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**International Residual Mechanism for Criminal Tribunals**

**Security Council  
Seventy-fifth year**

**International Residual Mechanism for Criminal Tribunals**

**Note by the Secretary-General**

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

\* [A/75/150](#).



## **Letter of transmittal**

### **Letter dated 1 August 2020 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the General Assembly and the President of the Security Council**

I have the honour to submit the eighth annual report of the International Residual Mechanism for Criminal Tribunals, dated 1 August 2020, to the General Assembly and to the Security Council, pursuant to Article 32 (1) of the Statute of the Mechanism.

*(Signed)* Carmel Agius  
President

*Summary***Eighth annual report of the International Residual Mechanism for Criminal Tribunals**

The present annual report outlines the activities of the International Residual Mechanism for Criminal Tribunals from 1 July 2019 to 30 June 2020.

The Mechanism was established by the Security Council in its resolution [1966 \(2010\)](#) to carry out the essential residual functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, which closed in 2015 and 2017, respectively.

The Mechanism continues to be guided by the Security Council's vision of it as a small, temporary and efficient structure, the functions and size of which will diminish over time, with a small number of staff commensurate with its reduced functions.

Like the rest of the world, the coronavirus disease (COVID-19) pandemic affected the Mechanism's operations, including by accelerating the adoption of telecommuting for most staff. The Mechanism is proud that, despite the ongoing global health crisis, it remained operational throughout and continued to deliver results.

During the reporting period, the Mechanism underwent the third review of the progress of its work by the Security Council, in line with resolution [1966 \(2010\)](#), and an evaluation of its methods and work by the Office of Internal Oversight Services (OIOS). The outcome of that process is reflected in Security Council Resolution [2529 \(2020\)](#), which included the extension of the term of office of the Prosecutor for a two-year period. Following the adoption of the resolution, the Secretary-General further extended the terms of office of the President, together with the judges on the judicial roster, and appointed a new Registrar.

With respect to the activities of the Chambers, the Appeals Chamber delivered its judgment in one review case. Retrial and appeal proceedings were ongoing until the onset of the global pandemic led to a postponement of in-court proceedings. However, judges resorted to written procedures in order to mitigate any delays, and the pretrial phase of a contempt case continued uninterrupted. Large numbers of orders and decisions were issued by the President, Appeals Chamber, Trial Chamber and single judges, respectively, in relation to those and other matters.

The Office of the Prosecutor remained focused on three priorities: (a) the expeditious completion of trials and appeals; (b) locating and arresting the remaining fugitives indicted by the International Criminal Tribunal for Rwanda; and (c) assisting national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda. A major breakthrough occurred in May 2020, with the arrest of Félicien Kabuga and the confirmation of the death of Augustin Bizimana, both fugitives of the International Criminal Tribunal of Rwanda.

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

## I. Introduction

1. The eighth annual report of the Mechanism outlines the institution's activities from 1 July 2019 to 30 June 2020.
2. In accordance with its mandate, the Mechanism is responsible for a number of essential residual functions derived from the ad hoc Tribunals. Those functions include a wide range of judicial activities, such as bringing to trial the remaining fugitives indicted by the International Criminal Tribunal for Rwanda, conducting retrials, appeals of judgments, reviews of proceedings and contempt cases. In addition, the Mechanism has responsibility for, inter alia, the supervision of the enforcement of sentences, the monitoring of cases referred to national jurisdictions, the protection of victims and witnesses, the provision of assistance to national jurisdictions and the management and preservation of the archives.
3. The Mechanism continued to make significant progress in the fulfilment of its mandate. During the first part of the reporting period, the Mechanism was on track to complete most of its ongoing judicial work by the end of 2020. However, over the course of the second part of the reporting period, the Mechanism was required to adjust its projections.
4. The Mechanism had to adapt its working methods to conform with restrictions related to the coronavirus disease (COVID-19) pandemic. Considering its unique mandate as a judicial institution, the Mechanism immediately undertook measures to ensure business continuity, while protecting the health and safety of staff and others under its care. This included the implementation of telecommuting for most staff and the close monitoring of all persons detained under its authority.
5. During the reporting period, and coinciding with the onset of the pandemic, the Mechanism underwent the third review of its mandate by the Security Council in line with resolution 1966 (2010). In connection therewith, the Mechanism submitted a detailed report on the progress of its work over the past two years (S/2020/309). It also worked closely with the Office of Internal Oversight Services (OIOS) on the evaluation of the methods and work of the Mechanism.
6. The Prosecutor's efforts to prioritize the location and arrest of the remaining fugitives indicted by the International Criminal Tribunal for Rwanda came to fruition in May 2020 when, after 20 years on the run, one of the high-profile fugitives, Félicien Kabuga, was arrested in France. In addition, the death of another fugitive, Augustin Bizimana was confirmed.
7. With regard to judicial work in Arusha, United Republic of Tanzania, the review hearing in the case of *Prosecutor v. Augustin Ngirabatware* was concluded and the Appeals Chamber delivered its review judgment on 27 September 2019. On 10 October 2019, a single judge confirmed an indictment against Mr. Ngirabatware for contempt of court, on the basis of allegations of interference with witnesses in relation to his review proceedings. On 10 December 2019, the single judge granted the Prosecution's request for a joinder of that indictment with the ongoing contempt case against Maximilien Turinabo and others (*Prosecutor v. Turinabo et al.*). The pretrial phase in that case continued uninterrupted, mainly by written procedure. Regrettably, the start of the trial had to be postponed owing to the prevailing COVID-19 restrictions.
8. Despite the Mechanism's utmost efforts to minimize any delays, an impact on the timelines for completion of other ongoing cases was also unavoidable. At The Hague branch, court hearings in the retrial against Jovica Stanišić and Franko Simatović (*Prosecutor v. Stanišić and Simatović* case) had to be postponed. Similarly, the appeals hearing in *Prosecutor v. Ratko Mladić* could not take place on the date

previously envisaged. All ongoing cases were now expected to be completed within the first half of 2021.

9. In addition, the Mechanism continued to further develop its legal and regulatory framework. Particularly noteworthy in that regard is the adoption of a revised Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence, and Early Release of Persons Convicted by the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia or the Mechanism. In addition, the implementation of a unified filing system was an important and long-awaited further step in the harmonization of operations at the two branches.

## II. Activities of the Mechanism

### A. Organization

10. In its resolution [1966 \(2010\)](#), the Security Council mandated the Mechanism to operate for an initial period of four years, starting from 1 July 2012, and subsequently for periods of two years unless the Council decided otherwise, and following reviews by the Council of the progress of the Mechanism's work, including in completing its functions.

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

12. Each of the organs is headed by a full-time principal, common to both branches. The President of the Mechanism is based in The Hague, while the Prosecutor and the Registrar are based in Arusha. During the reporting period, the principals were President Judge Carmel Agius (Malta), Prosecutor Serge Brammertz (Belgium) and Registrar Olufemi Elias (Nigeria).

13. On 25 June 2020, following the third review of the Mechanism's progress by the Security Council and the ensuing adoption of Security Council resolution [2529 \(2020\)](#), the Secretary-General renewed the terms of the incumbent President and Prosecutor effective 1 July 2020 until 30 June 2022. Following the departure of Olufemi Elias, the Secretary-General appointed Abubacarr Marie Tambaou (The Gambia) as Registrar in his stead, for the same period as the other two principals. In addition, the Secretary-General renewed the mandate of all Mechanism judges, equally for two years.

14. Article 8 of the Statute provides that the Mechanism shall have a roster of 25 independent judges who shall, insofar as possible and as decided by the President, exercise their functions remotely.

15. During the reporting period, the Mechanism welcomed Judge Iain Bonomy (United Kingdom of Great Britain and Northern Ireland) as the twenty-fifth Judge on its judicial roster. Judge Bonomy was appointed by the Secretary-General, effective 6 February 2020, to replace Judge Ben Emmerson (United Kingdom), who resigned

on 19 July 2019. Accordingly, the Mechanism once more had a full complement of judges available for assignment to judicial matters.

16. The current judicial roster comprises (in order of precedence): Judge Carmel Agius, President (Malta), Judge Theodor Meron (United States of America), Judge Jean-Claude Antonetti (France), Judge Joseph E. Chiondo Masanche (United Republic of Tanzania), Judge William Hussein Sekule (United Republic of Tanzania), Judge Lee G. Muthoga (Kenya), Judge Alphons M.M. Orié (Netherlands), Judge Burton Hall (Bahamas), Judge Florence Rita Arrey (Cameroon), Judge Vagn Prüsse Joensen (Denmark), Judge Liu Daqun (China), Judge Prisca Matimba Nyambe (Zambia), Judge Aminatta Lois Runeni N'gum (Zimbabwe/Gambia), Judge Seon Ki Park (South Korea), Judge José Ricardo de Prada Solaesa (Spain), Judge Gberdao Gustave Kam (Burkina Faso), Judge Graciela Susana Gatti Santana (Uruguay), Judge Ivo Nelson de Caires Batista Rosa (Portugal), Judge Seymour Panton (Jamaica), Judge Elizabeth Ibanda-Nahamya (Uganda), Judge Yusuf Aksar (Turkey), Judge Mustapha El Baaj (Morocco), Judge Mahandrisoa Edmond Randrianirina (Madagascar), Judge Claudia Hoefler (Germany) and Judge Iain Bonomy (United Kingdom).

17. Pursuant to article 16 of the Code of Professional Conduct for the Judges of the Mechanism (MICT/14/Rev.1) the President shall include information concerning the disposition of complaints in his annual report to the General Assembly. On 28 August 2019, a complaint was lodged against a Mechanism Judge, alleging “discrimination, harassment and abuse of authority”. A preliminary examination of the complaint, in line with the procedure set out in articles 12 to 16 of the Code, determined that it was unfounded and that no further action was appropriate, and the matter was terminated in accordance with article 12(3) of the Code. Pursuant to article 15, the complaint and the name of the Judge concerned shall remain confidential.

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

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

19. Pursuant to article 13 of the statute, the judges of the Mechanism may decide to adopt amendments to the Rules of Procedure and Evidence, with any such amendments taking effect upon adoption by the judges unless the Security Council decides otherwise. From 18 October 2019 until 18 December 2019 a “remote plenary” by written procedure was held in accordance with article 13(2) of the Statute. The judges decided to adopt amendments to rule 18(B) of the Rules. President Agius reported those amendments to the President of the Security Council on 20 December 2019. The amendments can be found in the revised version of the Rules, which is publicly accessible on the Mechanism’s website.

20. On 26 November 2019, following consultation with the President, the Registrar issued the Practice Direction on the Provision of Support and Protection Services to Victims and Witnesses. That Practice Direction regulates the Registry’s witness management operations, and explicitly incorporates gender-sensitive and gender-appropriate approaches. The Registrar also issued a revised Remuneration Policy for Persons Representing Indigent Suspects and Accused in Contempt and False Testimony Proceedings before the Mechanism, following consultation with the President and the Association of Defence Counsel Practising before the International Courts and Tribunals.

21. On 15 May 2020, following consultations with the Prosecutor and Registrar, the President issued the revised Practice Direction on the Procedure for the Determination

of Applications for Pardon, Commutation of Sentence, and Early Release of Persons Convicted by the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia or the Mechanism. The revised Practice Direction was designed to reflect the practice of the ad hoc Tribunals and the Mechanism and to clarify a number of procedural aspects. Notably, it included the two-thirds eligibility threshold for applications of early release and introduced conditional early release. Other important additions concerned provisions designed to improve transparency, the collection of information and to enhance meaningful consultation with all relevant stakeholders to assist the President in his decision-making process.

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

22. Pursuant to rule 25 of the Rules of Procedure and Evidence, the Mechanism Coordination Council is composed of the President, the Prosecutor and the Registrar and meets on an ad hoc basis to coordinate the activities of the three organs of the Mechanism. The Council met regularly during the reporting period to discuss cross-cutting topics, including budgetary issues and the management of the ongoing COVID-19 pandemic.

### **D. Rules Committee**

23. In order to enhance the efficiency of the plenaries, the Mechanism's Rules Committee submits an annual report, which includes proposals for amendments of the Rules. The judicial membership of the Mechanism's Rules Committee comprises Judge Burton Hall (Chair) (Bahamas), Judge Seon Ki Park (Republic of Korea) and Judge Graciela Susana Gatti Santana (Uruguay), with the President as an ex officio member. The non-voting membership comprises representatives of the Prosecutor, the Registrar and the Association of Defence Counsel Practising before the International Courts and Tribunals. As reflected above, following the report of the Rules Committee of September 2019, amendments to rule 18 were adopted by the judges in December 2019.

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

### **A. Principal activities of the President**

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

25. During the reporting period, President Agius oversaw the work and progress of the Mechanism and continued to focus on the timely and efficient conclusion of the Mechanism's existing judicial proceedings, with regard to due process and fundamental rights, as well as harmonizing practices and procedures between the Mechanism's two branches and fostering high staff morale and performance. The President announced those priorities upon taking office in January 2019 and decided more recently to retain them while the Mechanism advanced and consolidated their effective implementation.

26. President Agius visited the Arusha branch in early November 2019, where he met with staff, held a town hall meeting together with the other principals and personally oversaw the progress of certain harmonization efforts. He took the opportunity to carry out an official mission to Dar es Salaam, United Republic of

Tanzania, where he met with high-level government officials, as well as members of the diplomatic corps.

27. The principals also held town hall meetings in The Hague in December 2019 and February 2020. In addition, they held a town hall meeting via videoconference with staff at all duty stations in June 2020 and regularly issued joint messages to staff informing them of the Mechanism's ongoing responses to the pandemic.

28. President Agius continued to engage with the Governments and people of Rwanda and the countries of the former Yugoslavia. In July 2019, the President travelled to Bosnia and Herzegovina to attend the twenty-fourth commemoration of the Srebrenica genocide. Regrettably, owing to the COVID-19 pandemic-related travel restrictions, other planned missions, such as to attend the twenty-fifth commemoration of the Srebrenica genocide and the twenty-sixth commemoration of the genocide against the Tutsi in Rwanda, had to be postponed. Nevertheless, while he was unable to participate in person, the President took part in both events by addressing a video message to victims and the wider public.

29. Furthermore, pursuant to the statute, President Agius reported to the Security Council and General Assembly, as appropriate. He submitted the Mechanism's seventh annual report to the General Assembly and the Security Council on 1 August 2019 ([A/74/267–S/2019/622](#)) and briefed the Assembly in October 2019. The fifteenth and sixteenth six-monthly reports on the Mechanism's progress were submitted to the Council in November 2019 ([S/2019/888](#)) and May 2020 ([S/2020/416](#)), respectively. President Agius briefed the Council and the Informal Working Group on International Tribunals in person in December 2019 and remotely by videoconference owing to the COVID-19 pandemic in June 2020.

30. President Agius also submitted the third review report to the Security Council on 15 April 2020, in accordance with paragraph 17 of Council resolution [1966 \(2010\)](#) and the procedures set out in the statement by the President of the Security Council of 28 February 2020 ([S/PRST/2020/4](#)). The report provided a comprehensive overview of the progress of the Mechanism in completing its functions during the period from mid-April 2018 to mid-April 2020. It also addressed the OIOS evaluation of the methods and work of the Mechanism issued on 26 March 2020, and the implementation of the recommendations contained therein.

31. The President continued to coordinate the work of the Chambers and assign judicial functions to judges, with a view to ensuring an efficient and broad distribution of work and making best use of the judges' diverse judicial expertise. He also worked closely with the Chambers management to enhance the smooth and cost-effective functioning of the Chambers more generally.

32. During the reporting period, President Agius presided over the Appeals Chamber, in particular regarding appeals from the *Turinabo et al.* case, and the contempt case against Petar Jojić and Vjeric Radeta. He also ruled on requests for administrative review of the Registrar's decisions concerning legal aid and issued decisions on complaints of detainees with regard to conditions of detention.

33. The President continued to dedicate a substantial amount of time to matters related to the enforcement of sentences. He issued in particular numerous orders and decisions relating to applications for the early release of persons convicted by the ad hoc Tribunals.

34. Cognizant of the vulnerable situation of incarcerated persons during the global pandemic, the President immediately requested periodic updates from enforcement States regarding measures put in place by the respective prison authorities to prevent any potential exposure of persons convicted by the ad hoc Tribunals or the Mechanism to the COVID-19 virus.



## B. Principal activities of single judges

35. During the reporting period, 16 of the judges on the judicial roster serving as single judges in accordance with the Statute of the Mechanism were seized of and issued decisions or orders in relation to requests arising in matters at both branches. Those requests primarily concerned, *inter alia*, assistance to national jurisdictions, access to confidential information, variation of protective measures, disclosure of exculpatory information, allegations of contempt and false testimony and changes in the classification of filings. In addition, on 27 May 2020, the Arusha Duty Judge denied the Prosecution's request to modify an arrest warrant to allow for the temporary transfer of Mr. Kabuga from France to The Hague branch. Collectively, 153 decisions or orders were issued by single judges during the reporting period and, as at 30 June 2020, single judges were seized of eight pending matters relating to allegations of contempt of court and false testimony and requests relating to protective measures for victims and witnesses.

36. Most notably, a single judge is seized of the complex multi-accused contempt case against *Turinabo et al.* This case relates to allegations of witness interference in relation to the review proceedings in the *Ngirabatware et al.* case, which concluded on 27 September 2019 (see below). The original indictment in the *Turinabo et al.* case was confirmed on 24 August 2018, and the five accused were arrested in Rwanda on 3 September 2018, pleading not guilty at their initial appearance. The trial, which was scheduled to commence on 7 October 2019, was postponed following the single judge's grant of the Prosecution's September 2019 request to substantially amend the indictment. Furthermore, on 10 October 2019, a single judge confirmed an indictment against Mr. Ngirabatware, which also concerns allegations of interference in relation to his review proceedings. Mr. Ngirabatware pleaded not guilty at his initial appearance on 17 October 2019, and the single judge granted, on 10 December 2019, the Prosecution's request that the *Ngirabatware* contempt case be joined to the *Turinabo et al.* case. The trial in the joined case was originally expected to commence in June 2020 and to conclude by the end of December 2020. Owing to the restrictions on travel and movement, the single judge decided to postpone the commencement of the trial to no sooner than 24 August 2020. Pretrial litigation and trial preparation was ongoing. During the reporting period, the single judge issued 78 orders and decisions related to matters such as jurisdictional and pleading issues, provisional release, disclosure and State cooperation.

## C. Principal activities of the Trial Chambers

37. In the *Stanišić and Simatović* case, the *Stanišić* Defence completed the presentation of its witnesses in October 2019. The *Simatović* Defence began presenting its witnesses in November 2019 and was expected to conclude the presentation of its evidence in June 2020. Owing to the COVID-19 pandemic, the conclusion of the *Simatović* defence case was interrupted in March 2020 in view of health concerns for witnesses and travel and movement restrictions imposed in the Netherlands and Serbia. The Trial Chamber nonetheless continued to adjudicate motions related to the admission of exhibits, and the parties continue the preparation of their final trial briefs. The Trial Chamber currently anticipates resuming proceedings on 1 September 2020 to hear the final seven defence witnesses. During the reporting period, the Trial Chamber issued 89 decisions and orders, including on the protection of witnesses, access to confidential material, the admission of evidence, and provisional release.

## D. Principal activities of the Appeals Chamber

38. The Appeals Chamber continued to be seized of appeal proceedings in the *Mladić* case, in which the International Tribunal for the Former Yugoslavia issued a trial judgment on 22 November 2017. Mr. Mladić requested the Appeals Chamber to extend the deadlines for the briefing process. The Appeals Chamber partly granted the requests, allowing a total of 210 days' extensions. The briefing concluded on 29 November 2018.

39. On 16 December 2019, the Appeals Chamber scheduled the hearing of the appeals for 17 and 18 March 2020. However, at the end of February 2020, Mr. Mladić requested the Appeals Chamber to reschedule the hearing to allow him to undergo surgery. The Appeals Chamber granted the request, staying the hearing to a date approximately six weeks after Mr. Mladić's surgery, to allow for recovery. At the same time, the Appeals Chamber requested weekly status reports to facilitate an expeditious rescheduling of the appeal hearing. Noting medical reports that Mr. Mladić was recovering well from the surgery, and considering the then-existing COVID-19 pandemic-related restrictions on travel, the Appeals Chamber, in consultation with the parties, rescheduled the hearing of the appeals to 16 and 17 June 2020. However, on 21 May 2020, Mr. Mladić's defence team gave notice of unavailability to proceed with the scheduled hearing due to developments and restrictions related to the COVID-19 pandemic. In view of that, and noting the exceptional circumstances, including that the travel of the judges to attend the hearing had been impeded, the Appeals Chamber found that it was not feasible to hold the hearing as scheduled. Consequently, on 28 May 2020, the Appeals Chamber stayed the hearing, holding that it would reschedule it as soon as circumstances allowed. To that end, the Appeals Chamber requested the Registrar to provide it with a feasibility report at least every 10 working days. As at 30 June 2020, it had not been feasible to reschedule the hearing owing to the continuing COVID-19 pandemic-related restrictions. However, the Appeals Chamber rescheduled the hearing to 25 and 26 August 2020, shortly after the end of the reporting period.

40. During the reporting period, the Appeals Chamber issued 25 decisions or orders in relation to the *Mladić* case.

41. On 27 September 2019, the Appeals Chamber delivered its review judgment in the *Ngirabatware* case. The Appeals Chamber rejected Mr. Ngirabatware's attempt to show that the four key witnesses underpinning his convictions for direct and public incitement to commit genocide and instigating and aiding and abetting genocide had truthfully recanted their trial testimonies. The Appeals Chamber decided that the appeal judgment, sentencing Mr. Ngirabatware to 30 years of imprisonment for those crimes, remained in force. The review hearing was held from 16 to 24 September 2019 at the Arusha branch of the Mechanism as projected in the previous progress report. The Appeals Chamber heard six witnesses, including the four recanting witnesses, and oral arguments from the parties. This was the first use of the courtroom at the Arusha branch for evidentiary hearings.

42. In the contempt case against Petar Jojić and Vjerica Radeta, which had been transferred from the International Tribunal for the Former Yugoslavia to the Mechanism, the Appeals Chamber dismissed the appeal of Serbia against a revocation of referral of the case on 24 February 2020. Accordingly, all States Members of the United Nations, 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.

## IV. Activities of the Office of the Prosecutor<sup>1</sup>

### A. Introduction

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

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

45. During the reporting period, the Office achieved an important result by securing the arrest of Félicien Kabuga, who was arrested in France after nearly 23 years as a fugitive. The Office further accounted for the fugitive Augustin Bizimana by confirming his death. The Office has now accounted for two of the three major fugitives indicted by the International Criminal Tribunal for Rwanda. The Office of the Prosecutor expresses its deepest appreciation to all of its partners in this effort. This experience has shown the impressive results that can be achieved through international law enforcement and judicial cooperation.

### B. Trials and appeals

46. During the reporting period, the Office of the Prosecutor took all steps under its control to expedite the completion of *ad hoc* judicial proceedings under the Mechanism’s jurisdiction pursuant to the Statute and the transitional arrangements (Security Council resolution 1966 (2010), annexes 1 and 2), namely, one case at pretrial (*Turinabo et al.*), one retrial (*Stanišić and Simatović*) and one appeal proceeding (*Mladić*).

47. On 15 December 2015, the Appeals Chamber of the International Tribunal for the Former Yugoslavia reversed the trial judgment in the *Stanišić and Simatović* case and ordered the case to be retried on all counts. Trial proceedings in the case commenced on 13 June 2017. The *Stanišić* Defence called its last witness on 17 October 2019, and the *Simatović* Defence began the presentation of its evidence on 12 November 2019. During the reporting period, the Prosecution cross-examined 11 witnesses in court, litigated 11 motions for the admission of evidence and responded to four motions filed by the Defence in the case. Notably, the Prosecution responded to a series of voluminous bar table motions filed by the *Stanišić* Defence, which had sought the admission of 902 documents totalling more than 20,000 pages of evidence. In the light of the postponement of in-court hearings, the Prosecution took the opportunity to advance its preparations for closing submissions.

48. On 22 November 2017, a Trial Chamber of the International Tribunal for the Former Yugoslavia unanimously convicted Ratko Mladić of genocide, terror, persecution, extermination, murder, unlawful attacks on civilians, deportation, inhumane acts and hostage-taking and sentenced him to life imprisonment. During the reporting period, the Office of the Prosecutor continued preparations for the oral appeal hearing in the case, which was scheduled to be held on 17 and 18 March 2020. On 6 March 2020, further to a defence motion, the Appeals Chamber ordered that the hearing be stayed until further notice. On 1 May 2020, the Appeals Chamber

<sup>1</sup> The present section reflects the views of the Prosecutor of the Mechanism.

rescheduled the appeal hearing for 16 and 17 June. On 28 May 2020, the Appeals Chamber once again stayed the appeal hearing until further notice. On 19 June 2020, the Prosecution filed an urgent motion urging the Appeals Chamber to schedule the appeals hearing in July 2020. The Prosecution continued to ensure that it remains prepared to present its oral arguments, in order to be ready for the hearing whenever it ultimately takes place.

49. On 24 August 2018, the single judge confirmed an indictment charging five Rwandan nationals: Maximilien Turinabo, Anselme Nzabonimpa, Jean de Dieu Ndagijimana, Marie Rose Fatuma and Dick Prudence Munyeshuli. On 10 October 2019, the single judge confirmed the indictment against Augustin Ngirabatware, charging him with two counts of contempt of court and one count of incitement to commit contempt of court. On 10 December 2019, the single judge granted the Prosecution's motion and ordered that the cases be joined.

50. During the reporting period, the Prosecution was engaged in extensive pretrial preparation and litigation. From the date of arrest until the end of the reporting period, the defence teams made 380 filings, while the Prosecution submitted 253 filings. There were 153 orders and decisions by the single judge, 25 orders and decisions by the Appeals Chamber and 38 orders and decisions by the President. There were also 106 filings by the Registry. The Prosecution had to respond to 307 items of correspondence from the defence teams. The Prosecution already disclosed more than 1.9 terabytes of material, including approximately 1,820 documents disclosed since 13 May 2020. It was expected that litigation would remain at a high level throughout the pretrial and trial phases of the case.

51. The Prosecution remained committed to undertaking all steps to expedite the completion of all proceedings delayed by the ongoing COVID-19 pandemic, in accordance with the directives of the respective Chambers. In addition, the Office of the Prosecutor remained committed to flexibly deploy its existing resources to efficiently handle any additional responsibilities within its mandate.

### **C. Fugitives**

52. During the reporting period, the Office of the Prosecutor successfully accounted for two of the remaining fugitives indicted by the International Criminal Tribunal for Rwanda: Félicien Kabuga and Augustin Bizimana. At the same time, the Office continued efforts to locate and arrest the remaining fugitives, including Protais Mpiranya.

53. Before his arrest on 16 May 2020, Félicien Kabuga had been one of the most wanted fugitives alleged to have been a leading figure in the 1994 genocide in Rwanda. The arrest of Kabuga was a result of a comprehensive and analysis-driven investigation supported by law enforcement and judicial authorities in France – as well as Austria, Belgium, Germany, Luxembourg, the Netherlands, Rwanda, Switzerland, the United Kingdom, the United States and others, together with the European Union Agency for Law Enforcement Cooperation and the International Criminal Police Organization. Those efforts allowed the Office earlier this year to conclude that Kabuga had been hiding in Asnières-sur-Seine in France. The Office obtained immediate cooperation from French authorities, who confirmed the Office's intelligence and were further able to specify Kabuga's location. Kabuga's arrest illustrated the vital importance of swift, effective cooperation from Member States with the Mechanism Office of the Prosecutor. The assistance and support provided by law enforcement and judicial authorities were decisive to the Office's success.

54. In another important development, the Office confirmed the death of Augustin Bizimana, one of the major fugitives whose case was to be tried by the Mechanism.

That confirmation followed previous unsuccessful attempts, between 2013 and 2015, to confirm the fugitive's death through DNA analysis samples from remains in an identified grave in the Republic of the Congo. Over the past year, the Office worked with authorities in the United States to re-examine the samples using advanced technology, which this time successfully produced results. The Office was able to confirm that the mitochondrial DNA of the remains in the identified grave site corresponded to reference samples obtained from Bizimana's mother. The Office, with the assistance of Rwandan authorities, further excluded the possibility that the remains were those of any of Bizimana's male maternal relations. The Office expresses its deep appreciation to authorities in the Netherlands, the Republic of the Congo, Rwanda and the United States for their cooperation and assistance in the matter.

55. Unfortunately, despite those successes, the Office largely struggled to obtain the cooperation that it needed from some Member States, which significantly hindered the Office's efforts. During the reporting period, the Office of the Prosecutor submitted a number of requests for assistance to national authorities relating to numerous false or illegally procured passports that the fugitives had obtained and used to travel internationally. Regrettably, however, the Office received very little additional information from those requests, despite numerous follow-up efforts. Similarly, the cooperation with Zimbabwean authorities had largely stalled, resulting in little to no progress.

56. The Office will continue to engage directly with national authorities to build support and ensure that its requests for assistance are promptly answered. The Office reiterates its commitment to arresting the remaining fugitives as soon as possible.

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

57. 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. In line with the completion strategies laid out by the ad hoc Tribunals as well as in Security Council resolutions [1966 \(2010\)](#) and [2256 \(2015\)](#), and in the Statute, the Office of the Prosecutor is mandated to assist and support national prosecutions of those crimes. In the affected countries, the effective prosecution of the crimes committed is fundamental to building and sustaining the rule of law, establishing the truth of what occurred and promoting reconciliation. Third-party States are also undertaking prosecutions against suspects who are present in their territories for crimes committed in Rwanda and the former Yugoslavia.

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

59. The joint European Union-Mechanism training project for national prosecutors and young professionals continued. Liaison prosecutors and young professionals from Bosnia and Herzegovina and Serbia worked with the Office of the Prosecutor to support the transfer of evidence and expertise to their home offices and the national prosecutions of war crimes committed in the former Yugoslavia. The Office also continued to implement the joint European Union-Mechanism project supporting domestic accountability for war crimes.

60. During the reporting period, the Office continued to provide national authorities with access to evidence and information in response to a high volume of requests. In relation to Rwanda, the Office received and processed six requests for assistance from four Member States. In total, the Office handed over more than 1,400 documents, comprising more than 23,000 pages of evidence. In addition, the Office facilitated access to two witnesses and filed two submissions in relation to a request for assistance. In relation to the former Yugoslavia, the Office received 451 requests for assistance from five Member States and three international organizations. Some 153 requests for assistance were submitted by authorities in Bosnia and Herzegovina, 1 by Croatia and 11 by Serbia. In total, the Office handed over more than 10,100 documents, comprising nearly 267,000 pages, and 312 audiovisual records. In addition, the Office filed two submissions in relation to requests for variation of witness protection measures and two submissions in relation to confirmation of witness protective measures.

61. There has been a significant growth in recent years in requests for assistance received by the Office. For example, at The Hague branch, the number of requests received increased from 111 in 2013 to 329 in 2019, and 282 in the first half of 2020 only – a significant increase that, considering the large volume of requests for assistance it keeps receiving, the Office anticipates will only grow larger in the future.

## V. Activities of the Registry

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

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

63. By its resolution [74/259](#), the General Assembly decided to appropriate to the Special Account for the Mechanism a total amount of \$96,924,500 gross for 2020.

64. The Mechanism implemented the decision of the General Assembly<sup>2</sup> with regard to a reduction in general temporary assistance as well as in travel-related resources and was actively engaged in limiting its overall expenditure to the absolutely essential.

65. The COVID-19 pandemic led to lower than anticipated expenditures in 2020. Owing to the related public health restrictions, courtroom activity had to be postponed, the recruitment of staff was delayed and travel largely ceased. However, as mentioned above, in order to ensure business continuity, the Mechanism had to take a number of measures, for example to implement telecommuting wherever possible. Therefore, some of the savings incurred were offset by additional expenditures related to the response to the COVID-19 pandemic, such as for medical care and information technology, as well as to ensure a safe work environment when staff return to the premises.

66. The Mechanism was preparing its 2021 budget proposal, which would include requirements for the *Turinabo et al.* case, the *Stanišić and Simatović* case and the *Mladić* case, subject to the impact of the COVID-19 pandemic on the resumption of courtroom activity. The budget proposal would also outline requirements for the pretrial and trial phase of the Kabuga case. While the Mechanism would continue to utilize best practices, bring to bear efficiency innovations and build on the experience

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<sup>2</sup> In its resolution [74/259](#), the General Assembly endorsed the recommendations of the Advisory Committee on Administrative and Budgetary Questions to that effect ([A/74/593](#)).

of past cases, owing to the size and complexity of the case, an overall higher budget proposal for 2021 was anticipated. Nonetheless, the Mechanism remained committed to the Security Council's vision of the Mechanism 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.

67. A COVID-19 management team with representation from all three organs had been coordinating the response to the pandemic. A series of mitigating measures were adopted to ensure business continuity and minimize the possible exposure of staff to COVID-19 in all duty stations. The Information Technology Services Section excelled in putting in place the infrastructure necessary while ensuring the confidentiality of the Mechanism's data.

68. Although certain tasks had to be postponed, particularly those related to court proceedings, most of the wide-ranging Registry activities continued uninterrupted, with delays kept to a minimum. The COVID-19 management team was carefully planning for a safe and gradual return of staff to the office at all duty stations.

69. The Mechanism continued its efforts in implementing the recommendations of the United Nations internal and external oversight bodies, and was pleased to have made great strides in that regard by closing more than 10 outstanding OIOS audit recommendations during the reporting period.

70. As at 30 June 2020, the Mechanism had a total of 546 staff on continuous posts and in general temporary assistance positions: 235 at the Arusha branch, including the Kigali Field Office; and 311 at The Hague branch, including the Sarajevo Field Office. The Mechanism's staff comprised nationals of 72 Member States. Of the staff at the Professional level and above, 53 per cent were women and 47 per cent men, consistent with the Secretary-General's gender parity goals. When General Services staff is considered, the average percentage of female staff was lower. The Mechanism remained committed to achieving greater gender balance and equitable geographical representation.

71. Significant progress was made in the finalization of the construction project at the Arusha branch, while the Mechanism continued to implement remedial works on its premises.<sup>3</sup> The Mechanism remained focused on the appropriate recovery of direct and indirect costs arising from errors and delays, where economically feasible to do so, pursuant to General Assembly resolution 73/288, and decided to withhold delay damages, following close consultation with relevant offices at United Nations Headquarters.

72. As previously reported, in April 2019, the host State acquired ownership of the premises rented by the Mechanism at The Hague branch. Negotiations on the future lease, which considered the Mechanism's reduced occupancy requirements, were progressing, as were the Host State's plans for the full renovation of the premises.

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

## **B. Support for judicial activities**

74. The Registry continued to provide support to the Mechanism's judicial activities at both branches throughout the reporting period. To further harmonize court operations and the management of judicial records, a dedicated judicial records and

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<sup>3</sup> Further details on the status of the finalization of the construction project are contained in the report of the Secretary-General on construction of a new facility for the International Residual Mechanism for Criminal Tribunals, Arusha branch (A/74/662).

court operations unit was created at the Arusha branch in August 2019. A particular highlight was the launch of the unified judicial database on 15 August 2019. Unfortunately, preparations for the public launch of the database were still ongoing at the time of writing.

75. At the Arusha branch, the Registry facilitated and serviced the review hearing and the subsequent rendering of the review judgment in the *Ngirabatware* case, the initial appearance in the *Ngirabatware* contempt case and the pretrial proceedings in the *Turinabo et al.* contempt case. At The Hague branch, the Registry facilitated court hearings in the *Stanišić and Simatović* case and supported the appeal proceedings in the *Mladić* case. Overall, the Registry processed 2,536 judicial filings, amounting to 32,290 pages.

76. The Registry's Language Support Services supported the Mechanism's continuous and ad hoc activities, including by providing translations of judgments and other documents into and from English, French, Bosnian/Croatian/Serbian, Kinyarwanda and other languages, as required, as well as interpretation services.

77. The Registry provided assistance to 61 defence teams comprising a total of approximately 155 team members.

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

## **C. Support for other mandated activities**

### **1. Witness support and protection**

79. The Mechanism is responsible for the protection of witnesses who have testified before the ad hoc Tribunals and witnesses who have appeared or may appear before the Mechanism. Approximately 3,150 witnesses benefit currently from protective measures.

80. The Witness Support and Protection Unit at both branches provides security to witnesses by undertaking threat assessments and coordinating responses to security-related requirements. During the reporting period, the Unit also ensured that protected witness information remained confidential and continued to contact witnesses regarding the rescission, variation or augmentation of protective measures. The Registry filed 39 judicial submissions related to protected witnesses and other witness-related matters.

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

82. Furthermore, the Witness Support and Protection Unit facilitated the appearance of six witnesses in the *Ngirabatware* review proceedings, undertook administrative and logistical arrangements for witness activity in relation to the *Turinabo et al.* case as well as the *Ngirabatware* contempt case, and continued to support witness activity in the *Stanišić and Simatović* case, including by facilitating the appearance of 23 witnesses.



## **2. Detention facilities**

83. As at 30 June 2020, the United Nations Detention Facility in Arusha housed one detainee and the United Nations Detention Unit in The Hague housed three detainees. Both detention facilities maintain custodial capacity for several individuals who are on provisional release pending proceedings at the Mechanism.

## **3. Enforcement of sentences**

84. The Mechanism relies on the cooperation of States for the enforcement of sentences. As at 30 June 2020, the Mechanism was overseeing the enforcement of the sentences of a total of 50 individuals.

85. Thirty persons convicted by the International Criminal Tribunal for Rwanda were serving their sentences in three States. One convicted person remained at the United Nations Detention Facility in Arusha pending contempt proceedings and transfer to the designated enforcement State.

86. Twenty persons convicted by the International Tribunal for the Former Yugoslavia were serving their sentences in 11 States. Two convicted persons remain at the United Nations Detention Unit in The Hague, awaiting transfer to enforcement States.

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

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

88. During the reporting period, the Registry processed 111 requests by national authorities or parties to national proceedings for assistance in connection with national proceedings related to the Genocide against the Tutsi in Rwanda or the conflicts in the former Yugoslavia.

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

89. The Mechanism continued to focus its efforts on facilitating the resettlement of acquitted and released persons and providing those still residing in Arusha with relevant assistance. Despite those efforts, the number of acquitted and released persons in Arusha remained nine. In its resolution [2529 \(2020\)](#), the Security Council noted with concern the problems faced by the Mechanism in that regard, emphasized the importance of finding expeditious and durable solutions, encouraged all efforts to that end and reiterated its call upon all States to cooperate with and render all necessary assistance to the Mechanism in that regard. Accordingly, the Mechanism urges all Member States to support it in finding solutions to this serious problem, which gravely affects the rights of these individuals.

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

90. During the reporting period, the Mechanism continued to monitor three cases referred to Rwanda with pro bono assistance from the Kenyan Section of the International Commission of Jurists. On 28 May 2020, the High Court Chamber for International Crimes in Nyanza, Rwanda, issued a life sentence in the *Ntaganzwa* case, which the accused appealed. The *Uwinkindi* and *Munyagishari* cases remained on appeal. The Mechanism continued with a similar arrangement for cases referred to France, which were monitored by interim monitors from the Mechanism. In the *Bucyibaruta* case, proceedings were ongoing, while the *Munyeshyaka* case concluded

with the dismissal of the appeal at the investigative/pretrial phase by the Cour de Cassation on 30 October 2019.

## **7. Archives and records management**

91. The Mechanism Archives and Records Section was currently responsible for the management of 5,000 linear metres of physical records and approximately three petabytes of digital records generated by the ad hoc Tribunals.

92. During the reporting period, the Mechanism continued the ingest of digital records into its digital preservation system. Thus far, 142.12 terabytes of digital records, including 182,193 files in a variety of formats, had been ingested. The Mechanism Archives and Records Section also continued the preservation of audiovisual recordings currently stored on obsolete physical media at The Hague branch.

93. The uploading of records to the public databases of the ad hoc Tribunals and the Mechanism continued. As at 30 June 2020, the databases contained over 360,000 judicial records, including 28,000 hours of audiovisual recordings. Those records had been accessed by more than 22,500 users worldwide during the reporting period.

94. The Mechanism Archives and Records Section proceeded with developing a publicly accessible catalogue containing descriptions of the archives of the ad hoc Tribunals and the Mechanism and launched an exhibition focusing on the history of the witness support and protection services of the ad hoc Tribunals.

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

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

# **VI. Conclusion**

96. The Mechanism has once again demonstrated that, even in the face of challenges such as those encountered during the reporting period, it is determined to carry out its mandate – and in particular to complete ongoing proceedings – in a timely and efficient manner that reflects the highest of standards. In doing so, the Mechanism continues to rely on the support and cooperation of Member States. The significance of such cooperation was exemplified with the capture of Félicien Kabuga in France. The arrest of a fugitive who had been on the run for 20 years sends the clear message that the Mechanism will not rest until its mandate is fulfilled and that those alleged to have committed atrocity crimes cannot evade justice. The Mechanism stands ready to hold them to account.

97. The Mechanism wishes to pay tribute to its judges and staff and members of defence teams, for their continuing determination, hard work, and resourcefulness. The Mechanism also wishes to express its gratitude for the ongoing support provided by members of both the General Assembly and the Security Council, as well as the Office of Legal Affairs of the Secretariat and the United Nations more broadly. In particular, it expresses sincere appreciation to its outstanding host States, the Netherlands and the United Republic of Tanzania.