed as soon as possible. Serbia has for many years failed to take action in that regard, despite three referrals to the Security Council by the Mechanism or the International Tribunal for the Former Yugoslavia, and its continued non-cooperation is a direct challenge to the Council itself.

107. Regarding the enforcement of sentences, the Mechanism again acknowledges the tremendous support provided by its 13 enforcement States (see paras. 90–92 and 96). The Mechanism was pleased to note the inclusion of enforcement issues in resolution [2637 \(2022\)](#), in which the Security Council continued to urge all States to cooperate to enforce sentences pronounced by the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism, and welcomed the continuing support already provided by States in that regard. The Mechanism welcomes the expression of support from the Council and reiterates that it relies heavily on States to discharge its important responsibilities in this area.

108. 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 \(2015\)](#).

109. 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, further discussions took place regarding the establishment in Zagreb of an information centre on the International Tribunal for the Former Yugoslavia, which the Mechanism hopes can be opened in the near future. The Mechanism remains committed to facilitating the establishment of similar centres with other stakeholders in the region of the former Yugoslavia. Given that genocide denial, historical revisionism and the glorification of convicted war criminals continue to gain momentum, the Mechanism considers that countering such forces of division and disinformation would be immensely assisted through the provision of information resources directly to national and local communities, as well as by enhancing cooperation with affected States more generally.

110. The Mechanism, together with the European Union and with additional support from Switzerland, continued its Information Programme for Affected Communities.¹⁹ During the reporting period, 150 secondary school history teachers participated in five workshops held by the Mechanism on using the archives of the International Tribunal for the Former Yugoslavia and the Mechanism. In addition, the fourth cycle of the Programme's video lecture series, entitled "International law and facts established before the ICTY", was launched in November 2022 with a lecture by the President of the Mechanism. The network of participating universities expanded further, with postgraduate law students from 14 universities in the former Yugoslavia now following the lecture series. The Mechanism also contributed to 15 lectures on the legacy of the Tribunal, hosted by local groups or organizations and addressed to young people, journalists and researchers from the region. The Programme's cooperation with relevant stakeholders resulted in governmental and institutional support for including educational material, based on the facts established by the Tribunal, in the official curricula of several countries of the former Yugoslavia.

111. 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 4.5 million people since January 2019. The Mechanism wishes once again to extend its sincere gratitude to the European Union and its member States for their ongoing and generous support, as well as to Switzerland for supporting the Programme until July 2022.

XI. Assistance to national jurisdictions

112. Pursuant to article 28, paragraph 3, of the statute, the Mechanism must respond to requests for assistance from national authorities in relation to the investigation, prosecution and trial of those responsible for serious violations of international humanitarian law in Rwanda and the countries of the former Yugoslavia.

113. During the reporting period, the Registry processed eight requests for assistance from national authorities or parties to domestic proceedings in relation to proceedings concerning individuals allegedly implicated in the genocide against the Tutsi in Rwanda or the conflict in the former Yugoslavia.²⁰ It provided 86 documents during the reporting period.

114. The Mechanism also continued to receive and consider numerous requests for the variation of protective measures granted to witnesses who testified in cases before

¹⁹ See www.irmct.org/en/mip for further information.

²⁰ Comprehensive information and guidance regarding the submission of requests for assistance is available at www.irmct.org/en/documents/requests-assistance.

the ad hoc Tribunals or the Mechanism, pursuant to rule 86 of the Rules of Procedure and Evidence. Compared with the previous reporting period, the number of requests in The Hague stabilized. However, handling requests for assistance pursuant to the rule continued to require daily support from the Judicial Records Unit at both branches.

115. It is expected that activities linked to requests for assistance from national jurisdictions will continue alongside the investigation and prosecution of cases in domestic jurisdictions related to the genocide against the Tutsi in Rwanda and the conflict in the former Yugoslavia.

XII. Cases referred to national jurisdictions

116. Pursuant to article 6, paragraph 5, of the statute, the Mechanism is responsible for monitoring cases referred to national courts by the ad hoc Tribunals and the Mechanism, with the assistance of international and regional organizations and bodies.

117. During the reporting period, the Mechanism continued its monitoring function in respect of two referred cases, namely the case against Ladislav Ntaganzwa (*Ntaganzwa* case), referred to Rwanda, and the case against Laurent Bucyibaruta (*Bucyibaruta* case), referred to France. The monitors attended the proceedings where applicable, and when possible met with the accused persons and the relevant stakeholders in person, while adhering to any remaining COVID-19 restrictions in force.

118. In the *Ntaganzwa* case, which is being monitored with pro bono assistance from the Kenyan Section of the International Commission of Jurists, the appeal hearing is yet to be scheduled owing to delays caused by the pandemic. The Mechanism notes with concern the slow progress in the case and closely awaits further developments.

119. In the *Bucyibaruta* case, which is monitored by a Mechanism-appointed monitor, the trial commenced on 9 May 2022 before the Paris Court of Assizes and concluded on 12 July. On 13 July, the Court convicted Mr. Bucyibaruta for complicity in genocide and crimes against humanity. He was sentenced to 20 years of imprisonment. On 18 and 19 July, respectively, Mr. Bucyibaruta and the Office of the Prosecutor of the Paris Court of Appeal filed appeals against the judgment of the Court of Assizes with the Paris Court of Appeal. On 12 September, the investigation chamber entrusted with ruling on requests for release from detainees before their final sentence, decided to release Mr. Bucyibaruta. At present, the information at the Mechanism's disposal is that, as a result of the release, the appellate hearing is no longer subject to strict deadlines and the hearing could take place in either 2023 or 2024. The Mechanism hopes to provide updates in its next report and, in the meantime, will diligently monitor all developments regarding the appellate phase of the case.

120. With only two referred cases ongoing, and both at the appeal stage, the Mechanism's monitoring function with respect to cases referred to national jurisdictions is steadily winding down. 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, the Mechanism will be required to monitor the related proceedings in accordance with its statutory obligation.

XIII. Archives and records

121. In accordance with article 27 of the statute, the Mechanism has responsibility for the management of the archives of the Mechanism and the ad hoc Tribunals. The archives, which are co located with the respective branches of the Mechanism, contain both physical and digital records such as documents, maps, photographs, audiovisual recordings and objects. The records concern, inter alia, investigations, indictments and court proceedings, the protection of witnesses, the detention of accused persons and the enforcement of sentences. In addition, they include documents from States, other law enforcement authorities, international and non-governmental organizations and other stakeholders.

122. 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. Management of the archives includes the preservation of, and the provision of access to, both physical and digital records. It is active and ongoing work that will need to be carried out for as long as the archives exist.

123. The preservation of digital records from the ad hoc Tribunals during the reporting period involved expert preparation and packaging of records to be ingested into the digital preservation system. A total of 22 terabytes of digital records, comprising more than 73,700 files in a variety of formats, including websites, were prepared and packaged for ingest. Owing to technical issues compounded by contractual delays, only 0.6 terabytes (4,252 files) could be ingested. Thus far, 11.8 per cent of the digital archives in the custody of the Mechanism Archives and Records Section have been ingested. The Section, in partnership with the Information Technology Services Section, is striving to enhance institutional capacity and capability for digital preservation and the resilience of the digital repository.

124. The deprioritization of certain projects in the previous reporting period slowed the work with audiovisual records. Nevertheless, the Mechanism Archives and Records Section assessed all 1,023 physical audiovisual records from the case of *Prosecutor v. Fatmir Limaj et al.* before the International Tribunal for the Former Yugoslavia to determine their preservation needs. Separately, 122 optical disks containing exhibits from other cases were preserved, and 130 judicial recordings were digitized. To date, 68 per cent of the audiovisual records for cases of the International Tribunal for the Former Yugoslavia have been assessed, while 10 per cent of the analogue audiovisual recordings are still to be digitized prior to being ingested into the digital preservation system. Furthermore, 85 per cent of the digitized recordings need to be quality checked and redacted. For the audiovisual records of the International Criminal Tribunal for Rwanda, approximately 54 per cent remain to be redacted. In addition, all of the pre-2000 audio records of judicial proceedings need to be digitized, which equates to approximately 11,000 hours. Cross-branch workflows were established for the redaction and delivery of audiovisual recordings to support the proceedings in the Kabuga case.

125. Over 365,000 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. During the reporting period, those public records were accessed by 14,235 users. Separately, the Mechanism Archives and Records Section received and responded to 52 requests for access to records under the access policy for the records held by the Mechanism. In addition, three academics visited the research room in The Hague to discuss the use of the archives.

126. Work continued on developing a publicly accessible catalogue containing descriptions of the archives, prepared in accordance with international standards, and physical files were assessed for preservation needs. In the reporting period, over 1,945 new catalogue entries were created and over 1,060 files and items were removed from unsuitable enclosures and rehoused in archival packaging suitable for long-term preservation. In addition, a preservation assessment survey was carried out to assess the condition and preservation needs of the archives held at the Arusha branch. Work to produce catalogue entries for the archives and to pack physical archives for long-term preservation cannot be completed until all archives of the ad hoc Tribunals and the Mechanism have been transferred to the Mechanism Archives and Records Section or its successor. That work will slow down considerably in 2023 owing to the reduction in the number of all staff in the Section who are responsible for such work. Efforts relating to the catalogue and other long-term archiving activities will continue unless a decision is taken by the Security Council to transfer the Mechanism's archiving functions to another body.

XIV. External relations

127. The External Relations Office continued to support public court sessions by coordinating public access to the appeal judgment in the *Fatuma et al.* case, status conferences in the *Kabuga* case and the *Stanišić and Simatović* case and the pretrial conference and start of the trial in the *Kabuga* case.

128. In the *Kabuga* case, the External Relations Office facilitated public access at The Hague branch by reopening the public gallery in the courtroom, which allowed for the hosting of the media, members of the diplomatic corps, law students and other stakeholders. At the Arusha branch, a broadcast of the hearings was made available in the press centre for the media, law students and other stakeholders. All proceedings were also streamed on the Mechanism's website. The Office coordinated the release and transmission of the official audiovisual recordings to international and regional media outlets. A social media campaign was conducted in three languages (English, French and Kinyarwanda) for the opening statements by the parties in the case and for the presentation of evidence, to promote regional and global interest in the trial. The campaign was successful, reaching over 155,700 people across all Mechanism platforms. In addition, during the reporting period, the Mechanism's website received almost 402,000 page views.

129. On-site group visits increased since the previous reporting period. The Arusha branch welcomed visitors from, inter alia, King's College in Budo, Strathmore University and the University of Dar es Salaam, as well as German exchange students and Project Expedite Justice. The Hague branch received visitors from, inter alia, The Hague Immersion Programme (organized by the United Nations Institute for Training and Research), the Norwegian People and Defence organization, Strathmore University and West Point University. The External Relations Office also hosted a virtual visit with George Mason University.

130. At the Arusha branch, the Mechanism welcomed several high-level visitors, including: the former Minister for Foreign Affairs and East African Cooperation of the United Republic of Tanzania, Liberata Mulamula, on 21 May; the former President of Sierra Leone, Ernest Bai Koroma, on 21 July; and the Minister of Constitutional and Legal Affairs of the United Republic of Tanzania, Damas Ndumbaro, on 10 October. At The Hague branch, the Mechanism welcomed the Mayor of The Hague, Jan van Zanen, on 15 September, in addition to many officials and diplomats who visited the premises for the commencement of trial in the *Kabuga* case.

131. The Mechanism continued its social media campaigns to mark various international days designated by the United Nations. During the reporting period, the Mechanism commemorated the following days: International Day of United Nations Peacekeepers (29 May); International Day of Innocent Children Victims of Aggression (4 June); International Day of Women in Diplomacy (24 June); Day of International Criminal Justice (17 July); International Day of the Victims of Enforced Disappearances (30 August); International Translation Day (30 September); United Nations Day (24 October); World Digital Preservation Day (3 November); and the twenty-eighth anniversary of the establishment of the International Criminal Tribunal for Rwanda (8 November). In addition, it conducted campaigns to mark the twenty-seventh commemoration of the Srebrenica genocide; the anniversary on 2 September of the landmark trial judgment of the International Criminal Tribunal for Rwanda in the case of *Prosecutor v. Jean-Paul Akayesu*, in which it was recognized that rape could constitute genocide; and the tenth anniversary of the opening of the Mechanism's Arusha branch.

132. During the reporting period, over 1,300 research requests, loans and other enquiries were processed.

XV. Reports of the Office of Internal Oversight Services

133. Earlier in 2022, OIOS undertook a further evaluation of the Mechanism's methods and work, resulting in the issuance of a report. As previously stated, the Mechanism was satisfied that two of the four open recommendations from prior OIOS evaluations had been closed and that, notably, no new recommendations had been added.²¹ In addition, the Mechanism was satisfied with the recognition by OIOS that significant efforts and progress had been made in respect of the two remaining recommendations, despite the fact that the period under review was dominated by the COVID-19 pandemic.²²

134. The first outstanding recommendation was to develop scenario-based workforce plans to enhance responsiveness to a surge in workload. As mentioned in paragraph 17 above, one of the core priorities of the new President is the development of a comprehensive strategy to guide the Mechanism's continuing transition from an operational court to a truly residual institution. As part of that priority, upon taking office, the President resolved to make strides in the implementation of the OIOS recommendation, which is closely related. Under her leadership, the Mechanism is committed to elaborating its comprehensive workplan to inform decisions on the allocation of resources and preparation for unforeseen and foreseeable events. To that end, the cross-organ working group that was set up in the previous period to create and periodically update the Mechanism's scenario-based planning will continue to work collaboratively. The Office of the President again coordinated efforts in that regard, cooperating closely with the prosecution and the Registry at the working level.

135. The Mechanism notes that this recommendation is closely related to the second outstanding recommendation of OIOS, which concerns systematic thinking and a shared vision of institution-building. In that respect, the Mechanism Coordination Council continued to meet regularly to discuss cross-cutting matters affecting all organs, including the Mechanism's budget submission and downsizing processes. Given the topics discussed, such meetings necessarily involve an exchange of views regarding the functioning and future of the Mechanism, thereby providing valuable opportunities to refine and consolidate shared ideas thereon. The principals are

²¹ See [S/2022/148](#), summary and paras. 36–42 and 48–61, and [S/2022/319](#), paras. 250 and 251.

²² See [S/2022/148](#), paras. 12–35 and 43–47, and [S/2022/319](#), paras. 252–262.

committed to holding meetings of the Coordination Council on a monthly basis whenever possible, supplemented by more informal meetings and communications.

136. The Mechanism continued to benefit from regular audits by OIOS. The audit of judicial records and court operations concluded in July 2022, and the Mechanism accepted four important recommendations. OIOS recommended, inter alia, that the Mechanism complete the setting up of the application for the management of audiovisual recordings for the Judicial Records Unit in Arusha, including the provision of appropriate training to staff. It also recommended the formalization of procedures for Registry-related requests for assistance from national authorities.

137. Separately, OIOS is presently conducting its next audit exercise, focusing on the Mechanism's current downsizing process.

XVI. Conclusion

138. The Mechanism is proud of its performance throughout the reporting period. Thanks to the outstanding efforts of its judges, principals and staff, it has been able to keep delivering results and has made decisive progress in several key areas of its mandate, despite the downsizing and budgetary constraints that form an ever-present backdrop to its operations. The appeal judgment in the *Fatuma et al.* case was delivered, trial proceedings commenced in the *Kabuga* case and the appeal proceedings in the *Stanišić and Simatović* case are coming to an end, alongside strides made in relation to other core functions of the Mechanism. Crucially, the Mechanism also received an endorsement of its continued operations by the Security Council, as reflected in the successful outcome of the fourth review of its progress of work, in addition to a positive evaluation by OIOS earlier in the year.

139. With a number of core activities nearing completion, the Mechanism is poised to become the truly residual institution envisaged by the Security Council when it established the Mechanism in 2010. Moreover, in its resolution [2637 \(2022\)](#), the Council requested the Mechanism to turn its attention squarely to the completion of its operations. Under the leadership of its new President, the Mechanism is fully committed to implementing the terms of the resolution, including with respect to assessing the duration and potential transfer of its remaining activities as appropriate. It looks forward to updating the Council in the next six-month report on the development of a comprehensive strategy to guide the Mechanism's continuing transition in that regard, in line with the second priority of the President.

140. As the Mechanism embarks on that exercise, it emphasizes the necessity of taking full account of the fundamental principles underpinning its activities as a court of law, including judicial independence and the rights of persons under the Mechanism's care, as well as the critical importance of State cooperation. The duties that the Security Council entrusted to the Mechanism are weighty and varied, and many cannot be fulfilled by the Mechanism alone. They require ongoing cooperation, commitment and good faith from States and other stakeholders that believe in the ideals of international criminal justice.

141. The Mechanism welcomes this opportunity to analyse and discuss in depth the potential outlook for its functions, both within the institution and with external parties. In addition to providing a possible road map for the future, the Mechanism considers that such a process will give rise to a greater understanding of its work and an enhanced appreciation of the rich contributions made by the ad hoc Tribunals and the Mechanism itself. Ultimately, it is the achievements of those institutions that will stand the test of time and reflect favourably on all those that supported their vital missions.

142. In closing, the Mechanism wishes to thank the Security Council, the Informal Working Group on International Tribunals and OIOS for their valued guidance and acknowledges with appreciation the superb assistance provided by the Office of Legal Affairs. In addition, the Mechanism expresses deep gratitude to its outstanding host countries and enforcement States and to other stakeholders, including the European Union and the Government of Switzerland. With continued backing, the Mechanism is determined to capitalize on the momentum of recent developments and make equally strong progress in the forthcoming period.

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)

| | | Chambers | Office of the Prosecutor | Registry | <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> | Mechanism |
|--|-----------------------|------------------|-----------------------------|-------------------|--|-------------------|
| Arusha | Post | – | 2 821 000 | 11 291 700 | – | 14 112 700 |
| | Non-post ^a | 902 000 | 5 761 700 | 17 585 300 | 4 699 700 | 28 948 700 |
| Subtotal | | 902 000 | 8 582 700 | 28 877 000 | 4 699 700 | 43 061 400 |
| 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 |
| Subtotal | | 887 800 | 6 553 200 | 30 588 100 | – | 38 029 100 |
| New York | Post | – | – | 112 600 | – | 112 600 |
| | Non-post | – | – | 1 700 | – | 1 700 |
| Subtotal | | – | – | 114 300 | – | 114 300 |
| Office of Internal Oversight Services | Post | – | – | 156 100 | – | 156 100 |
| | Non-post | – | – | 16 400 | – | 16 400 |
| Subtotal | | – | – | 172 500 | – | 172 500 |
| 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 |
| Total | | 1 789 800 | 15 135 900 | 59 751 900 | 4 699 700 | 81 377 300 |

^a 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 November 2022 (per Umoja)

(United States dollars)

| | | Chambers | Office of the Prosecutor | Registry | <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> | Mechanism |
|-----------------|----------|----------------|-----------------------------|-------------------|--|-------------------|
| Arusha | Post | – | 2 421 068 | 9 565 658 | – | 11 999 726 |
| | Non-post | 384 102 | 3 022 996 | 8 354 134 | 4 334 664 | 16 095 896 |
| Subtotal | | 384 102 | 5 444 064 | 17 919 792 | 4 347 664 | 28 095 622 |

| | | Chambers | Office of the Prosecutor | Registry | <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> | Mechanism |
|--|----------|------------------|-----------------------------|-------------------|--|-------------------|
| The Hague | Post | – | 1 191 274 | 4 858 500 | – | 6 036 774 |
| | Non-post | 735 296 | 4 140 725 | 18 481 998 | – | 23 358 019 |
| Subtotal | | 735 296 | 5 331 999 | 23 340 498 | – | 29 394 793 |
| New York | Post | – | – | – | – | – |
| | Non-post | – | – | – | – | – |
| Subtotal | | – | – | – | – | – |
| Office of Internal Oversight Services | Post | – | – | 139 065 | – | 139 065 |
| | Non-post | – | – | 18 853 | – | 18 853 |
| Subtotal | | – | – | 157 918 | – | 157 918 |
| Overall | Post | – | 3 612 342 | 14 563 223 | – | 18 175 565 |
| | Non-post | 1 119 398 | 7 163 721 | 26 854 985 | 4 334 664 | 39 472 768 |
| Total | | 1 119 398 | 10 776 063 | 41 418 208 | 4 334 664 | 57 648 333 |

Table 3
Percentage of annual budget expended as at 1 November 2022

| | | Chambers | Office of the Prosecutor | Registry | <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> | Mechanism |
|--|----------|-------------|-----------------------------|-------------|--|-------------|
| Arusha | Post | – | 85.8 | 84.7 | – | 85.0 |
| | Non-post | 42.6 | 52.5 | 47.5 | 92.2 | 55.6 |
| Subtotal | | 42.6 | 63.4 | 62.1 | 92.2 | 65.2 |
| The Hague | Post | – | 97.3 | 90.3 | – | 91.4 |
| | Non-post | 82.8 | 77.7 | 73.3 | – | 74.3 |
| Subtotal | | 82.8 | 81.4 | 76.3 | – | 77.3 |
| New York | Post | – | – | 0.0 | – | 0.0 |
| | Non-post | – | – | 0.0 | – | 0.0 |
| Subtotal | | – | – | 0.0 | – | 0.0 |
| Office of Internal Oversight Services | Post | – | – | 89.1 | – | 89.1 |
| | Non-post | – | – | 115.0 | – | 115.0 |
| Subtotal | | – | – | 91.5 | – | 91.5 |
| Overall | Post | – | 89.3 | 86.0 | – | 86.6 |
| | Non-post | 62.5 | 64.6 | 62.7 | 92.2 | 65.4 |
| Total | | 62.5 | 71.2 | 69.3 | 92.2 | 70.8 |

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^a</i> | <i>Office of the Prosecutor</i> | <i>Registry^b</i> | <i>Mechanism overall</i> |
|--|----------------------|-------------------------|-----------------------------|---------------------------------|-----------------------------|--------------------------|
| All staff | 218 | 224 | 30 | 98 | 314 | 442 |
| Staff on continuous posts | 128 | 57 | 9 | 28 | 148 | 185 |
| Staff on general temporary assistance positions | 90 | 167 | 21 | 70 | 166 | 257 |
| International staff (Field Service and Professional and higher categories) | 114 | 96 | 23 | 56 | 131 | 210 |
| Local staff (General Service) | 104 | 128 | 7 | 42 | 183 | 232 |

^a Chambers staffing data include the Office of the President and exclude judges.

^b 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, 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)^a</i> |
|--|----------------------|-------------------------|---|
| Nationalities | 37 | 55 | 70 |
| All staff | | | |
| African | 171 | 21 | 192 (43.44) |
| Asia-Pacific | 10 | 19 | 29 (6.56) |
| Eastern European | 2 | 46 | 48 (10.86) |
| Latin American and Caribbean | 1 | 7 | 8 (1.81) |
| Western European and other States | 34 | 131 | 165 (37.33) |
| International staff (Field Service and Professional and higher categories) | | | |
| African | 67 | 7 | 74 (35.24) |
| Asia-Pacific | 10 | 6 | 16 (7.62) |
| Eastern European | 2 | 18 | 20 (9.52) |
| Latin American and Caribbean | 1 | 4 | 5 (2.38) |
| Western European and other States | 34 | 61 | 95 (45.24) |

| | <i>Arusha branch</i> | <i>The Hague branch</i> | <i>Mechanism overall (percentage)^a</i> |
|-----------------------------------|----------------------|-------------------------|---|
| Local staff (General Service) | | | |
| African | 104 | 14 | 118 (50.86) |
| Asia-Pacific | 0 | 13 | 13 (5.60) |
| Eastern European | 0 | 28 | 28 (12.07) |
| Latin American and Caribbean | 0 | 3 | 3 (1.29) |
| Western European and other States | 0 | 70 | 70 (30.17) |

^a 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, 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, Philippines, Republic of Korea and Thailand.

Eastern European Group: Bosnia and Herzegovina, Bulgaria, Croatia, North Macedonia, Poland, 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) | 61 | 8 | 94 | 2 | 165 |
| Male | 31 (50.82) | 6 (75) | 40 (42.55) | 2 (100) | 79 (47.88) |
| Female | 30 (49.18) | 2 (25) | 54 (57.45) | – | 86 (52.12) |
| Professional staff (P-4 and above) | 22 | 3 | 24 | 1 | 50 |
| Male | 14 (63.64) | 3 (100) | 10 (41.67) | 1 (100) | 28 (56) |
| Female | 8 (36.36) | – | 14 (58.33) | – | 22 (44) |
| Field Service staff (all levels) | 40 | 5 | – | – | 45 |
| Male | 25 (62.50) | 3 (60) | – | – | 28 (62.22) |
| Female | 15 (37.50) | 2 (40) | – | – | 17 (37.78) |
| General Service staff (all levels) | 79 | 25 | 125 | 3 | 232 |
| Male | 56 (70.89) | 20 (80) | 76 (60.8) | 2 (66.67) | 154 (66.38) |
| Female | 23 (29.11) | 5 (20) | 49 (39.2) | 1 (33.33) | 78 (33.62) |
| All staff | 180 | 38 | 219 | 5 | 442 |
| Male | 112 (62.22) | 29 (76.32) | 116 (52.97) | 4 (80) | 261 (59.05) |
| Female | 68 (37.78) | 9 (23.68) | 103 (47.03) | 1 (20) | 181 (40.95) |

* The data in the tables in the present enclosure represent the number of staff employed as at 15 November 2022.

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) | 8 | 22 | 30 |
| Office of the Prosecutor | 48 | 50 | 98 |
| Registry | 162 | 152 | 314 |
| Immediate Office of the Registrar | 7 | 2 | 9 |
| Legal Team | 6 | 7 | 13 |
| Archives and Records Section | 11 | 11 | 22 |
| Witness Support and Protection Unit | 16 | 7 | 23 |
| Judicial Records and Court Operations Unit | 1 | 5 | 6 |
| Language Support Services | 10 | 22 | 32 |
| External Relations Office | 3 | 3 | 6 |
| Office for Legal Aid and Defence Matters | 0 | 1 | 1 |
| Division of Administration | 42 | 58 | 100 |
| Security and Safety Section | 56 | 32 | 88 |
| United Nations Detention Facility and United Nations Detention Unit | 10 | 4 | 14 |

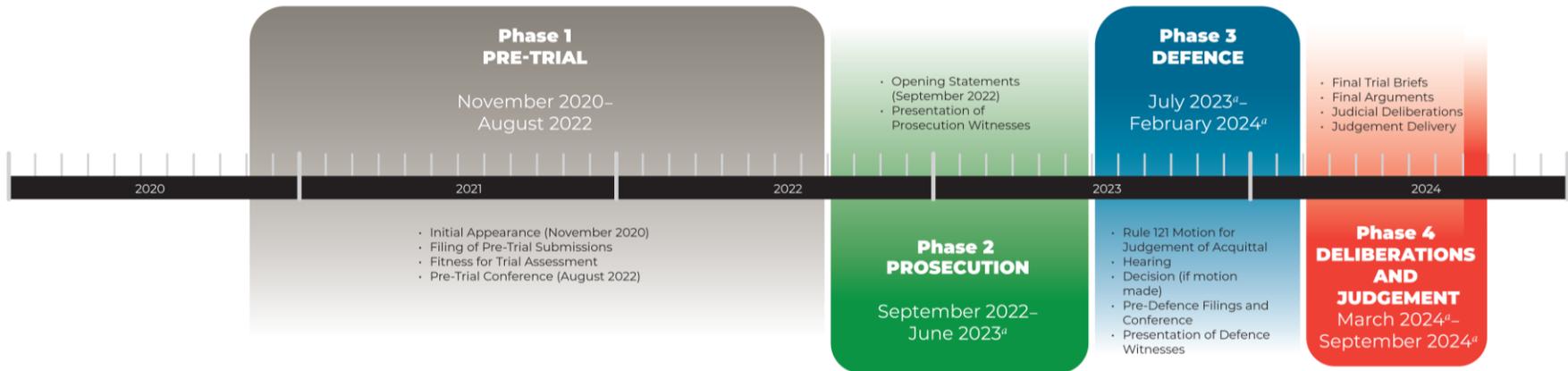
Enclosure III

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

(On the basis of information available as of November 2022 and subject to change)

TRIAL
Prosecutor v. Félicien Kabuga (MICT-13-38)

As of November 2022

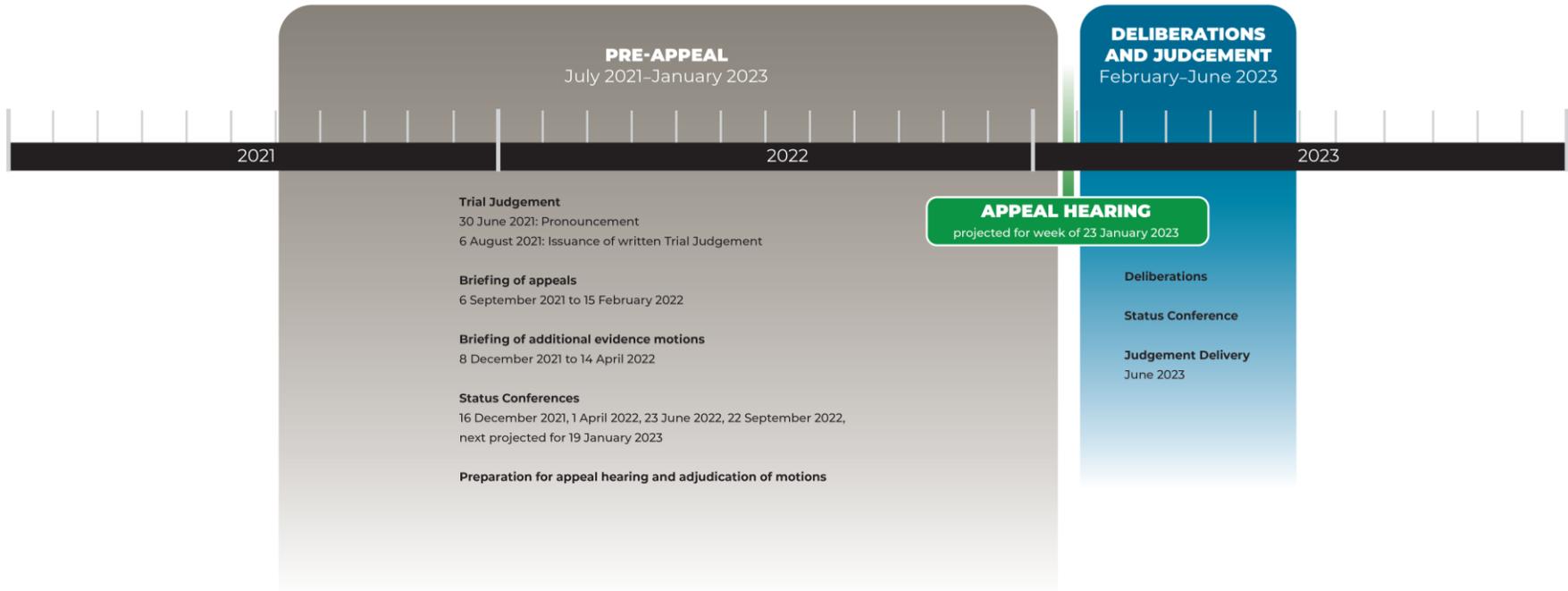


^a This projected date takes into account current trial modalities and the possible need for periodic breaks to accommodate Mr. Kabuga’s health. If circumstances allow, the actual date may be sooner. In the event of an unforeseen major disruption it could be later. The projection will be adjusted as appropriate and fully explained in each reporting cycle.

APPEAL

Prosecutor v. Jovica Stanišić and Franko Simatović (MICT-15-96)

As of November 2022



Annex II to the letter dated 16 November 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 May to 15 November 2022

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I. Overview

1. The Prosecutor submits the present twenty-first progress report pursuant to Security Council resolution 1966 (2010), covering developments between 16 May and 15 November 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 strategic 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. Trial proceedings commenced in *Prosecutor v. Félicien Kabuga (Kabuga case)*, with the presentation of the prosecution's opening statement on 29 September 2022 and the commencement of the presentation of the prosecution's evidence on 5 October. As previously reported, the prosecution has undertaken significant efforts to reduce the time required for the presentation of its case by requesting the admission of significant portions of its evidence in writing. The aim has been to limit the number of witnesses called to testify and minimize in-courtroom time required for viva voce witnesses, in particular in the light of the abbreviated hearing schedule for the case. These efforts have already been successful, as the prosecution was able to present the evidence of its first 10 witnesses in six weeks despite the abbreviated sitting schedule.

4. In a similarly important development, on 29 June 2022, the Appeals Chamber delivered its judgement in the appeal proceedings in *Prosecutor v. Marie Rose Fatuma et al. (Fatuma et al. case)*. The Chamber accepted the prosecution's appeal arguments in their entirety, while dismissing Fatuma's appeal in full. As a result, the Chamber overturned the acquittal at trial of Dick Prudence Munyeshuli, convicted him for contempt by knowingly and wilfully interfering with the administration of justice and sentenced him to five months of imprisonment. The Chamber also set aside the single judge's decision that Augustin Ngirabatware's sentence of 2 years of imprisonment be served concurrently with his prior sentence of 30 years of imprisonment for the crime of genocide. The Chamber determined instead that the sentences should be served consecutively, with the result that Ngirabatware is sentenced to a total of 32 years of imprisonment.

5. With respect to the tracking of the four remaining fugitives, the Office of the Prosecutor continued to make progress in its investigations during the reporting period. The Office can report that it has strong evidence on the current whereabouts of one fugitive and anticipates that a successful outcome may be achieved in the forthcoming reporting period. The Office enjoys good cooperation with a number of Member States, including in particular Rwanda, South Africa and the United States of America, and has initiated discussions with other Member States whose cooperation is needed to move forward in its investigations.

6. Regarding the national prosecution of war crimes committed in Rwanda, the Office of the Prosecutor continues in the course of its fugitive investigations to identify persons who may reasonably be suspected of having committed genocide crimes during the 1994 genocide against the Tutsi in Rwanda. The Prosecutor General of Rwanda is requesting the Office to assist in locating and ultimately bringing to trial such individuals. At the request of the Prosecutor General, the Office is also reviewing

its evidence collection to identify additional cases. It is clear that further justice for crimes committed during the genocide is still urgently needed. In furtherance of the completion strategy of the International Criminal Tribunal for Rwanda, the Office calls upon the United Nations and its 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.

7. 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 provided 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, there are significant challenges, with Croatia at the forefront. More broadly, 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.

8. The Office of the Prosecutor is committed to ensuring that the Mechanism provides full and effective support for national accountability efforts, in particular by enabling national investigators and prosecutors to utilize the Office's evidence collection. It is equally important that the Mechanism enable national authorities to have access, to the greatest extent possible, to the evidence of witnesses protected by the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism, whose testimonies are crucial to bringing additional perpetrators to justice. The Office has received feedback from national prosecutors indicating that there are important challenges in regard to the latter. To improve support for national authorities, the Office has proposed amendments to the Mechanism's rules, which will be considered by the plenary at the end of November.

9. 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 \(2018\)](#). In its evaluation in 2022 of the methods and work of the Mechanism, the Office of Internal Oversight Services (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. The Office continued to manage its work appropriately during the reporting period, including by swiftly redeploying resources and adapting its planning to respond to the Trial Chamber's decision to conduct the *Kabuga* trial in The Hague.

II. Trials and appeals

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

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

A. Update on the progress of trials

Kabuga

12. On 16 May 2020, 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 promotes a more expeditious trial while appropriately reflecting the scale of the crimes committed and Kabuga's alleged criminal responsibility.

13. In its decision of 13 June 2022, the Trial Chamber rejected the defence's claim that Kabuga was unfit for trial and ordered that the trial should be conducted in The Hague, which was confirmed by the Appeals Chamber on 12 August. The prosecution presented its opening statement on 29 September and called its first witness on 5 October. Trial proceedings are being held three days a week, usually for two hours per day for a total of six hours of courtroom proceedings per week. Between 5 October and the end of the reporting period, the prosecution called seven witnesses in The Hague and three witnesses in Arusha. Nine of the witnesses were heard under rule 111 of the Rules of Procedure and Evidence of the Tribunal and one under rule 116. In total, for the 10 witnesses whose evidence was presented between 5 October and 15 November, the prosecution used 6 hours of courtroom time, while the defence used 17 hours.

14. During the reporting period, the prosecution made 19 filings on matters related to the case and responded to 4 filings by the defence. In particular, the prosecution was required to litigate effectively critical matters raised, including matters related to the accused's fitness to stand trial and legal representation. The prosecution has disclosed over 16,600 files comprising approximately 323,000 pages to the defence.

15. The prosecution promptly and successfully responded to the Trial Chamber's decision to conduct proceedings in The Hague. A limited number of staff were quickly redeployed from Arusha to The Hague as necessary to support proceedings there, while the prosecution also filed motions for witness testimony to be heard remotely from Arusha and Kigali. The Office of the Prosecutor is managing the high workload for the case and developments in the conduct of proceedings 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.*

16. On 25 June 2021, the trial judge convicted Anselme Nzabonimpa, Jean de Dieu Ndagijimana, as well as Ngirabatware and Fatuma, for contempt of court, while acquitting Munyeshuli. The written judgment followed on 20 September 2021.

17. On 18 October 2021, the prosecution filed its notice of appeal asserting three grounds of appeal against the trial judgment. In its first ground of appeal, the prosecution argued that the judge had erred in fact and/or law in failing to find that

Munyeshuli, an investigator employed by Ngirabataware's defence team, 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 judge had erred in fact and/or law in declining to enter a conviction against Munyeshuli for committing contempt in the light of proven facts demonstrating that he had prohibited indirect contact with protected witnesses. In its third ground of appeal, the prosecution argued that the judge had erred in fact and/or law in determining that Ngirabataware's contempt sentence should run concurrently with the sentence that he was already serving for genocide.

18. On 29 June 2022, the Appeals Chamber delivered its judgement in the *Fatuma et al.* appeal proceedings, granting the prosecution's appeal arguments in their entirety. As a result, the Chamber convicted Munyeshuli for contempt by knowingly and wilfully interfering with the administration of justice and sentenced him to five months of imprisonment. The Chamber further decided that Ngirabataware's sentence of 2 years of imprisonment should be served consecutively to his prior sentence of 30 years imprisonment for the crime of genocide. The Chamber also dismissed all eight of Fatuma's challenges to her conviction and sentence.

19. The effective investigation and prosecution of contempt of court and breaches of witness protection are essential to protecting witnesses and maintaining the integrity of proceedings conducted by the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism. The prosecution is satisfied that Ngirabataware's attempt to improperly influence witnesses in order to overturn his convictions for genocide was detected and halted, and that Ngirabataware, Fatuma, Munyeshuli, Ndagijimana and Nzabonimpa were convicted and punished for their crimes.

2. *Stanišić and Simatović*

20. 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.

21. 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 areas of Krajina, Eastern Slavonia, Baranja, Western Sirmium, Zvornik, Doboje and Sanski Most. Both defence teams also filed appeals against the trial judgment. During the reporting period, the prosecution continued its preparation for oral arguments in the case, which are expected to be heard in early 2023.

C. Other proceedings

22. 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

23. 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.

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

25. 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.

26. In relation to Serbia, during the reporting period the prosecution received cooperation from the Serbian War Crimes Prosecutor's Office to conduct interviews. At the same time, 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 Office encourages Serbia to promptly provide cooperation and implement court orders.

27. 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 Organization for Security and Cooperation in Europe and the International Criminal Police Organization.

28. 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

29. 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, the former President of the crisis staff of the autonomous region of Krajina, Radoslav Brđanin, who was convicted of crimes against humanity and war crimes by the International Tribunal for the Former Yugoslavia, was granted conditional early release from his sentence of 30 years of

imprisonment, for medical reasons. He subsequently died on 7 September 2022 in Banja Luka, Bosnia and Herzegovina, while receiving medical care. On 15 November, the President denied the application for early release filed by the former Commander of the Drina Corps, Radislav Krstić, who was convicted for crimes committed during the Srebrenica genocide. The Office will continue to closely follow the implementation of the conditional early release regime.

III Fugitives

30. During the reporting period, the Office of the Prosecutor continued its efforts to account for the four remaining fugitives indicted by the International Criminal Tribunal for Rwanda: Fulgence Kayishema, Aloys Ndimbati, Charles Ryandikayo and Charles Sikubwabo. Since May 2020, four fugitive files have been completed, including all of the so-called “major” fugitives whose cases remained with the Mechanism. The Office remains committed to ensuring that the victims and survivors of the genocide against the Tutsi in Rwanda secure justice for the harms that they suffered.

31. 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. These include the use of advanced investigative techniques, such as financial, telecommunications and social media information, and intensive diplomatic engagement. The Office of the Prosecutor has a proven track record of implementing sophisticated strategies and exploiting multi-source evidence to uncover the tracks left by fugitives and ultimately establish their whereabouts. It will continue to strengthen and adjust its efforts as it implements its strategies to account for the four remaining fugitives.

32. Efforts undertaken by the Office of the Prosecutor depend on rapid and comprehensive assistance from national authorities, which uniquely have access to key evidence and information. During the reporting period, the Office worked to broaden and strengthen its cooperation with key partners.

33. Importantly, cooperation with the authorities of South Africa continued in a positive direction, marking a distinct change from previously reported challenges. In early April 2022, South Africa formally approved the request by the Office of the Prosecutor to 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 have been meeting regularly and undertaking coordinated investigations over the past six months. Important results have already been achieved, and the Office’s work in South Africa is progressing quickly.

34. Thanks to continued support from the Government of Rwanda, the Office of the Prosecutor similarly undertook extensive investigations in Rwanda. It gathered important evidence in relation to the fugitives’ narratives before and after the genocide, and further identified relevant persons of interest. The Office remains grateful to the Prosecutor General, the Inspector General of Police and other Rwandan authorities for their assistance, including in providing access to government archives.

35. The Office of the Prosecutor undertook an initial mission to Mbabane in late October. Positive discussions were held with the Director of Public Prosecutions, the Director General of the Criminal Investigation Department of the Royal Eswatini Police and other stakeholders. The Office hopes to be able to report in the near future that the Government of Eswatini is providing the requested cooperation in fugitive tracking activities.

36. The Security Council entrusted the Office of the Prosecutor General with the critical mandate to account for all remaining fugitives indicted by the International Criminal Tribunal for Rwanda. Accounting for all fugitives demonstrates that impunity for serious international crimes will not be tolerated. 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. 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

37. 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.

38. The Office of the Prosecutor continues 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

39. 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.

40. 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 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.

41. 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. 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.

42. The Prosecutor General of Rwanda is currently searching for more than 1,000 fugitives. 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.

43. 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.

44. The Office of the Prosecutor is providing essential assistance to find solutions to this ongoing challenge by reviewing its internal lists and files of suspects who were investigated but not indicted by the Prosecutor of the International Criminal Tribunal for Rwanda. The Office has also received requests from Rwandan authorities for assistance in locating, investigating and prosecuting Rwandan nationals suspected of genocide, in particular those living outside Rwanda. In response to those requests, the Office has so far identified a total 231 documents comprising nearly 35,000 pages of evidence. It is expected that investigative dossiers generated from this material will significantly advance efforts by Rwanda to ensure more comprehensive accountability for genocide crimes.

45. 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

46. 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.

47. 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.

48. 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

49. 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.

50. The trial proceedings in the *Bucyibaruta* case commenced on 9 May 2022. Following a two-month trial, on 12 July, Bucyibaruta was convicted of complicity in genocide and crimes against humanity and sentenced to 20 years of imprisonment. He is currently on provisional release on medical grounds during appeal proceedings.

51. This is the fourth trial in French courts for crimes committed during the genocide against the Tutsi in Rwanda. It is well understood that more suspects of such crimes reside in France today, such as former Major General Aloys Ntiwiragabo of the Rwandan Armed Forces. The Office of the Prosecutor encourages the French authorities to process expeditiously investigations and prosecutions for crimes committed during the genocide.

4. Cases referred to Rwanda

52. With two referred cases already completed, the only remaining ongoing referred case in Rwanda is against 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.

53. 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 *Prosecutor v. Jean Uwinkindi* case and the *Prosecutor v. Bernard Munyagishari* case 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

54. 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 and the nearing completion of the final Tribunal case tried by the Mechanism, further accountability for the crimes now depends fully on national authorities in the countries of the former Yugoslavia. The work of the Tribunal has created a solid foundation for national judiciaries to continue to implement the completion strategy and secure more justice for more victims.

55. 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

56. 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.

57. Unfortunately, negative developments continued during the reporting period. In Croatia, the President continued to call into question the facts of the Srebrenica genocide, participated in a public commemoration with a war criminal convicted by the International Tribunal for the Former Yugoslavia and decorated a war crimes suspect currently on trial in Bosnia and Herzegovina. Each of these incidents should be concerning; the fact that they all occurred in the span of just a few months is worryingly revealing. In the Republika Srpska, senior officials, including the Prime Minister, praised Brđanin, a war criminal convicted by the Tribunal, following his death and minimized the atrocities for which he was convicted. In Serbia, civil society embraces the atmosphere of denial and glorification created by political leaders: more than 150 murals of Ratko Mladić have been counted in Belgrade alone, while a diocese of the Serbian Orthodox Church awarded an honour to Vojislav Šešelj, a war criminal convicted by the Tribunal.

58. Even attempts to promote reconciliation are contested and can fail. In October 2022, a memorial plaque at the former Morinj detention facility for Croatian prisoners of war and civilians was unveiled in the presence of Montenegrin and Croatian officials, marking a symbolic step forward in relations. Unfortunately, the event sparked protests across Montenegro, and the plaque was removed a few days later.

59. These are not the words and acts of the margins, but of the political and cultural centres of the region's societies. The glorification of war criminals and revisionist denials of recent atrocities have been mainstreamed to a shocking degree, encouraged and supported by leaders from all communities.

60. 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 support 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

61. 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 has been at its lowest level in recent years.

62. Two trends have become evident. First, as a result of intensive engagement facilitated by the Office of the Prosecutor, regional cooperation in war crimes cases between Bosnia and Herzegovina, Montenegro and Serbia is moving in a more positive direction. Second, the continued failure of Croatia to provide cooperation highlights how political interference in the justice process leads to impunity.

63. During the reporting period, cooperation between war crimes prosecutors in Bosnia and Herzegovina and Serbia continued to improve. The two countries continue to respond to large numbers of requests for judicial assistance and two war crimes cases were transferred from Bosnia and Herzegovina to Serbia. Following the transfer of investigative files from Serbia to Bosnia and Herzegovina, previously reported in the Mechanism's nineteenth progress report (S/2021/955), there have been no further arrests of Bosnian nationals entering Serbia. In addition, the Prosecutor's Office of Bosnia and Herzegovina and the Serbian War Crimes Prosecutor's Office signed a memorandum of understanding relating to support for the participation of witnesses, injured parties and victims in criminal proceedings for war crimes. Judicial cooperation between Montenegro and Bosnia and Herzegovina has also continued to produce positive results. The Prosecutor's Office of Bosnia and Herzegovina transferred its first war crimes case to the Special State Prosecutor's Office of Montenegro and the trial in this case has begun.

64. In future, prosecutors in Bosnia and Herzegovina, Montenegro and Serbia also need to address key pending issues. More than 80 complex cases have to be transferred from the Prosecutor's Office of Bosnia and Herzegovina to the Serbian War Crimes Prosecutor's Office for trial in Serbia. In addition, building on the foundation of solutions that have already been implemented, it will be critical to finally resolve notable failures in regional cooperation, such as the case against Novak Djukić, which was extensively discussed in the Mechanism's fifteenth progress report (S/2019/888), the category II case against Mirko Vrućinić and the case against Milomir Savčić for his alleged involvement in the Srebrenica genocide.

65. With respect to Croatia, the only conclusion that can be drawn is that the Government will oppose efforts to hold Croatian nationals accountable for atrocities committed against victims from other ethnic groups. A large number of war crimes

cases in Bosnia and Herzegovina, Montenegro and Serbia are at a standstill because the Croatian authorities refuse to answer requests for assistance. The Ministry of Justice and Public Administration of Croatia is even failing to cooperate in the prosecution of individuals suspected of rape. The continuation of such a government policy, despite the indisputable facts and the harms caused, demonstrates that the logic is devoid of legal merit and disregards the rule of law. In that context, the failure of Croatian representatives to participate in the recent regional conference on war crimes prosecution – for the first time since 2004 – symbolically and practically indicates the country’s attitude in the matter.

66. Nonetheless, further engagement with the Croatian authorities is the only path forward, both to secure justice for the victims and to avoid further risks to regional relations. As a first step, the Office of the Prosecutor has previously reported on the standstill in long-standing bilateral negotiations between Croatia and Serbia to establish agreement on a framework for war crimes cases, including in the Mechanism’s fourteenth progress report (S/2019/417). It is now clear that those negotiations will not succeed in the current bilateral framework, while recent developments – notably the initiation in Serbia of two in absentia war crimes cases against Croatian nationals – serve as a warning that solutions and trust-building are urgently needed.

67. 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 ensure that regional judicial cooperation in war crimes matters is on the right track.

4. Registration of judgments

68. In his previous reports, the Prosecutor touched upon the need for the countries of 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.

69. No substantive 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.

70. 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

71. In preparation for the present report and to continue engagement with national authorities, a delegation from the Office of the Prosecutor visited Sarajevo from 31 October to 2 November 2022, where they met the newly appointed Chief Prosecutor, Milanko Kajganić.

72. The Office of the Prosecutor welcomes the appointment of the new Chief War Crimes Prosecutor and looks forward to intensifying its cooperation with his office.

During the reporting period, the Office's close collaboration with the Chief Prosecutor and his staff continued, including through assistance on concrete cases, strategic support and activities to transfer lessons learned.

73. The remaining backlog at the Prosecutor's Office of Bosnia and Herzegovina consists of 334 cases against 3,572 perpetrators. Of those, 157 cases against 1,010 persons are under investigation; the remaining cases are in the pre-investigative phase. In the reporting period, the Prosecutor's Office filed three indictments against seven suspects, while eight cases against 41 persons were terminated or closed owing to insufficient evidence. The Prosecutor's Office further transferred one case against one suspect to a lower-level prosecution office for further processing.

74. The Office of the Prosecutor is committed to continuing to support the work of the Prosecutor's Office of Bosnia and Herzegovina, in particular for the mutual goal of successfully implementing the National War Crimes Strategy. 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 a large number of requests for assistance. The Office of the Prosecutor continues to develop this collaboration and cooperation in two key areas.

75. First, approximately one third of the current investigations and cases handled by the Prosecutor's Office of Bosnia and Herzegovina concern known suspects or indictees who reside outside Bosnia and Herzegovina, primarily in Serbia, and also in Croatia and Montenegro. The Prosecutor's Office of Bosnia and Herzegovina and Office of the Prosecutor have agreed to work together to jointly prepare a plan for the transfer of these cases to other countries for investigation and prosecution. The investigations and indicted cases must be transferred to the jurisdictions where the suspects and accused can be tried. This is imperative for full war crimes accountability to be achieved and for the delivery of justice to the victims. The Office of the Prosecutor is working towards facilitating the transfer of those cases, in particular key cases and files involving senior- and mid-level accused, to the jurisdictions where the suspects or accused reside for further processing. The Office hopes to report on concrete progress in this area in the next reporting period.

76. Second, the Office of the Prosecutor continues to collaborate with Prosecutor's Office of Bosnia and Herzegovina to strengthen the latter's organizational and working practices, by sharing its experience as well as regulations and practices as a model for the Prosecutor's Office to adapt and build on. The Chief Prosecutor of Bosnia and Herzegovina has affirmed the importance of these issues, and has requested the assistance of the Office of the Prosecutor in including an experienced international legal adviser in his Office. 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.

77. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, the next few years will be critical in delivering more justice for war crimes in Bosnia and Herzegovina. There remains a significant backlog of cases to investigate and prosecute, and it is clear that the remaining cases are likely to be among the most challenging. Completing that work, even in ideal circumstances, will take many years, and the passage of time only heightens the urgency of working more expeditiously. The appointment of a new Chief Prosecutor provides the leadership and professional competence that will be a key foundation for improvements and greater results in the future. The Office of the Prosecutor and the Prosecutor's Office of Bosnia and Herzegovina will continue to strengthen their cooperation.

6. Croatia

78. With respect to war crimes justice in the former Yugoslavia, the role of Croatia is predominantly a negative one. The Croatian authorities refuse to provide cooperation to their colleagues in the region. Croatian nationals suspected of war crimes and crimes against humanity enjoy effective impunity. The few war crimes cases that actually proceed to trial are largely performative in absentia prosecutions of ethnic Serbs that do not achieve real justice. If the other countries in the region were to emulate the behaviour of Croatia, war crimes cases everywhere would grind to a halt and thousands of victims would remain without justice. The Office of the Prosecutor continues to engage with the Croatian authorities regarding war crimes justice in Croatia and the region, but putting matters back on the right track requires a real change in the Government's attitudes towards matters of accountability, the rule of law and reconciliation. The fact that Croatian prosecutors failed to participate in the recent regional conference on war crimes prosecution – for the first time since 2004 – does not suggest that such a change is imminent.

79. The Government of Croatia has not yet withdrawn its conclusion of 2015 by which it directed its Ministry of Justice and Public Administration 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.

80. While Croatian interlocutors suggest that the policy is not operative, the fact is that, for whatever reason, the Croatian authorities are effectively refusing to provide judicial cooperation across the board in war crimes cases and are thereby 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, of which the Croatian authorities report that only 6 have been responded to recently. 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 illegally detained victims. 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.

81. 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, on formalistic grounds, of a convicting judgment in 2009 that had been affirmed by the Supreme Court of Croatia on formalistic grounds. A former 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. Three other category II cases transferred from Bosnia and Herzegovina more than two years ago remain under investigation. The Office of the Prosecutor will continue to monitor developments.

82. 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.

83. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, war crimes accountability in Croatia does not appear to be on the right track. The Office of the Prosecutor calls upon the Government of Croatia to serve as the model that it should be and live up to its international obligations.

7. Montenegro

84. 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.

85. 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.

86. Important reforms in domestic law to support war crimes justice are currently under way. 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. Public consultations on the draft legislative reforms have been completed and await government approval. The Office will continue to provide support, as requested, to ensure progress in those and other important areas.

87. The Special State Prosecutor's Office is currently investigating six war crimes cases related to the conflict in the former Yugoslavia. Five relate to crimes committed in Bosnia and Herzegovina and one relates to crimes committed in Montenegro. No new investigations were opened in the reporting period, while one case against one accused is currently at trial.

88. Overall, and taking into account the completion strategy of the International Criminal 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 steps during the reporting period towards ensuring that Montenegro can secure 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

89. In preparation for the present report and to continue engagement with national authorities, the Prosecutor visited Belgrade from 10 to 12 October 2022, where he

met the Minister of Justice, Maja Popović, and the Chief War Crimes Prosecutor, Snežana Stanojković.

90. 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. Contrary to the absence of cooperation with Croatia, the Serbian authorities have constructively engaged in judicial cooperation with Bosnia and Herzegovina and Montenegro. The Serbian authorities and the Office will continue to work closely together to expedite the processing of war crimes cases in Serbia.

91. During the reporting period, the Serbian War Crimes Prosecutor's Office filed four indictments against four persons. Three are based on investigations conducted by that Office, and one was for a case transferred from Bosnia and Herzegovina. At the time of writing, the Office had 19 active investigations against 67 suspects. In Serbia, at the same time, there were 20 ongoing war crimes trials involving 44 accused. No judgments were issued during the reporting period.

92. For the first time, the Serbian War Crimes Prosecutor's Office is proceeding with two cases in absentia. These involve crimes allegedly committed by members of the Croatian forces, including mid-level Croatian commanders, in Croatia and Bosnia and Herzegovina against Serbian victims. The Office of the Prosecutor continues to make clear its firm position that in absentia trials represent a failure of judicial cooperation. The Office will actively work with the Serbian War Crimes Prosecutor's Office to resolve challenges in achieving cooperation with Croatia, including by engaging directly with the Ministries of Justice of the two countries.

93. Proceedings in the three category II cases transferred to Serbia from Bosnia and Herzegovina are ongoing, and the Office of the Prosecutor continues to monitor progress. 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 by the Office of the Prosecutor. Those case files provided an enormous volume of evidence documenting the responsibility of relevant individuals, building on a strong foundation of key facts proven before the International Tribunal for the Former Yugoslavia. During the reporting period, one investigation continued, and the trial commenced against Milenko Živanović, a former Commander of the Drina Corps of the Bosnian Serb Army, and the highest ranking person in Serbia to be charged with war crimes. The Office also facilitated the transfer of a related indictment against Živanović from Bosnia and Herzegovina to Serbia, a process that is currently under way. The Office continues to provide a range of other assistance.

94. 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.

95. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, Serbia finds itself at an important juncture at which it is possible to imagine that the coming years will mark significant progress towards meaningful accountability. Although impunity for many well-established crimes continues and many known war crimes suspects are at liberty, the Serbian War Crimes Prosecutor's Office is completing important investigations and filing notable indictments. Cooperation with prosecutors in Bosnia and Herzegovina and Montenegro is on the right track. Victims, the public and other stakeholders rightly

hope to see further signs that war crimes justice in Serbia is heading in the right direction, and that there is the will to realize the commitments made in the National War Crimes Strategy. Developments in relation to key case files involving senior- and mid-level officials will be an important indicator for the future.

C. Access to information and evidence

96. 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 9 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 1 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.

97. 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.

98. In relation to Rwanda, the Office of the Prosecutor received seven requests for assistance from three Member States, six of which have been processed. Four requests were submitted by the authorities of the United Kingdom of Great Britain and Northern Ireland, one by the French authorities and two by the Rwandan authorities. In total, the Office handed over more than 2,500 documents comprising approximately 570,000 pages of evidence.

99. In relation to the former Yugoslavia, the Office of the Prosecutor received 59 requests for assistance from four Member States and four international organizations. Thirty-one requests for assistance were submitted by the authorities of Bosnia and Herzegovina, four by Croatia, six by Serbia and four by the United States. In total, the Office handed over more than 3,484 documents comprising more than 78,900 pages of evidence and 29 audiovisual records. In addition, the it filed six submissions related to witness protective measures and/or access to evidence.

100. 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 contemporaneous increases in related resources. As a result, a backlog of requests older than six months developed, which at its highest in May 2022 it stood at 352 requests. The Office works actively with requestors to avoid delays in national cases caused by the backlog. This ensures that rescheduling or any delays in trials by national courts are avoided. As a result of the Office's efforts, the backlog of pending requests for assistance that are more than six months old has been reduced to 197 as at 15 November. It is currently anticipated that the backlog will be fully resolved in 2024. 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.

101. 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 20 requests that included the transfer of 323 documents comprising 7,005 pages of evidence and three audiovisual records. The project also assisted with securing the cooperation of witnesses for domestic proceedings.

D. Capacity-building

102. The Office of the Prosecutor continued its efforts, within its existing limited resources, to build capacity in national judiciaries prosecuting war crimes. It focuses on the Great Lakes region and the former Yugoslavia. Strengthening national capacities supports the principle of complementarity and national ownership of post-conflict accountability. In August and September 2022, the Office conducted training sessions on the prosecution of international crimes, with a particular focus on sexual violence crimes, for prosecutors and investigative judges from the Central African Republic, the Democratic Republic of the Congo, Côte d'Ivoire, Ghana, Guinea, Mali, the Niger and Senegal. The training was financed by the International Nuremberg Principles Academy and the Konrad Adenauer Stiftung and utilized a training manual on the prosecution of conflict-related sexual violence crimes produced by the Office.

103. 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

104. 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 more than 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.

105. 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 May to 15 November 2022, the Office responded to 108 requests for assistance from ICRC and handed over 1,590 documents comprising nearly 54,700 pages as well

as 14 audiovisual records. The Office further continued to provide extensive investigative assistance and operational support to national authorities searching for missing persons.

106. 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 34 missing persons. Overall, in the four years since initiating its cooperation with ICRC, the Office has searched for information in its evidence collection concerning approximately 6,700 missing persons.

V. Other residual functions

107. The Mechanism has two critical, related residual functions: (a) the protection of witnesses; and (b) the provision of assistance to national jurisdictions investigating and prosecuting serious international crimes committed in Rwanda and the former Yugoslavia. Witnesses who testified before the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism must continue to be protected from physical harm related to their testimony. Likewise, the Mechanism is in possession of evidence, including from protected witnesses, that is essential to national prosecutors striving to achieve further accountability for the crimes committed. Those two functions should be complementary, as they both are aimed at promoting justice. However, the Office has received feedback from national prosecutors indicating that there are important challenges in access to the evidence of witnesses protected by the Tribunals and the Mechanism by judicial order.

108. The International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism have routinely granted witnesses protective measures to conceal their identities in order to ensure that they could testify freely without fear of repercussions. Those measures extend not only to the public, but also to national investigators, prosecutors, defence counsel and judges. In the course of their own investigations, national investigators and prosecutors often realize that a witness protected by the Tribunals or the Mechanism provided testimony critical to the investigations. To obtain access to that evidence, the national prosecutor must then file a motion under rule 86 of the Rules of Procedure and Evidence.

109. Under rule 86, a protected witness is consulted to determine whether he or she consents to the variation. When the witness declines consent, the Mechanism will only provide information on the witness's identity to the national prosecutor if there are "exigent circumstances" or if a "miscarriage of justice" would result. Since 2017, there have been occasions on which a witness protected by the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism refused consent and the motion from the national prosecutor for access to the witness and the witness's evidence was denied. Through feedback from national prosecutors, the Office of the Prosecutor understands that, in some situations, the case was delayed, but national prosecutors were able to find alternative witnesses to assist in their investigations and prosecutions. In other situations, however, the national investigation was ultimately suspended or charges for some crimes were dropped because there was insufficient evidence without that of the protected witness.

110. Under the completion strategies of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, national prosecutions are essential to continue the justice process begun by the ad hoc Tribunals. Moreover, significant efforts have been made to establish national witness protection programmes to safeguard witnesses in national war crimes trials. It is possible to ensure that witnesses protected by the Tribunals or the Mechanism both

continue to enjoy protection and provide vital evidence to national prosecutors to bring more perpetrators to justice.

VI. Management

111. The Office of the Prosecutor is committed to managing its staff and resources in line with the Security Council's instructions that the Mechanism be a small, temporary and efficient structure. The Office continues to be guided by the Council's views and requests as set forth in, inter alia, paragraphs 18 to 20 of resolution 2256 (2015), paragraphs 7 and 8 of resolution 2422 (2018) and paragraphs 7, 9 and 10 of resolution 2637 (2022). An important part of those efforts is the Prosecutor's "one office" policy to integrate the staff and resources of the Office in both branches. Under the policy, staff and resources are available to be flexibly deployed to work on matters arising from either branch as necessary.

112. During the reporting period, the Office of the Prosecutor successfully responded to the Trial Chamber's decision of 13 June 2022 that the *Kabuga* trial be conducted in The Hague. A limited number of staff were quickly redeployed from Arusha to The Hague as needed to support proceedings there, while the prosecution also filed motions for witness testimony to be heard remotely from Arusha and Kigali. The Office is managing the high workload for this case and developments in the conduct of proceedings 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 or legal advisory team to support the trial team.

113. However, the Office of the Prosecutor is regularly confronted with workloads that exceed its resources, placing a heavy burden on staff. As the Office cannot defer mandated activities and must continue to meet its legal responsibilities in accordance with judicially ordered timelines, staff members of the Office have been required to take on additional responsibilities and work extensive hours. The Office is grateful for the continued dedication and commitment of its staff. Nonetheless, the Office underscores that full approval of its limited budget requests is necessary to ensure the expeditious completion of trials and appeals and the achievement of its other mandated functions.

VII. Conclusion

114. The Office of the Prosecutor is pleased that trial proceedings in the *Kabuga* case commenced during the reporting period. The prosecution is committed to presenting its case expeditiously, and its efforts to introduce more of its evidence in written form is already proving valuable. The Office is also satisfied that its appeal arguments in the *Fatuma et al.* case were accepted in full by the Appeals Chamber.

115. There are now only four remaining fugitives, the top priority being Kayishema. To bring them to justice, the Office of the Prosecutor 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 account for all persons indicted by the International Criminal Tribunal for Rwanda for crimes committed during the genocide against the Tutsi. The victims deserve nothing less.

116. 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.

117. 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.
