

**Security Council**

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Letter dated 16 May 2023 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 May 2023 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 16 November 2022 to
15 May 2023**

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1. The present report, the twenty-second 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 Security 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 \(2022\)](#). To the extent possible, and subject to the impact of evolving circumstances, the report reflects detailed projections for the duration of residual functions entrusted to the Mechanism, in accordance with the same paragraph of resolution [2637 \(2022\)](#), as well as paragraph 10 thereof.

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. In accordance with article 3 of the statute, the Mechanism has two branches. Its branch in Arusha, United Republic of Tanzania, commenced operations on 1 July 2012, assuming functions derived from the International Criminal Tribunal for Rwanda, while its branch in The Hague, Kingdom of the 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 to run 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. The Council concluded its fourth such review in 2022, culminating in the adoption of resolution [2637 \(2022\)](#). During the reporting period, the Mechanism continued to implement the recommendations of the Informal Working Group on International Tribunals set out in that resolution, as well as the outstanding recommendations made by the Office of Internal Oversight Services (OIOS) following its evaluation of the methods and work of the Mechanism earlier in 2022.² OIOS has now commenced a new evaluation of the methods and work of the Mechanism, which will inform the Security Council's next review of the progress of the Mechanism, to be undertaken in 2024. The Mechanism looks forward to another fruitful evaluation exercise and is committed to engaging with OIOS in an active and open manner throughout the course of the year.

5. The future of the Mechanism's operations, including its ongoing transition from an operational court to a truly residual institution, has been a prime area of focus since

¹ Unless otherwise specified, the figures set out in the present report are accurate as at 15 May 2023.

² See [S/2022/148](#), paras. 12–16 and 43–47; [S/2020/236](#), para. 66; and [S/2018/206](#), para. 43.

the previous report. In line with resolution 2637 (2022) and the outstanding recommendations of OIOS, the principals and management of the Mechanism have paid particular attention to scenario-based workforce planning and completion projections for the Mechanism's longer-term residual functions, as well as possible options regarding the transfer of its remaining activities in due course. As detailed below, a panel of judges has been established to assess the nature and likely duration of the Mechanism's remaining judicial activities, together with their potential transferability. In addition, a cross-organ working group of senior managers meets periodically to discuss and elaborate a plan for these and other mandated functions. The Mechanism considers such future planning to be not only timely but crucial, given that the final cases relating to the core crimes incorporated in its statute are nearing completion, alongside certain other mandated functions. The imminent conclusion of these activities signals a seismic shift in the Mechanism's operations that requires careful forethought and preparation. The fact that the Mechanism is drawing down does not mean, however, that it is ready to close down. Rather, it is about to enter the next phase of its life cycle.

6. With respect to the pending judicial caseload, the Mechanism is pleased to report that the appeal judgment in *Prosecutor v. Jovica Stanišić and Franko Simatović* (*Stanišić and Simatović* case) has been scheduled for delivery on 31 May 2023, earlier than the projection provided to the Security Council in the previous report (S/2022/866, annex I, para. 49). Significantly, the completion of the *Stanišić and Simatović* case, which the Mechanism inherited from the International Tribunal for the Former Yugoslavia, represents the conclusion of all proceedings related to core crimes brought before that Tribunal. This milestone takes place during the same month that marks the thirtieth anniversary of the historic decision of the Council, on 25 May 1993, to establish the Tribunal. On 1 July, the Mechanism will observe the tenth anniversary of the commencement of operations at its branch in The Hague. The confluence of those important events will provide valuable opportunities to reflect on the work and contributions of the International Tribunal for the Former Yugoslavia, the Mechanism and the Security Council itself.

7. Following the conclusion of the *Stanišić and Simatović* case, the Mechanism will have on its docket only one main case relating to core crimes, namely, *Prosecutor v. Félicien Kabuga* (*Kabuga* case). In a very sad development, in January 2023, the Mechanism community was devastated by the tragic loss of Judge Elizabeth Ibanda-Nahamyia (Uganda), who was part of the Trial Chamber in the *Kabuga* case and had served with distinction as a judge of the Mechanism since 2018. Regarding the trial proceedings, the evidentiary hearings have been on pause since early March while the Trial Chamber deliberates on the issue of Mr. Kabuga's fitness for trial, following the filing of a report of a panel of independent medical experts, their testimony before the Trial Chamber and the hearing of related submissions.

8. At the time of reporting, a decision by the Trial Chamber on the accused's fitness and the future of the trial was still pending. The Chamber's judicial determination of those issues will occur outside the reporting period, with a decision on the accused's fitness for trial expected by the end of May. While the Mechanism is mindful of the request by the Security Council to provide clear and focused projections for all of its activities, the unique circumstances surrounding the *Kabuga* case currently preclude the possibility of providing meaningful projections in relation to those specific proceedings. The President nevertheless hopes to be in a position to provide further information in June when she addresses the Council and its Informal Working Group.

9. Turning to other main functions, the Mechanism is satisfied to note that its responsibilities vis-à-vis the monitoring of ongoing cases referred to domestic jurisdictions have also been further reduced following the delivery of an appeal judgment in the case against Ladislav Ntaganzwa (*Ntaganzwa* case) in Rwanda.

Alongside that progress, the Mechanism has continued to make strides in relation to supervising the enforcement of sentences, responding to national requests for assistance, protecting victims and witnesses and tracking the remaining fugitives indicted by the International Criminal Tribunal for Rwanda. The present report, together with the assessment of the Prosecutor contained in annex II, details the Mechanism's dedicated efforts in those and other areas of its mandate.

10. At the same time, the report forewarns of a number of challenges that threaten to undermine the ability of the Mechanism to complete its work. These include the ongoing situation of the eight acquitted and released persons who were relocated to the Niger in December 2021, the continued failure of Serbia to arrest and surrender the accused persons in the contempt case against Petar Jojić and Vjerica Radeta (*Jojić and Radeta* case) and increasing impediments to the ability of Member States to enforce the sentences of persons convicted by the ad hoc Tribunals or the Mechanism. Each one of those challenges is related to the cooperation of States, and the Mechanism takes this opportunity to highlight once more that it cannot resolve them alone.

II. Structure and organization of the Mechanism

A. Organs and principals

11. 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 details the activities of the Office of the Prosecutor (the prosecution).

12. Each organ is led by a full-time principal who exercises responsibility over both Mechanism branches. The President is the institutional head and highest authority of the Mechanism and is responsible for the overall execution of its mandate, presiding over the Appeals Chamber, assigning judges to cases and carrying out other functions as specified in the statute and Rules of Procedure and Evidence of the Mechanism.³ The Prosecutor is responsible for the investigation and prosecution of persons covered by article 1 of the statute, while the Registrar is responsible for the administration and servicing of the institution, under the authority of the President. The President and the Registrar are appointed by the Secretary-General for terms of two years. By contrast, the Prosecutor is appointed by resolution of the Security Council, also for a term of two years.

13. The President of the Mechanism, Judge Graciela Gatti Santana (Uruguay), commenced her presidency during the previous reporting period, on 1 July 2022, having served as a judge on the Mechanism's judicial roster since 2012. She is based in The Hague. The Prosecutor of the Mechanism, Serge Brammertz (Belgium), and the Registrar of the Mechanism, Abubacarr Tambadou (Gambia), who were previously reappointed for new two-year terms effective 1 July 2022, are based in Arusha. The current terms of all three principals run until 30 June 2024.

³ The Rules of Procedure and Evidence are available at www.irmct.org/en/documents/rules-procedure-and-evidence.

B. President

14. During the reporting period, Judge Gatti Santana continued to implement 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.

15. Regarding the first priority, in her capacity as pre-appeal and presiding judge of the Appeals Chamber in the *Stanišić and Simatović* case, the President worked closely with the other judges on the bench, as well as with the Chambers Legal Support Section, to ensure that the projected timeline for delivery of the appeal judgment could be met. Having joined the bench only after taking office in July 2022, the President was committed to quickly familiarizing herself with the appeal briefing and to avoiding delays in the proceedings, while ensuring due process. As a result, and thanks also to the dedication of the other judges and the Chambers Legal Support Section, the judgment is scheduled for delivery earlier than previously projected. Separately, the President did her utmost, within the confines of her role, to ensure that all necessary support and assistance were provided to the judges of the Trial Chamber seized of the *Kabuga* case and swiftly assigned a new reserve judge to the bench following the passing of Judge Ibanda-Nahamya.

16. In relation to the second priority, the President continued to lead efforts in steering the Mechanism into the next phase of its lifespan, thereby responding to the relevant focus of the Security Council in resolution 2637 (2022). She spearheaded the development of a draft scenario-based workforce plan to be used as a basis for discussions on the related cross-organ working group, thus also working towards the ongoing fulfilment of outstanding recommendations made by OIOS.⁴ In addition, the President and her team held informal exchanges with representatives of other international courts and tribunals, among others, to discuss lessons learned in relation to the residual functions of those institutions. During the in-person plenary of judges held in November 2022, which is discussed below, the President raised a number of issues relating to the future of the Mechanism. On the agenda for discussion by the judges were, inter alia, the need to develop a strategy for the Mechanism's continuous residual functions, specifically those of a judicial nature, the declassification of non-public records of proceedings and evidence pursuant to rule 155 of the Rules of Procedure and Evidence, and the Mechanism's judicial roster. Following the plenary, the President established a panel of judges, the Panel on Judicial Functions, to assess the outlook for the Mechanism's judicial functions and judicial roster.

17. Regarding the third priority, the President continued to actively consider ways in which the legacies and achievements of the ad hoc Tribunals and the Mechanism itself could best be consolidated. To that end, she discussed with various stakeholders the importance of making the public records of those institutions more accessible, including through the establishment of information centres in the countries most affected by the Mechanism's work. In the meantime, the President is committed to enhancing inter-organ and inter-branch legacy coordination and collaboration at the Mechanism, so that its own operational legacy can be strengthened.

⁴ See [S/2022/148](#), paras. 12–16 and 36–43; [S/2020/236](#), para. 66; and [S/2018/206](#), para. 43.

18. In these and other respects, the President worked closely with the other principals throughout the reporting period, prioritizing regular communications and meetings on matters concerning the overall functioning of the institution. Throughout, the President bore in mind the recommendation by OIOS to ensure systematic thinking and planning about the future, which the Mechanism strives to fulfil on an ongoing basis.⁵ Since the previous report, the President has convened four meetings of the Mechanism Coordination Council, which is composed of the President, the Prosecutor and the Registrar. In addition, she has held further meetings with section chiefs at both branches and regularly engaged with representatives of the Staff Union. A town hall meeting with staff members working at the Mechanism's Arusha branch was convened in March, and the President held a similar meeting for staff at the Kigali field office in April. The President intends to convene a town hall in The Hague in the coming months.

19. Turning to her representational role and external engagement, in December 2022, Judge Gatti Santana presented the Mechanism's twenty-first progress report to the Security Council. In that connection, she also briefed the Informal Working Group on International Tribunals, held bilateral meetings with numerous representatives of Member States and met with the Secretary-General and other high-level Secretariat officials.

20. In March, while working at the Arusha branch, the President met with the Minister for Constitutional and Legal Affairs of the United Republic of Tanzania in the capital of the host State, Dodoma. She subsequently travelled to Rwanda for the purpose of participating in the twenty-ninth commemoration of the 1994 genocide against the Tutsi in Rwanda. During that mission, the President also met with high-level government officials, members of the Rwandan judiciary and national prosecution and representatives of victims' associations and visited one of the significant memorial sites in Rwanda. Soon afterwards, she travelled to Bosnia and Herzegovina to participate in an official commemoration ceremony marking the thirtieth anniversary of the Ahmići massacre. In late April, the President undertook an official mission to Geneva, where she met with the President of the International Committee of the Red Cross (ICRC) and the United Nations High Commissioner for Human Rights, among others.

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, of the statute, the judges shall be present at the seat of the Mechanism's branches only 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, of the statute, judges of the Mechanism shall not be remunerated for being on the judicial roster, but shall receive compensation only for the days on which they exercise their functions.

22. During the previous reporting period, the Secretary-General reappointed all 25 Mechanism judges for a new two-year term, with effect from 1 July 2022 to 30 June 2024. In January 2023, the Mechanism was extremely saddened to learn of the sudden passing of Judge Elizabeth Ibanda-Nahamya (Uganda), who had been appointed as a judge of the Mechanism on 22 March 2018. Judge Ibanda-Nahamya made an immense contribution to the work of the Mechanism and the field of international criminal justice more generally and is much missed by both colleagues and staff. At the Mechanism, she served with distinction on a number of cases, including as a member of the Appeals Chamber in the case of *Prosecutor v. Ratko Mladić* (Mladić case) and

⁵ See S/2022/148, paras. 43–47; and S/2020/236, para. 66.

a member of the Trial Chamber in the *Kabuga* case. The Mechanism takes this opportunity to pay tribute to her outstanding service. It is expected that, in line with article 10, paragraph 2, of the statute, the Secretary-General will appoint another judge to serve the remainder of Judge Ibanda-Nahamya's term of office.

23. The current judicial roster of the Mechanism 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 (Kingdom of the 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 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 M. deGuzman (United States of America).

24. As flagged in the previous report, and consistent with her announced intention upon taking office, Judge Gatti Santana convened a successful in-person plenary of judges in The Hague in late November 2022. This was the first in-person plenary to take place in almost four years, with the last one having been held in Arusha in early March 2019 and the coronavirus disease (COVID-19) pandemic having prevented such a gathering of judges in the interim. Over the course of two and a half days, from 28 to 30 November, the judges of the Mechanism held a series of confidential, in-depth discussions on a number of issues.

25. A large part of the discussions focused on the future of the Mechanism. In that respect, the President considered it important to seek the views of the other judges on the outlook for the Mechanism's judicial functions and judicial roster. After some very fruitful interactions, it was decided at the plenary that a panel of judges should be established to assess the nature and duration of the Mechanism's remaining judicial functions, as well as whether and to what extent any of those functions could appropriately be transferred to other bodies and, if so, what kind of bodies might be suitable. Further detail on the terms of reference and activities of the Panel on Judicial Functions is provided in paragraphs 48 and 49 below.

26. At the plenary, the judges of the Mechanism also discussed a number of proposed amendments to rule 86 of the Rules of Procedure and Evidence and decided to revert the matter, including a counterproposal regarding the same rule, to the Rules Committee of the Mechanism for its further consideration. Having received a further report from the Rules Committee earlier in 2023, the judges subsequently engaged in active written discussions led by the President and, finally, a vote on the various amendments. Ultimately, no amendments to the Rules of Procedure and Evidence were adopted.

27. Separately, during the reporting period, Judge Gatti Santana assigned, on an alternating basis, Judges Masanche, Sekule and Joensen as duty judge at the Mechanism's Arusha branch. As previously reported, the assignment of 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

28. During the reporting period, the Mechanism continued to function as a single, unified institution, optimizing and harmonizing its activities at both branches. The cooperation with the United Republic of Tanzania and the Kingdom of the Netherlands remains excellent, and the Mechanism is grateful to both host States for their continued support and engagement in accordance with the respective headquarters agreements.

29. Regarding the Arusha branch, the United Nations Detention Facility was closed down during the reporting period, as planned. The Facility housed its final detainees, namely, detained witnesses who testified remotely in the *Kabuga* case, from October to December 2022. From 20 to 22 February 2023, the Facility held a training programme for senior Tanzanian correctional officers on the international standards of detention. On 23 February, the Mechanism and the host State held a formal handover ceremony to mark the closure of the Facility, which had been established in 1996 by the International Criminal Tribunal for Rwanda. On 28 February, the Facility ceased operations and was officially returned to the host State.

30. With regard to The Hague branch, it is recalled that the host State had previously encouraged the Mechanism to consider moving permanently to alternative premises, owing to the fact that the current building required substantial refurbishment. Accordingly, the effort to identify suitable alternative premises for the Mechanism is ongoing, with support from the host State. In line with current projected timelines, the host State would prepare the new facilities to enable the Mechanism to move sometime in 2026 or 2027.

31. Turning to the Mechanism's respective field offices, in Kigali, work centred on facilitating the testimony of witnesses in the *Kabuga* case. In addition, the office maintained regular operational exchanges with national authorities and liaised, as appropriate, with the independent monitor reporting to the President of the Mechanism, in accordance with article 6, paragraph 5, of the statute.

32. With respect to the Mechanism's field office in Sarajevo, preparations were made to finalize the closure of the office, which took effect on 1 April. In advance of said closure, all activities relating to the protection and support of witnesses in the region were transferred to The Hague branch as at 31 December 2022. In March 2023, the Registrar met in person with representatives of relevant government and non-governmental entities to inform them of the closure of the Sarajevo field office and announced new and direct lines of communication with staff at The Hague branch, to ensure ongoing cooperation and the fulfilment of the mandate of the Mechanism. Originally established in 1995 as a support facility for investigations and related activity, the Sarajevo field office benefited from the excellent support of the authorities of the host Government. The Mechanism wishes to thank the host Government in that regard and takes this opportunity to highly commend the many outstanding staff who served at the Sarajevo field office over the course of its operations.

E. Budget, staffing and administration

33. By its resolution [77/261](#) the General Assembly appropriated to the special account for the Mechanism a total amount of \$81,945,300 gross (\$74,951,200 net) for 2023. The Mechanism has implemented the decision of the General Assembly⁶

⁶ In its resolution [77/261](#), the General Assembly endorsed the recommendations of the Advisory Committee on Administrative and Budgetary Questions to that effect ([A/77/626](#)).

regarding a reduction of requested resources for travel of staff, supplies and materials, general operating expenses, improvement of premises, and grants and contributions and continues to actively limit its overall expenditures to those that are essential to fulfil its mandated functions. The Mechanism stands ready to continue supporting the trial proceedings in the *Kabuga* case, which commenced in late September 2022 in The Hague and are now suspended. Similarly, it expects to fully support other judicial activities in 2023 within its approved budgetary resources.

34. The details and breakdown of the Mechanism's expenditures in 2023, presented in terms of funds committed, are set forth in enclosure I.

35. The Mechanism is currently preparing its 2024 budget proposal. With the completion of the last core case related to the former Yugoslavia set for the end of May, the closure of the United Nations Detention Facility in Arusha on 28 February and the Sarajevo field office on 31 March, and plans to outsource various human resources, finance and procurement services, significant changes in the Mechanism's operational modalities are being considered. The continuation of the efforts to streamline cross-branch cooperation and cross-section collaboration in order to find more innovative and cost-efficient ways of working will be a vital element of the 2024 budget proposal.

36. Regarding staffing levels, following the downsizing of general temporary assistance as part of the implementation of the 2022 budget, 66 positions were abolished, with between 20 and 25 additional positions due to be abolished in the course of 2023. There was also a reduction in approved continuous posts between January and May 2023, resulting in a current total of 142 such posts.

37. As at 15 May, 140 of the 142 approved continuous posts were occupied to carry out the Mechanism's continuous functions. An additional 227 personnel served as general temporary assistance to address ad hoc needs, out of a total of 246 such positions, leaving 19 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.

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

39. The Mechanism's continuous and general temporary assistance positions include nationals of 66 States, namely: Algeria, Australia, Austria, Bahrain, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, China, Congo, Croatia, Cuba, Democratic Republic of the Congo, Denmark, Egypt, Fiji, Finland, France, Gambia, Germany, Ghana, Greece, Guatemala, Haiti, India, Indonesia, Iraq, Ireland, Italy, Jamaica, Japan, Kenya, Lebanon, Lesotho, Liberia, Madagascar, Malaysia, Nepal, Netherlands (Kingdom of), New Zealand, Niger, Nigeria, North Macedonia, Pakistan, Philippines, Poland, Republic of Korea, Russian Federation, Rwanda, Serbia, Sierra Leone, Slovakia, South Africa, Spain, Sudan, Sweden, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Zambia and Zimbabwe.

40. With respect to gender parity, the Mechanism continued to pursue the Secretary-General's gender parity goals and 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. However, the average percentage of female staff remains lower when General and Field Services staff are also taken into account, with a total of 39 per cent overall. Notwithstanding the constraints imposed by its nature as a downsizing institution, the Mechanism is determined to continue improving gender parity where possible.

41. In connection with the above, the Mechanism's focal points for gender continued to promote greater awareness of gender equality and parity issues, standards of conduct, flexible working arrangements and family-friendly policies at the Mechanism. Increased focus was placed on disseminating information among staff and non-staff personnel on avenues to address gender-based concerns, including sexual harassment. In that context, the President, the Prosecutor and the Registrar reaffirmed their unwavering commitment to upholding the United Nations policy of zero tolerance for sexual harassment. The Mechanism's focal points for protection from sexual exploitation and sexual abuse further implemented the Mechanism's action plan to prevent and respond to any situations involving such exploitation and abuse.

42. During the reporting period, the Mechanism remained committed to increasing support to all its focal points, in order to facilitate the fulfilment of their mandates. To that end, the Mechanism's focal points for gender, protection from sexual exploitation and sexual abuse, diversity, equity and inclusion, disability and accessibility issues, and conduct and discipline undertook further training in their respective areas and were again allotted eight hours per month of time, set aside from their normal duties, to dedicate to their focal point responsibilities.

43. In supporting the transition of staff members following the abolishment of posts, the Mechanism continued to facilitate the presence of a Stress Counsellor. While the Stress Counsellor is based at the Arusha branch, her services are available to staff members in all duty stations. To enhance personalized service delivery to staff members, official missions have been organized for the Stress Counsellor to visit The Hague branch and the Kigali field office.

44. As additional support to staff members subject to downsizing measures, an outreach programme has encouraged other United Nations agencies and programmes to prioritize former Mechanism staff in their recruitment processes, where appropriate. That effort has resulted in former staff members securing new employment opportunities with other entities, including the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, the United Nations Truce Supervision Organization, the United Nations Operation in Somalia and United Nations Headquarters in New York. More broadly, the Mechanism continues to support a transparent and fair downsizing process through the comparative review platform, while affected staff members are able to voice any concerns through internal mechanisms and the United Nations internal justice system.

III. Future planning

45. Over the past year, the Mechanism has focused extensively on the future of the institution and of its various mandated functions. This was triggered by the express requests of the Security Council contained in its resolution [2637 \(2022\)](#), as well as the imminent completion of the Mechanism's final core crime cases. As flagged above, the conclusion of those cases will represent a critical turning point in the nature of the institution and the Mechanism will thereafter finally be in a position to devote its full attention to matters following in-court proceedings. In that respect, the Mechanism will become the truly residual mechanism that it was originally intended to be. Against that backdrop, and led by the President in line with one of the key priorities of her presidency, the principals and senior management of the Mechanism engaged in intensive future planning processes during the reporting period.

46. While also dependent on its workload and operational requirements, the Mechanism's future planning is shaped largely by two sources: (a) resolution [2637 \(2022\)](#), in which the Security Council for the first time called upon the Mechanism to

provide options regarding the transfer of its remaining activities in due course and, *inter alia*, also requested completion timelines for all of the Mechanism's activities; and (b) the outstanding recommendations of OIOS in relation to scenario-based planning and strategic institutional thinking, following its previous evaluation of the methods and work of the Mechanism. The two sources are closely interconnected, given that they require the Mechanism to think ahead and to carefully assess and plan for the various directions that its operations might potentially take in the coming years. The Mechanism takes such matters very seriously and is endeavouring to make use of the vast experience across its organs to form the most appropriate policy for the future.

47. In addition to ongoing collaboration among the three principals, the work of the aforementioned Panel on Judicial Functions and cross-organ working group will be especially valuable as the Mechanism implements the requests of the Security Council and the recommendations of OIOS.

48. At the beginning of the reporting period, the future of the Mechanism featured prominently during discussions of the judges at the 2022 in-person plenary. In January 2023, following a call for expressions of interest, the President established the Panel on Judicial Functions to assess the nature and duration of the Mechanism's remaining judicial functions. Specifically, the Panel is tasked with: (a) identifying all the remaining judicial functions of the Mechanism; (b) assessing the likely duration of the remaining judicial functions; (c) examining whether, to what extent and when the remaining judicial functions could or should appropriately be transferred to other bodies in the future; (d) examining which other body or bodies might be able to undertake judicial functions in place of the Mechanism, if it is considered that such functions could or should appropriately be transferred; (e) in the light of the above considerations, examining what form the Mechanism itself might take in the future, including how many judges might be needed on the judicial roster of the Mechanism, as well as undertaking an assessment of how many staff members the Chambers Legal Support Section might require following the completion of in-court proceedings; and (f) presenting an assessment and making recommendations to the President on the basis of the above.

49. The Panel on Judicial Functions, chaired by Judge Vagn Prüsse Joensen, is composed of nine judges of the Mechanism and has been tasked with providing a report containing its assessment and recommendations by the end of June 2023. The work of the Panel will be extremely useful in informing the development of the Mechanism's plan for the future and the President looks forward to being able to brief the Informal Working Group on International Tribunals in that respect during her mission to United Nations Headquarters in December.

50. In addition to drawing on the experience within the Mechanism, the President has reached out to other residual courts and tribunals that have gone through the transition from an operational court to a residual body in order to benefit from their familiarity with pertinent issues. To that end, her team held informal exchanges with representatives of the Extraordinary Chambers in the Courts of Cambodia, the Residual Special Court for Sierra Leone and the Special Tribunal for Lebanon to discuss lessons learned in relation to the residual functions of those institutions. The topics discussed included structural challenges within a residual institution, continuous judicial functions following the completion of in-court proceedings, referrals or transfers of residual functions to other entities, challenges in relation to archiving and access management, witness protection realities in a residual institution, and the significance of continued assistance to national jurisdictions. In addition, meetings were held with United Nations Secretariat officials and with representatives of the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious

Crimes under International Law Committed in the Syrian Arab Republic since March 2011 to discuss long-term approaches to information management and preservation. Separately, with a view to distilling best practices and lessons learned in the enforcement of sentences, the President has been supportive of an independent thematic review on the Mechanism's "end-of-justice-cycle", which was commissioned by ICRC and is currently ongoing.

51. The above processes are already yielding valuable insights that will inform the Mechanism's policy for the future. Specifically, all options, including the possibility of transferring functions, are being examined by the cross-organ working group and the principals in mapping out how the Mechanism could operate following the completion of its core crime cases. This ties in seamlessly with the outstanding OIOS recommendations, the first of which was to develop scenario-based workforce plans to enhance responsiveness to a surge in workload.⁷ In December 2022, the President presented the Informal Working Group on International Tribunals with a road map to develop a Mechanism-wide scenario-based workforce plan. Since then, the Mechanism has made efforts to expand on that document. To that end, its cross-organ working group, which was previously set up to work on the Mechanism's scenario-based planning, including a concept note drafted in 2021, was revived earlier in 2023.

52. The cross-organ working group has held productive meetings, during which scenarios for the Mechanism's mandated functions were further elaborated. A preliminary draft plan, which was prepared by the Office of the President and builds on the aforementioned road map, has formed a basis for the group's discussions thus far. Bearing in mind resolution 2637 (2022), the discussions have also canvassed numerous possibilities regarding the transfer of the Mechanism's remaining activities in due course. The cross-organ working group will also take into account, as appropriate, the relevant findings and recommendations of the Panel on Judicial Functions.

53. The Mechanism recalls that the recommendation of OIOS regarding scenario-based workforce planning is closely connected to its second outstanding recommendation, relating to systematic thinking and a shared vision of institution-building.⁸ The development of the Mechanism's scenario-based workforce plan exemplifies collaboration and future planning on an institutional level and will prove invaluable as the Mechanism becomes a truly residual institution. Regular meetings of the Mechanism Coordination Council, together with more informal meetings and exchanges between the principals and senior management, also allow for discussion of matters affecting all organs, including the Mechanism's annual budget submission and its downsizing processes. The principals remain committed to holding meetings of the Coordination Council on a monthly basis whenever possible.

54. The Mechanism will continue its dedicated efforts in the above respects and is confident that they will bear fruit. In that regard, the Mechanism considers that the information being collated from multiple sources by the Panel on Judicial Functions, the cross-organ working group and the principals themselves through the Coordination Council will give rise to a plan for the future that presents the Security Council with the material necessary to take informed decisions. The Mechanism aims to provide the Council with a detailed scenario-based workforce plan, which includes potential options for the transfer of activities, in time for the review of the progress of the work of the Mechanism that will take place in 2024.

⁷ See S/2022/148, paras. 12–16; S/2020/236, para. 66; and S/2018/206, para. 43.

⁸ See S/2022/148, paras. 43–47; and S/2020/236, para. 66.

IV. Judicial activities

55. 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 activity which, in accordance with article 8, paragraph 3, of the statute, was primarily carried out remotely. Presently, the judges on the roster are supported by a Chambers Legal Support Section of 18 staff, comprising 15 legal officers and three administrative assistants, who serve at both branches of the Mechanism.

56. The President and judges issued a total of 128 decisions and orders during the reporting period. Of those, 76 (or approximately three in five) 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 Chambers – rather than to the adjudication of the core crimes incorporated in the statute.

57. 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 the judicial workload wherever arising.

A. Proceedings related to core crimes

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

Trial proceedings

59. In line with the projections contained in the Mechanism's progress report of May 2022, the trial in the *Kabuga* case commenced at The Hague branch on 29 September 2022 (see [S/2022/404](#), annex I, para. 45). To date, the Trial Chamber has heard 23 prosecution witnesses in court. Witnesses have appeared in The Hague and from Arusha and Kigali via videoconference. The evidence of 47 other prosecution witnesses was admitted at the start of the trial exclusively in written form. An additional 31 prosecution witnesses remain to be heard in court.

60. The evidentiary hearings are currently paused while the Trial Chamber considers the impact of a report filed on 6 March 2023, in which a panel of independent medical experts, comprising two forensic psychiatrists and a neurologist, opined that Félicien Kabuga's condition had significantly deteriorated since May 2022 and that he was suffering from dementia. Following that filing, the Trial Chamber temporarily suspended the presentation of the prosecution's evidence and the Trial Chamber and the parties examined each of the three members of the panel in hearings held on 15 to 17, 23 and 29 March 2023. The Trial Chamber heard the parties' oral submissions on that expert evidence on 30 March. On 25 April, the Trial Chamber ordered the parties to file submissions within 14 days and their responses, if any, within seven days concerning the consequences of a Trial Chamber decision that Mr. Kabuga is unfit for trial. A decision on the accused's fitness for trial is expected later in May, and it is anticipated that the decision will be appealed regardless of the outcome.

61. Following the untimely death of Judge Ibanda-Nahamya in January 2023, Judge Margaret M. deGuzman, previously reserve judge, assumed Judge Ibanda-Nahamya's

position on the bench. The President then assigned Judge Ivo Nelson de Caires Batista Rosa as the new reserve judge to account for any future unforeseen events. The Trial Chamber is currently composed of Judge Iain Bonomy, presiding, Judge Mustapha El Baaj, Judge deGuzman and Judge Rosa as reserve judge.

Appeal proceedings

62. In the *Stanišić and Simatović* case, the judges of the Appeals Chamber, with the assistance of the Chambers Legal Support Section, made tremendous progress in advancing the appeal proceedings towards their conclusion. The hearing of the appeals at The Hague branch, the deliberations by the judges and the scheduling of the appeal judgment have all taken place since the beginning of the year.

63. As set out previously, 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 Appeals Chamber seized of the case was reconstituted, with Judge Gatti Santana replacing Judge Carmel Agius as the pre-appeal and presiding judge. Since then, the bench has been composed of Judge Gatti Santana, presiding, Judge Lee G. Muthoga, Judge Aminatta Lois Runeni N’gum, Judge Yusuf Aksar and Judge Claudia Hofer. Judge Gatti Santana, in her capacity as pre-appeal judge, held status conferences on 22 September 2022 and 19 January 2023.

64. The hearing of the appeals was held in The Hague before the Appeals Chamber on 24 and 25 January 2023 as initially projected, notwithstanding circumstances that prevented Mr. Stanišić’s counsel from travelling to The Hague days before the hearing. To avoid delay, the Appeals Chamber, with the consent of Mr. Stanišić, exceptionally authorized his counsel to appear remotely and the Mechanism’s Judicial Records Unit established a secure videoconference link for that purpose. Following the hearing, the judges of the Appeals Chamber commenced their deliberations and the intensive preparation of the appeal judgment, which has now been scheduled to be pronounced on 31 May 2023. In the meantime, the next status conference in the case is scheduled for 17 May. Presently, all of the judges on the bench are carrying out their work remotely, with the exception of the President.

65. As set out above, the conclusion of the *Stanišić and Simatović* case has historic significance. Not only will the delivery of the appeal judgment mark the conclusion of all proceedings related to the core crimes brought before the International Tribunal for the Former Yugoslavia, but it will also settle a case that has been on the docket of that Tribunal, and later the Mechanism, for an extended period of time. The *Stanišić and Simatović* case was one of only three cases in the history of the ad hoc Tribunals and the Mechanism in which a retrial was ordered and the only retrial spanning two institutions.

Review proceedings

66. On 14 March 2023, Augustin Ngirabatware filed a request for review of his convictions for direct and public incitement to commit genocide and for instigating and aiding and abetting genocide. The Appeals Chamber seized of the request is composed of Judge Graciela Gatti Santana, presiding, Judge Joseph E. Chiondo Masanche, Judge Burton Hall, Judge Liu Daqun and Judge Aminatta Lois Runeni N’gum. 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. A review will take place only if the Appeals Chamber agrees that the new fact presented in Mr. Ngirabatware's request, if proved, could have been a decisive factor in reaching the original decision.

67. The Mechanism notes that its latent residual function concerning review proceedings is an ongoing judicial function that 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 requests for review are most likely to be submitted only by the convicted persons who are still serving their sentences in prison (see paras. 110–114).

Other proceedings related to core crimes

68. On 31 August 2022, the prosecution filed a request for the termination of the proceedings against fugitive Phénéas Munyarugarama on account of his death, which the prosecution had earlier confirmed on 18 May. 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 International Criminal Tribunal for Rwanda to the authorities of Rwanda, pursuant to rule 11 bis of the Rules of Procedure and Evidence of that Tribunal. In view of the referral, on 20 September 2022, a single judge invited submissions from the Government of Rwanda in response to the prosecution's request for the termination of the proceedings. Having examined the information presented by the prosecution regarding Mr. Munyarugarama's death and in view of the position of the Government of Rwanda that it had no credible evidence in its possession contradicting that information, on 16 December, the single judge terminated the proceedings with respect to Mr. Munyarugarama before the Mechanism.

B. Proceedings related to contempt or false testimony

69. Alongside the above-mentioned proceedings related to core crimes, the Mechanism was again 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 expediency.

70. The Mechanism deeply regrets that, once more, there have been no developments in the *Jojić and Radeta* case. Despite its obligations to arrest and surrender the accused persons, Serbia again failed to take any action during the reporting period in that regard. The Mechanism reiterates that all Member States, including Serbia, must abide by their obligations under Chapter VII of the Charter of the United Nations and are therefore expected to act in accordance with outstanding warrants against the two accused and to secure their arrest, detention and transfer to the custody of the Mechanism without delay.

71. In relation to a possible contempt matter that came to light during the trial in the case of *Prosecutor v. Anselme Nzabonimpa et al.*, on 25 October 2021, a single judge directed the Registrar to appoint an amicus curiae to investigate the matter and requested that a report be filed within 120 days of the appointment. Following the appointment of the amicus curiae on 30 November 2021, the single judge has

authorized six extensions of time, in view of the volume and nature of the material under consideration. The amicus curiae filed the report on his investigation on 13 March 2023. Pursuant to an order issued confidentially, the single judge is currently awaiting further information from the amicus curiae.

72. 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. The report was filed on 6 April 2023 and the matter is under consideration.

C. Judicial activity of the President

73. During the reporting period, the President issued a total of 34 decisions and orders. These included 11 decisions and orders relating to enforcement matters, as well as 16 orders relating to the assignment of judges. Of the latter, nine orders pertained to rule 86 of the Rules of Procedure and Evidence.

74. In the area of enforcement of sentences, the President issued one decision on an application for early release during the reporting period,⁹ as well as one decision relating to the conditions imposed on a convicted person who was released early in 2021.¹⁰ Both of the underlying applications were denied. In addition, the President issued three orders relating to the transfer of convicted persons to or from enforcement States.¹¹ The President is currently seized of eight pending applications for early release or commutation of sentence, as well as one application for transfer. Six of those applications were filed in 2023. The increased number of applications filed before the President during the reporting period demonstrates the consistently high workload that is generated by enforcement-related matters. Although it is difficult to predict with any certainty, such activity may be expected to remain at a similar level in the coming years, given that many convicted persons are approaching the completion of two thirds of their sentences, which is the eligibility threshold for consideration for early release or commutation of sentence before the Mechanism.¹²

75. With regard to the COVID-19 pandemic, in the first part of the reporting period, the President received pandemic-related updates on the situation of convicted persons in line with an order issued on 1 August 2022.¹³ However, given that the pandemic continued to abate, the President considered it appropriate to adjust the monitoring regime that had been set out previously. In an order issued on 1 February 2023, the

⁹ *Prosecutor v. Vujadin Popović*, Case No. MICT-15-85-ES.2, Decision on the Application for Early Release of Vujadin Popović, 30 January 2023.

¹⁰ *Prosecutor v. Sreten Lukić*, Case No. MICT-14-67-ES.4, Decision on the Notification regarding the Possible Travel of Sreten Lukić Outside Serbia, 19 April 2023.

¹¹ *Prosecutor v. Goran Jelisić*, Case No. MICT-14-63-ES, Order Designating the State in which Goran Jelisić is to Serve the Remainder of his Sentence, 3 March 2023; *Prosecutor v. Goran Jelisić*, Case No. MICT -14-63-ES, Order for the Transfer of Goran Jelisić to the United Nations Detention Unit on a Temporary Basis, 25 November 2022. In addition, the President issued one confidential order in relation to another convicted person.

¹² As an example, between the date of the present report and the end of 2024, six convicted persons will reach this threshold. This is in addition to the 13 convicted persons currently in enforcement States who have to date already served more than two thirds of their sentence.

¹³ See Case No. MICT-12-01-ES, Ninth Order for COVID-19 Updates from Enforcement States, 1 August 2022 (public redacted version).

President therefore requested instead that, until further notice, enforcement States promptly inform the Registrar should there be a COVID-19 case among the convicted persons or any other relevant change in circumstances warranting the urgent attention of the Mechanism.¹⁴ The President has since taken note of the announcement on 5 May by the Director-General of the World Health Organization that the pandemic no longer constitutes a public health emergency of international concern and is presently considering the impact of that on the monitoring regime.¹⁵

76. Lastly, the President issued five decisions and orders in relation to the situation of the acquitted and released persons relocated to the Niger.

D. Other continuous judicial activities

77. It is worth emphasizing that a number of the judicial activities detailed above reflect ongoing judicial functions of the Mechanism, namely: review proceedings, which concern core crimes; proceedings related to contempt or false testimony; and the President's exercise of her responsibilities in relation to assignment, enforcement and administrative review.

78. In addition to those activities, however, 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; and submissions seeking the reclassification of judicial filings for reasons of transparency or, conversely, reasons of security. In addition, there is the possibility of initiating declassification proceedings in accordance with rule 155 of the Rules. This list is not exhaustive, and experience shows that unforeseen issues that demand the Mechanism's attention can arise at any time, as illustrated by the situation of the acquitted and released persons set out below (see para. 81 and 106–119).

79. The Mechanism observes that the forthcoming assessment and recommendations of the Panel on Judicial Functions will shed more light on the scope and future of all of the above-mentioned continuous judicial activities.

80. In the reporting period, 18 orders and decisions were issued concerning applications for information on or the rescission, variation or augmentation of protective measures pursuant to rule 86.¹⁶ Of those, 11 were issued by single judges, 6 by the Appeals Chamber and 1 by the presiding judge of the Trial Chamber. 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.

81. Separately, in relation to the situation of the acquitted and released persons relocated to the Niger, and in addition to the five orders and decisions issued by the President (see para. 76), a single judge rendered four orders and decisions. That

¹⁴ See Case No. MICT-12-01-ES, Tenth Order in Relation to COVID-19 Updates from Enforcement States, 1 February 2023 (public redacted version).

¹⁵ See [www.who.int/news/item/05-05-2023-statement-on-the-fifteenth-meeting-of-the-international-health-regulations-\(2005\)-emergency-committee-regarding-the-coronavirus-disease-\(covid-19\)-pandemic](https://www.who.int/news/item/05-05-2023-statement-on-the-fifteenth-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-coronavirus-disease-(covid-19)-pandemic).

¹⁶ This total excludes the nine assignment orders issued by the President in relation to matters pertaining to rule 86, which are mentioned in paragraph 73.

litigation prompted two other persons who had been released by the Mechanism following the completion of their sentences to file requests before the Mechanism during the reporting period, resulting in the issuance of four orders and decisions by another single judge. Both persons have now appealed the decisions of the single judge.

V. Registry support for judicial activities

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

83. The Judicial Records Unit at both branches processed and disseminated 803 filings, including 202 Registry legal submissions, amounting to 6,774 pages. In The Hague, the Unit supported the status conference and the hearing of the appeals in the *Stanišić and Simatović* case, which were held on 19 January and on 24 and 25 January, respectively. In addition, staff from both branches provided coordinated support for the trial proceedings in the *Kabuga* case. The Arusha branch and the Kigali field office both hosted the testimony of witnesses by videoconference, requiring close cooperation and coordination from The Hague branch, where most of the court participants in the *Kabuga* case are situated. In March, with the prosecution participating from the Arusha branch, the Unit supported the hearing of expert witnesses and oral submissions in The Hague branch courtroom in relation to the accused's fitness to stand trial. A total of 28 court hearing days were serviced during the reporting period, all at The Hague branch. The Judicial Records Unit at both branches was instrumental in facilitating the smooth conduct of proceedings through efficient coordination with all relevant stakeholders and continuous liaison with the Chambers Legal Support Section and the parties.

84. Support for the judicial functions of the Mechanism will continue to be required after the pending cases have finished, albeit on a more limited scale. Moreover, in future, the Mechanism will be required to maintain support for a number of judicial activities that could involve in-court proceedings, including following the transfer of the accused in the *Jojić and Radeta* case to the Mechanism, the initiation of possible new review proceedings or contempt proceedings and any proceedings resulting from a potential revocation of cases referred to national jurisdictions, including those of the four fugitives expected to be tried by Rwanda.

85. During the reporting period, the Language Support Services at the two branches collectively translated approximately 11,500 pages; this included substantial translation requests relating to the *Kabuga* case. Across the branches, and largely in relation to the *Kabuga* case, the Language Support Services provided 220 conference interpreter days and produced approximately 2,300 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.

86. Significant 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 a review of their judgment.

87. Regarding the translation of judgments into French, the Language Support Services in The Hague completed the translation of two appeal judgments of the International Criminal Tribunal for Rwanda and two appeal judgments of the International Tribunal for the Former Yugoslavia. No judgments of the International Criminal Tribunal for Rwanda remain to be translated into French. The translation

from English into French of nine judgments, namely, six of the International Tribunal for the Former Yugoslavia and three of the Mechanism, remains to be completed. As for the translation of judgments into Bosnian-Croatian-Serbian, the translation of the Mechanism's trial judgment in the *Stanišić and Simatović* case was concluded during the reporting period. No judgments are currently pending translation into Bosnian-Croatian-Serbian. The Language Support Services in Arusha completed the translation into Kinyarwanda of four appeal judgments of the International Criminal Tribunal for Rwanda and one appeal judgment rendered in Rwanda in the *Ntaganzwa* case, which is a referred case being monitored by the Mechanism (see paras. 140–145). Twenty appeal judgments of the International Criminal Tribunal for Rwanda remain to be translated into Kinyarwanda, three of which are near completion. The translation of judgments into French and Kinyarwanda may be affected by the demands of the trial proceedings in the *Kabuga* case.

88. As at 1 January, the Office for Legal Aid and Defence Matters no longer operates as a stand-alone entity and is operating from within the Office of the Registrar at The Hague branch. Nonetheless, the customary provision of financial and other assistance has been maintained, and an average of 64 defence and amicus curiae teams comprising approximately 90 team members are currently involved in both remunerated and pro bono services. The staff processed some 95 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 55 admitted counsel, while the number of prosecutors and investigators eligible for assignment as amici curiae has increased to 57.

VI. Victims and witnesses

89. 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 3,200 witnesses were benefiting from judicial and/or non-judicial protective measures.

90. 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.

91. In the *Kabuga* case, the Witness Support and Protection Units successfully facilitated the videoconference testimony of 12 witnesses from the Arusha branch and five witnesses from the field office in Kigali, as well as the viva voce testimony of three experts at The Hague branch regarding Mr. Kabuga's fitness to stand trial. This required a collaborative approach across both branches and the Kigali field office in order to identify resource and logistical requirements in anticipation of various modalities and locations for witness testimony in the case.

92. Witnesses residing in Rwanda continued to receive essential medical, nutritional and psychosocial services from the medical clinic located at the Kigali field office. In addition, the Witness Support and Protection Unit at both branches continued to address issues arising for witnesses requesting, and afforded, extrajudicial protective measures such as relocation.

93. The Witness Support and Protection Unit also continued to facilitate applications from national jurisdictions for the variation of protective measures, pursuant to rule 86 of the Rules of Procedure and Evidence, and implemented seven judicial orders involving nine witnesses. In addition, at The Hague branch, the Unit

provided witness-related assessments in relation to six requests by convicted persons for early release.

94. Unless the Security Council decides otherwise, the mandated operations of the Mechanism in the above regard will 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, pursuant to rule 86 of the Rules of Procedure and Evidence. In relation to relocated witnesses, the provision of support may be required until the last member of the immediate family is deceased. In the meantime, the Mechanism recalls paragraph 11 of resolution 2637 (2022), in which the Security Council called upon it to provide options regarding the transfer of its remaining activities in due course. The Mechanism also notes that rule 155 of the Rules of Procedure and Evidence may be of relevance in the context of witness protection and is currently being examined by the Panel on Judicial Functions. In providing a procedure for the declassification of confidential documents, rule 155 also allows for the potential review of whether protective measures can be lifted.

VII. Fugitives

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

96. As mentioned in paragraph 68 above, on 16 December 2022, a single judge terminated the proceedings before the Mechanism with respect to fugitive Phénéas Munyarugarama on account of his death. Mr. Munyarugarama's case had been referred to Rwanda by the International Criminal Tribunal for Rwanda and was expected to be tried there.

97. 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 surrender continue to be a top priority for the Mechanism.

98. The Mechanism will be required to maintain trial readiness to support any judicial activity resulting from a potential revocation of the referral of the above-mentioned cases. Separately, assuming that the referred cases proceed in Rwanda, the Mechanism will be required to monitor their progress in line with its responsibility under article 6, paragraph 5, of the statute.

VIII. Detention facilities

99. The United Nations Detention Facility in Arusha and the United Nations Detention Unit in The Hague have traditionally provided custodial capacity to persons detained by the Mechanism who are awaiting trial, appeal or other judicial proceedings before the Mechanism, as well as persons who are otherwise detained on the authority of the Mechanism, such as convicted persons awaiting transfer to an enforcement State.

100. During the reporting period, the United Nations Detention Facility housed 10 detained witnesses from Rwanda, in connection with the *Kabuga* case. Upon completion of the hearing of the testimonies of all detained witnesses in December 2022 and their subsequent return to Rwanda, where they are currently serving their sentences, the Mechanism formally returned the Facility to the host State on

28 February 2023. In the event that the Mechanism should require detention capacity at the Arusha branch in the future, appropriate arrangements will be made in consultation with the host State.

101. The United Nations Detention Unit currently houses four detainees. Mr. Kabuga remains detained at the Unit in The Hague, in line with the Trial Chamber's decision of 13 June 2022. Jovica Stanišić and Franko Simatović are detained pending the forthcoming judgment on their respective appeals. One convicted person, Ratko Mladić, is awaiting transfer to a State for the enforcement of his sentence. Following the President's order of 25 November 2022, Goran Jelisić was returned temporarily to the Unit from Italy, where he had been serving his sentence.¹⁷ However, as a result of the Mechanism's efforts, Mr. Jelisić was successfully transferred to a new enforcement State in April 2023.¹⁸ Regrettably, it is anticipated that another convicted person will be returned to the Unit in the near future, owing to the inability of the relevant enforcement State to continue enforcing the sentence.

102. The United Nations Detention Unit will continue to be required for the duration of the judicial proceedings in the *Kabuga* case. Moreover, the Unit will be required until all of the above-mentioned detained persons are acquitted, released or transferred to enforcement States. In the meantime, the Mechanism is in the process of exploring suitable alternatives for any future detention needs that it may have, in the light of paragraph 11 of resolution [2637 \(2022\)](#).

103. Pursuant to the applicable regulatory framework, the detention facilities are regularly inspected by ICRC to ensure that the Mechanism's rules of detention¹⁹ are properly applied and that the facilities operate in accordance with international standards. Following the closure of the United Nations Detention Facility in Arusha as at 28 February, the Mechanism duly notified ICRC that its inspection of said Facility would no longer be required.

104. All the restrictions applicable to the United Nations Detention Unit in the context of the COVID-19 pandemic have been lifted, in the light of the low level of hospitalizations in the community. Nevertheless, relevant safety measures remain widely applied in line with the recommendation of the medical officers of the Unit.

105. 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 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,²⁰ regular status conferences²¹ and the aforementioned ICRC inspections.

¹⁷ *Prosecutor v. Goran Jelisić*, Case No. MICT-14-63-ES, Order for the Transfer of Goran Jelisić to the United Nations Detention Unit on a Temporary Basis, 25 November 2022.

¹⁸ *Prosecutor v. Goran Jelisić*, Case No. MICT-14-63-ES, Order Designating the State in which Goran Jelisić is to Serve the Remainder of his Sentence, 3 March 2023.

¹⁹ 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.

²⁰ MICT/25, 5 December 2018. See also International Residual Mechanism for Criminal Tribunals, Rules of Detention, rules 91–97; 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.

²¹ See Rules of Procedure and Evidence, rule 69.

IX. Enforcement of sentences

106. Pursuant to article 25 of the statute, the Mechanism continues to supervise the enforcement of sentences pronounced by the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda or the Mechanism.

107. The Mechanism relies heavily on the cooperation of States for the enforcement of sentences. Sentences are served within the territory of Member States that have concluded enforcement of sentence agreements or indicated their willingness to accept convicted persons under any other arrangement. The enforcement of sentence agreements concluded by the United Nations for the ad hoc Tribunals continues to apply to the Mechanism *mutatis mutandis* unless superseded by subsequent agreements.

108. 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 the decision in accordance with article 25 of the statute, rule 127 of the Rules of Procedure and Evidence and the relevant practice direction,²² on the basis of information provided by the Registrar and any other enquiries the President chooses to make. While there is no prescribed time limit for the designation of an enforcement State, rule 127 (B) of the Rules of Procedure and Evidence provides that the transfer of the convicted person to an enforcement State shall be effected as soon as possible.

109. Within the Mechanism's supervisory responsibility, and in accordance with article 26 of the statute, the President has the authority to decide on requests for pardon or commutation of sentence 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 early release of convicted persons, the Rules of Procedure and Evidence reflect the President's powers when receiving such requests and the long-standing practice of the ad hoc Tribunals and the Mechanism in that respect.

110. 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.²³

111. 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 different enforcement states: Benin (17), Mali (2) and Senegal (8).

112. 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 different States: Austria (1), Belgium (1), Estonia (3), Finland (2), France (1), Germany (4), Norway (1), Poland (3), Sweden (1) and the United Kingdom of Great Britain and Northern Ireland (2).

113. As reported in paragraph 101 above, there is currently one convicted person at the United Nations Detention Unit awaiting transfer to an enforcement State. The designation of an enforcement State for that person, whose appeal judgment was delivered almost two years ago, remains a top priority for the Mechanism and it is

²² 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.

²³ 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.

actively involved in negotiations with potential receiving States. Another convicted person, who was returned to the Unit on a temporary basis during the reporting period, was transferred to Belgium in April 2023.

114. 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.²⁴ In a recent decision relating to one such convicted person, the President denied a request for that person to be able to travel outside his country of residence.²⁵

115. The conditions of imprisonment in the enforcement States must be compatible with international standards of detention.²⁶ During the reporting period, ICRC and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment continued to serve as independent inspecting bodies and regularly monitored the conditions of imprisonment to ensure that international standards were being met. The recommendations of these inspecting bodies are considered and addressed by the Mechanism, in coordination with national authorities and the United Nations Development Programme.

116. As the COVID-19 pandemic decreased in severity during the reporting cycle, leading to the lifting of many prevention measures in enforcement States, alongside the inclusion of convicted persons in related vaccination programmes, the Mechanism adjusted the applicable monitoring regime. Pursuant to the President's order of 1 February, until further notice, enforcement States are requested to promptly inform the Registrar should there be a COVID-19 case among the convicted persons or any relevant change in circumstances warranting the urgent attention of the Mechanism. As mentioned above, however, the President is currently re-examining the need for this monitoring regime in the light of the recent statement by the Director-General of the World Health Organization (see para. 75).

117. The Mechanism wishes to wholeheartedly thank and commend each of the 13 States listed above, and in particular Belgium, which accepted during the reporting period to enforce the remainder of Goran Jelisić's sentence. This is the third time that Belgium has agreed to enforce the sentence of a person convicted by the International Tribunal for the Former Yugoslavia, and the Mechanism is extremely grateful. By volunteering to take on the substantial responsibilities of sentence enforcement, these States have demonstrated their commitment not only to the mission of the Mechanism, but to the broader cause of international criminal justice. Without their ongoing support and cooperation, the Mechanism would not be able to fulfil its responsibilities in relation to this critical mandated function.

118. As flagged above, however, the Mechanism is currently facing serious challenges in the area of enforcement. In recent times, a number of convicted persons have been returned to the United Nations Detention Unit by States that are unable to continue enforcing their sentences, whether because of limitations within domestic legislation or for other reasons. It has become apparent that this difficulty will likely

²⁴ *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; *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.

²⁵ *Prosecutor v. Sreten Lukić*, Case No. MICT-14-67-ES.4, Decision on the Notification regarding the Possible Travel of Sreten Lukić Outside Serbia, 19 April 2023.

²⁶ These include the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

continue in the coming years, thereby straining the Mechanism's resources and creating additional burdens for the host State. Given that the Unit was never intended to house returned convicted persons in such a manner, the Mechanism will undoubtedly require further support from States in order to overcome this impediment. Otherwise, its enforcement responsibilities risk becoming long-term detention problems. The Mechanism again strongly urges other States to come forward and share the burden of enforcing the sentences of persons convicted by the ad hoc Tribunals or the Mechanism.

119. The enforcement of sentences remains one of the key mandated functions of the Mechanism. This long-term residual activity will require support until the last prison sentence has been served. In that respect, the Mechanism notes that 17 convicted persons are currently serving life sentences, while 15 will complete their sentences between 2030 and 2040 and another 8 after 2040. This projection is presented bearing in mind two important provisions. The first is rule 128 of the Rules of Procedure and Evidence, which provides that all sentences shall be supervised by the Mechanism during the period of its functioning and that the Security Council may designate another body to supervise the enforcement of sentences after the Mechanism ceases to exist. The second is paragraph 11 of resolution [2637 \(2022\)](#), in accordance with which the Mechanism is currently examining possibilities for the transfer of its enforcement functions, including through the work of the Panel on Judicial Functions.

X. Relocation of acquitted and released persons

120. The Mechanism regrets to report that 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 dated 15 November 2021 (Relocation Agreement), still remains unresolved. This is despite the ongoing and extensive efforts undertaken during the reporting period by the Mechanism and others.

121. The Mechanism emphasizes once again that the relocated persons are to be regarded as free men who were either acquitted by the International Criminal Tribunal for Rwanda or released after serving their sentences. Regrettably, they continue to live under de facto house arrest in the Niger and without identification documents. Not only does this situation adversely affect the rights of the relocated persons in a most serious manner, it continues to affect the Mechanism's workload and budgetary expenditure within both the Registry and the Chambers (see paras. 76 and 81).

122. During the reporting period, the Registry maintained regular contact with United Nations representatives in the Niger in order to keep apprised of the matter. In addition, the Registry continued to engage in diplomatic efforts with a view to finding a viable and durable solution, in the event that efforts to encourage the Niger to abide by the terms of the Relocation Agreement remained unfruitful. Those efforts were crystalized in an operational plan set out by the Registry for the year 2023, with a continued focus on identifying additional potential relocation States that may be willing to welcome the relocated persons on their territory, while at the same time engaging in a more individualized approach in relation to States with whom the relocated persons have familial ties. The plan is currently being implemented in close collaboration with the relocated persons, as well as their family members and respective pro bono Counsel.

123. Following an instruction by a single judge of the Mechanism in January 2023, the Registrar proceeded to initiate the payment of an additional \$10,000 to each relocated person, a process which, owing to unforeseeable obstacles outside the Mechanism's control, has yet to be completed. Furthermore, the relocated persons

continue to receive the necessary medical care, with the logistical and financial assistance of ICRC in the Niger, and the Mechanism is currently exploring other options for additional support and funding, as further instructed by the single judge.

124. While the Registrar continued to lead the Mechanism's efforts to resolve the plight of the relocated persons, the President considered it appropriate to make them aware of such efforts and keep them informed of all developments to the maximum extent possible. To that end, the President established a formal reporting regime. By an order issued on 19 December 2022, the President instructed the Registrar to, inter alia, file an overview of the steps taken by him to date, as well as regular reports on his efforts to find a solution in line with the Mechanism's duty of care towards the relocated persons. In the order, the President specifically referenced paragraphs 4 and 5 of resolution 2637 (2022), wherein the Security Council emphasized the importance of finding expeditious and durable solutions, including as part of a reconciliation process, and noted that decisions on the relocation of persons should take into account, inter alia, the readiness of the State of origin to accept its nationals, the consent or any objections raised by the individuals to be relocated and the availability of other relocation States.

125. Finding the status quo unacceptable, the President also continued to raise the matter in her bilateral meetings with various States and other stakeholders, in order to increase awareness of the relevant issues and garner potential support. The Mechanism emphasizes in that respect that it will require the support of Member States to satisfactorily resolve this predicament and refers to the Security Council's call to all States for related cooperation and assistance in resolution 2637 (2022). In the meantime, the Mechanism again respectfully requests the support of the Council in impressing upon the Niger the need to comply fully with its obligations under the Relocation Agreement. The Mechanism welcomes any further support that the Council deems appropriate under the present circumstances.

XI. Cooperation of states

126. 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.

127. It bears repeating that the Mechanism depends heavily upon the cooperation of States to fulfil many of its mandated functions. In addition, as discussed immediately above, such cooperation will be pivotal in finding a durable solution to the protracted situation of the relocated persons in the Niger.

128. Regarding the four remaining fugitives indicted by the International Criminal Tribunal for Rwanda, the full support and cooperation of all Member States remains crucial to ensuring that they are finally brought to justice. In that context, 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.

129. Similarly, in relation to the *Jojić and Radeta* case, the Mechanism emphasizes that it will be unable to bring the accused persons to justice unless Serbia fulfils its obligations and other States do their utmost to ensure that the outstanding arrest warrants and orders of surrender are executed as soon as possible. As previously

reported, 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. The Mechanism notes with appreciation the position taken by certain States and entities in relation to proceedings against the two accused persons and hopes that others may take similar steps.²⁷ The Mechanism takes this opportunity to remind all States to honour their responsibilities under Chapter VII of the Charter of the United Nations.

130. Regarding the enforcement of sentences, the Mechanism again expresses profound gratitude for the support provided by its 13 enforcement States (see paras. 110–112 and 117). It underscores, however, that additional support will be required to ensure that enforcement States can be found for all convicted persons, including those currently awaiting transfer at the United Nations Detention Unit and those who may be returned to the Unit in the future. In that respect, the Mechanism recalls that in resolution 2637 (2022), 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.

131. Turning to the Mechanism’s relationship with the States most directly affected by its work, during the reporting period, 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).

132. 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, discussions continued regarding the establishment of an information centre on the International Tribunal for the Former Yugoslavia in Zagreb. In addition, the Mechanism once again raised with the Serbian authorities the possibility of setting up a similar facility in Belgrade. The Mechanism hopes to be able to indicate progress on those fronts in its next report and remains committed to facilitating the establishment of similar centres with other stakeholders in the region of the former Yugoslavia. The Mechanism considers that increasing access to the public records of the ad hoc Tribunals and the Mechanism, in addition to enhancing cooperation with affected States more generally, would assist greatly in countering the phenomena of genocide denial, historical revisionism and glorification of convicted war criminals, which continue to gain momentum.

133. The Mechanism, together with the European Union, continued its Information Programme for Affected Communities.²⁸ During the reporting period, 150 secondary school history teachers participated in five workshops organized by the Mechanism on using the archives of the International Tribunal for the Former Yugoslavia and the Mechanism. Building on those workshops, on 12 May, the Programme launched, in cooperation with the European Association of History Educators and representatives of teachers’ associations from across the former Yugoslavia, the “Guide for History Teachers: How to Use Archival Material of the ICTY and Mechanism in Teaching the History of the 1990s Conflicts”. The Mechanism considers that such educational initiatives can also play a crucial part in strengthening the fight against the

²⁷ See, for example, European Commission, Serbia 2022 report, p. 26, available at <https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-10/Serbia%20Report%202022.pdf>; and www.state.gov/designation-of-former-representatives-of-the-national-assembly-of-serbia-verica-radeta-and-petar-jojic-for-involvement-in-significant-corruption/.

²⁸ See www.irmct.org/en/mip for further information.

aforementioned forces of denial, revisionism and glorification, which currently threaten peace and stability in the region.

134. 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 cycle concluded in March 2023, following lectures by Mechanism officials from all organs, members of the Association of Defence Counsel practising Before the International Courts and Tribunals, former staff members of the International Tribunal for the Former Yugoslavia and experts from other United Nations bodies. The network of participating universities has further expanded, with postgraduate law students from 13 faculties across the former Yugoslavia now following the lecture series. The Mechanism also contributed to 15 lectures on the legacy of the International Tribunal for the Former Yugoslavia 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 International Tribunal for the Former Yugoslavia, in the official curricula of several countries in the former Yugoslavia.

135. 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 more than 5,000,000 people since January 2019. The Mechanism wishes to once again extend its sincere gratitude to the European Union and its member States for their ongoing and generous support.

XII. Assistance to national jurisdictions

136. 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.

137. During the reporting period, the Registry processed 22 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 conflicts in the former Yugoslavia.²⁹ The Registry provided 675 documents during the reporting period, which represents an increase in the number of requests received compared with the previous reporting period.

138. The Mechanism also continued to receive and consider numerous requests for the variation of protective measures granted to witnesses who testified in cases before the ad hoc Tribunals or the Mechanism, pursuant to rule 86 of the Rules of Procedure and Evidence. The handling of requests for assistance pursuant to the rule continued to require daily support from the Judicial Records Unit at both branches.

139. 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 conflicts in the former Yugoslavia. The Mechanism is currently examining possibilities for the transfer of its functions in that regard, in accordance with paragraph 11 of resolution [2637 \(2022\)](#).

²⁹ Comprehensive information and guidance regarding the submission of requests for assistance is available at www.irmct.org/en/documents/requests-assistance.

XIII. Cases referred to national jurisdictions

140. 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.

141. During the reporting period, the Mechanism monitored two referral cases, namely, the *Ntaganzwa* case, referred to Rwanda and monitored with pro bono assistance from the Kenyan Section of the International Commission of Jurists, and the case against Laurent Bucyibaruta (*Bucyibaruta* case), referred to France and monitored by a Mechanism-appointed staff member.

142. The appeal judgment in the *Ntaganzwa* case was delivered on 3 March by the Court of Appeal of Rwanda, with a written judgment issued on 28 March. The Court of Appeal confirmed the trial judgment of 28 May 2020. On 31 March, Mr. Ntaganzwa filed a notice to review his appeal judgment before the Supreme Court of Rwanda. Following the issuance of the appeal judgment, and dependent on any review proceedings that may arise, it is anticipated that the Mechanism's monitoring responsibilities in relation to the *Ntaganzwa* case will be significantly reduced going forward.

143. As the existing proceedings in Rwanda come to a close, the Mechanism takes the opportunity to thank the Kenyan Section of the International Commission of Jurists for its assistance over the years in monitoring the three cases of apprehended individuals that were referred to Rwanda.³⁰

144. The *Bucyibaruta* case remains in the appellate phase and it is expected that the appeal will not take place before the second half of 2024. The Mechanism continues to diligently monitor all developments regarding the appellate phase of the case.

145. As set out above, the Mechanism's monitoring activities with respect to ongoing cases in national jurisdictions were further reduced during the reporting period. While its mandated monitoring function continues to wind down in respect of the ongoing cases, the Mechanism will nonetheless be required to monitor the proceedings in relation to any of the four remaining fugitives indicted by the International Criminal Tribunal for Rwanda whose cases were referred to Rwanda pursuant to rule 11 bis of the Rules of Procedure and Evidence of that Tribunal in the event that they are arrested.

XIV. Archives and records

146. 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 and indictments, court proceedings, the protection of witnesses, the detention of accused persons and the enforcement of sentences. In addition, they include documents from States, law enforcement authorities, international and non-governmental organizations and other stakeholders.

³⁰ In addition to the *Ntaganzwa* case, as previously reported, the Mechanism also monitored the cases against Jean Uwinkindi and Bernard Munyagishari, which were referred to Rwanda by the International Criminal Tribunal for Rwanda.

147. 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.

148. The preservation of digital records from the ad hoc Tribunals was ongoing during the reporting period. Following expert preparation and packaging, a total of 2.45 terabytes of digital records comprising 27,169 files were ingested. In addition, 67.56 terabytes (55,947 files) comprising large audiovisual file formats were prepared and packaged for ingest. These included recordings of judicial proceedings of the International Criminal Tribunal for Rwanda and 16 outreach-related video productions. Owing to persistent technical issues, the rate of ingest continues to be modest. Thus far, 13.37 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, continues to strive to retain institutional capacity and capability for digital preservation and to enhance the resilience of the digital repository.

149. In relation to the audiovisual records, 8 per cent of the analogue audiovisual recordings of the International Tribunal for the Former Yugoslavia are yet to be digitized, while 85 per cent of digitized recordings need to be quality checked and redacted. In the reporting period, the assessment of physical audiovisual recordings for their preservation needs and digitization of analogue tapes was suspended to prioritize the preservation of recordings on optical discs, which were considered to be at higher risk of loss. In that regard, 80 audiovisual exhibits from four cases before the International Tribunal for the Former Yugoslavia and 524 recordings from the *Mladić* case were migrated from optical discs and prepared for preservation in the digital preservation system. With respect to the audiovisual records of the International Criminal Tribunal for Rwanda, while approximately 54 per cent remain to be redacted, 781 audio recordings (approximately 615 hours) of judicial proceedings before that Tribunal were digitized and prepared for preservation in the digital preservation system. In addition, the redaction and delivery of audiovisual recordings to support ongoing proceedings in the *Kabuga* case continued to be prioritized.

150. Over 367,577 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, these public records were accessed by 18,316 users. Separately, the Mechanism Archives and Records Section received and responded to 61 requests for access to records under the access policy for the records held by the Mechanism. In addition, 276 visitors, comprising 256 in Arusha and 20 in The Hague, were welcomed and given briefings about the archives. The visitors included students and academics from various universities and institutions, as well as staff from other United Nations offices, law firms, consulates and non-governmental organizations.

151. The work on developing a publicly accessible catalogue containing descriptions of the archives, prepared in accordance with international standards, has been suspended since January owing to the downsizing of the staff in the Mechanism Archives and Records Section who were responsible for that area of activity. Earlier in the reporting period, however, and prior to the suspension of that work, 786 new catalogue entries were created and 41 physical files were removed from unsuitable enclosures and rehoused in archival packaging suitable for long-term preservation. While efforts on the catalogue are expected to resume in the next reporting period, work on producing catalogue entries for the archives and packing physical archives

for long-term preservation will need to be renewed when resources permit. Along with other long-term archiving activities, such work cannot be completed until all the archives of the ad hoc Tribunals and the Mechanism have been transferred to the Mechanism Archives and Records Section or its successor and will need to continue unless a decision is taken by the Security Council to transfer the Mechanism's archiving functions to another body.

XV. External relations

152. During the reporting period, the External Relations Office continued to facilitate public access to court proceedings in both the *Kabuga* case and the *Stanišić and Simatović* case.

153. Regarding the trial proceedings in the *Kabuga* case, at The Hague branch, the public gallery of the courtroom accommodated members of the media and 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 public hearings were also streamed on the Mechanism website. The External Relations Office coordinated the release and transmission of the official audiovisual recordings from the *Kabuga* case to international and regional media outlets.

154. With respect to the *Stanišić and Simatović* case, the External Relations Office coordinated public access for more than 120 visitors to the hearing of the appeals, which took place on 24 and 25 January, and coordinated similar access for status conferences. Following the scheduling of the appeal judgment for 31 May at The Hague branch, the Office is preparing for the attendance on that day of members of the media and the diplomatic corps and victims' representatives, among others.

155. On-site group visits continued to increase during the reporting period. The Arusha branch welcomed more than 200 visitors from 13 different groups, including the Center for Strategic Litigation (United Republic of Tanzania), the East Africa Law Society (United Republic of Tanzania), the Global Initiative for Justice, Truth and Reconciliation (United States of America) and the International Commission of Jurists (Kenya), in addition to several universities and individuals. The Arusha branch is also a destination for law students and has hosted many who come to the Mechanism on study visits.

156. The Hague branch received more than 900 visitors from over 35 visitor groups, including the Asser Institute (Kingdom of the Netherlands), the École nationale de la magistrature and the Fédération pour l'étude du droit international (France), the European Union Rule of Law Mission in Kosovo, The Hague Academy for International Law (Kingdom of the Netherlands), the United Nations Institute for Training and Research and the United States International University–Africa (Kenya), with the majority of the other groups being from universities and educational institutions in Europe and North America.

157. The External Relations Office also coordinated several internal and external events, such as a diplomatic briefing in The Hague, while serving as the focal point for several aspects of the closing ceremony for the United Nations Detention Facility in Arusha. In addition, the Office organized long-service award ceremonies for staff, a town hall meeting at the Arusha branch and information sessions at both branches.

158. The Mechanism also continued its social media campaigns to mark various international days designated by the United Nations. During the reporting period, the Mechanism marked the following days: International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and of the Prevention of this Crime

(9 December); Human Rights Day (10 December); the anniversary of the establishment of the Mechanism (22 December); and International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims (24 March). In addition, the Mechanism conducted a campaign to mark the International Day of Reflection of the 1994 Genocide against the Tutsi in Rwanda. It is currently working on its campaign to mark the thirtieth anniversary of the establishment of the International Tribunal for the Former Yugoslavia.

159. During the reporting period, the Mechanism website received almost 200,000 visits, accounting for more than 400,000 page views.

XVI. Reports of the Office of Internal Oversight Services

160. Following on from the OIOS evaluation exercise of 2022 (see [S/2022/148](#)), earlier in 2023, OIOS commenced its new evaluation of the methods and work of the Mechanism. The exercise will culminate in the delivery of an evaluation report by OIOS in early 2024 and will feed into the next biennial review of the Mechanism by the Security Council. With a large number of documents having already been provided, the Mechanism's principals and senior managers were pleased to meet with representatives of OIOS during its scoping mission to the Mechanism in April 2023 and to discuss the current priorities of the institution. The Mechanism looks forward to further fruitful exchanges with the evaluation team over the coming months.

161. In the meantime, as detailed above (see paras. 16, 18 and 45–54), the Mechanism continued to work towards full implementation of the two outstanding recommendations from previous OIOS evaluation exercises, in respect of which OIOS noted in 2022 that significant efforts and progress had been made.

162. In addition to the evaluation process that is under way, the Mechanism continues to benefit from regular audits by OIOS. The audit of the Mechanism's downsizing, which covered the period from July 2020 to January 2023, was concluded in April. OIOS found, inter alia, that the downsizing policy had been satisfactorily implemented but could be updated to include new developments, that information-sharing with staff and staff representatives was adequate and that training and assistance to staff to identify career opportunities had been provided. The Mechanism accepted two recommendations, namely: (a) to have the Joint Negotiating Committee (i.e., a council composed of Mechanism staff and management) meet with more regularity and to review the downsizing policy in the light of further policy developments; and (b) to ensure that staff performance documents were completed for all staff and that assessments of "exceeds performance expectations" were adequately justified.

XVII. Conclusion

163. Since commencing operations at its Arusha and Hague branches in 2012 and 2013, respectively, the Mechanism has assumed jurisdiction for two core crime cases inherited from the International Criminal Tribunal for Rwanda³¹ and four such cases from the International Tribunal for the Former Yugoslavia.³² The Mechanism has also

³¹ Appeal proceedings in *Prosecutor v. Augustin Ngirabatware* and trial proceedings in the *Kabuga* case.

³² *Stanišić and Simatović* case, which has involved both retrial and appeal proceedings before the Mechanism, and appeal proceedings in *Prosecutor v. Vojislav Šešelj*, *Prosecutor v. Radovan Karadžić* and the *Mladić* case.

been seized with one review proceeding relating to core crimes.³³ In addition, it has carried out its numerous other mandated functions, including the tracking of fugitives of the International Criminal Tribunal for Rwanda, the number of which has been reduced from nine to four since 2012, and the monitoring of referred cases, which have been reduced to only two. Seen in that light, it is apparent that, throughout, the Mechanism's workload has been that of a fully operational court rather than a truly residual institution.

164. Today, however, as a result of the extraordinary dedication of the Mechanism's judges and staff over many years, the situation is finally changing. The appeal judgment in the *Stanišić and Simatović* case is scheduled to be pronounced at the end of May, signifying the conclusion of the last core crime proceedings arising out of the conflicts in the former Yugoslavia. With only the *Kabuga* case remaining after that, the Mechanism is poised to enter the next phase of its operations, one in which the reality of its daily responsibilities will be more closely aligned with its name and intended nature.

165. The Mechanism approaches this upcoming transition with a sense of satisfaction and pride in relation to the progress made, as well as deep gratitude to all those who have contributed to its mission thus far. In the coming weeks, it will mark the milestone anniversaries of the establishment of the International Tribunal for the Former Yugoslavia, on 25 May, and the commencement of operations at the Mechanism's Hague branch, on 1 July, in the same spirit.

166. At the same time, the Mechanism remains mindful of the imperative to ensure that its drawdown to a truly residual institution is carefully planned and efficiently managed. As the present report demonstrates, the Mechanism takes this process extremely seriously. Its principals and senior management are committed to working collaboratively in developing a comprehensive strategy for the future and preparing for possible scenarios for each of the Mechanism's mandated functions. The Mechanism considers that the current evaluation by OIOS will provide an opportunity to reflect on what the Mechanism is doing well in this and other respects, while also identifying areas for further improvement.

167. The Mechanism underscores, however, that it is not yet closing down. Given that many of its residual functions are long-term and continuous in nature, the Mechanism must carry out those functions unless and until the Security Council decides otherwise. As highlighted in the present report, the Mechanism will rely on the robust support, cooperation and good faith of Member States in order to overcome the serious challenges that it faces and ultimately fulfil the weighty responsibilities entrusted to it by the international community.

³³ Review proceeding in *Prosecutor v. Augustin Ngirabatware*.

Enclosure I

International Criminal Mechanism for Criminal Tribunals:
approved appropriations and expenditure for 2023

Table 1

Approved appropriations for the period from 1 January to 31 December 2023 (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	–	2 849 400	8 251 900	–	11 101 300
	Non-post ^a	86 300	4 250 400	12 848 200	5 424 600	22 609 500
Subtotal		86 300	7 099 800	21 100 100	5 424 600	33 710 800
The Hague	Post	–	1 236 200	4 806 000	–	6 042 200
	Non-post	1 798 800	5 415 200	27 568 700	–	34 782 700
Subtotal		1 798 800	6 651 400	32 374 700	–	40 824 900
New York	Post	–	–	113 800	–	113 800
	Non-post	–	–	1 600	–	1 600
Subtotal		–	–	115 400	–	115 400
Office of Internal Oversight Services	Post	–	–	157 700	–	157 700
	Non-post	–	–	142 400	–	142 400
Subtotal		–	–	300 100	–	300 100
Overall	Post	–	4 085 600	13 329 400	–	17 415 000
	Non-post	1 885 100	9 665 600	40 560 900	5 424 600	57 536 200
Total		1 885 100	13 751 200	53 890 300	5 424 600	74 951 200

^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 May 2023 (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	–	925 686	2 888 507	–	3 814 193
	Non-post	40 300	1 294 155	2 362 873	3 778 831	7 476 159
Subtotal		40 300	2 219 841	5 251 380	3 778 831	11 290 352
The Hague	Post	–	451 338	1 865 266	–	2 316 604
	Non-post	1 073 100	1 502 897	10 118 060	–	12 694 057
Subtotal		1 073 100	1 954 235	11 983 326	–	15 010 661

		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
New York	Post	–	–	65 032	–	65 032
	Non-post	–	–	–	–	–
Subtotal		–	–	65 032	–	65 032
Office of Internal Oversight Services	Post	–	–	64 468	–	64 468
	Non-post	–	–	40 293	–	40 293
Subtotal		–	–	104 761	–	104 761
Overall	Post	–	1 377 024	4 883 273	–	6 260 297
	Non-post	1 113 400	2 797 052	12 521 226	3 778 831	20 210 509
Total		1 113 400	4 174 076	17 404 499	3 778 831	26 470 806

Table 3
Percentage of the annual budget expended as at 1 May 2023

		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	–	32.5	35.0	–	34.4
	Non-post	46.7	30.4	18.4	69.7	33.1
Subtotal		46.7	31.3	24.9	69.7	33.5
The Hague	Post	–	36.5	38.8	–	38.3
	Non-post	59.7	27.8	36.7	–	36.5
Subtotal		59.7	29.4	37.0	–	36.8
New York	Post	–	–	57.1	–	57.1
	Non-post	–	–	–	–	–
Subtotal		–	–	56.4	–	56.4
Office of Internal Oversight Services	Post	–	–	40.9	–	40.9
	Non-post	–	–	28.3	–	28.3
Subtotal		–	–	34.9	–	34.9
Overall	Post	–	33.7	36.6	–	35.9
	Non-post	59.1	28.9	30.9	69.7	35.1
Total		59.1	30.4	32.3	69.7	35.3

Enclosure II

International Residual Mechanism for International Tribunals: staffing*

Table 1
Staff numbers by branch and organ

Category	Arusha branch	The Hague branch	Chambers ^a	Office of the Prosecutor	Registry ^b	Mechanism overall
All staff	157	210	32	104	231	367
Staff on continuous posts	88	52	9	28	103	140
Staff on general temporary assistance positions	69	158	23	76	128	227
International staff (Field Service and Professional and higher categories)	98	97	25	64	106	195
Local staff (General Service)	59	113	7	40	125	172

^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 Mechanism Archives and Records Section, the Witness Support and Protection Unit, the Judicial Records Unit, the Language Support Services, the External Relations Office, 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

	Arusha branch	The Hague branch	Mechanism overall (percentage) ^a
Nationalities	36	54	66
All staff			367
African	117	22	139 (37.8)
Asia-Pacific	9	17	26 (7.1)
Eastern European	1	43	44 (11.9)
Latin American and Caribbean	–	6	6 (1.6)
Western European and other States	30	122	152 (41.4)
International staff (Field Service and Professional and higher categories)			195
African	58	6	64 (32.8)
Asia-Pacific	9	7	16 (8.2)
Eastern European	1	18	19 (9.7)
Latin American and Caribbean	–	3	3 (1.5)
Western European and other States	30	63	93 (47.7)

* The data in the tables in the present enclosure represent the number of staff employed as at 1 May 2023.

	<i>Arusha branch</i>	<i>The Hague branch</i>	<i>Mechanism overall (percentage)^a</i>
Local staff (General Service)			172
African	59	16	75 (43.6)
Asia-Pacific	–	10	10 (5.8)
Eastern European	–	25	25 (14.5)
Latin American and Caribbean	–	3	3 (1.7)
Western European and other States	–	59	59 (34.3)

^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, Gambia, Ghana, Kenya, Lesotho, Liberia, Madagascar, Niger, Nigeria, Rwanda, Sierra Leone, South Africa, Sudan, Uganda, United Republic of Tanzania, Zambia and Zimbabwe.

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

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 and Jamaica.

Group of Western European and Other States: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Netherlands (Kingdom of), 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 overall (percentage)</i>
	<i>Arusha (percentage)</i>	<i>Kigali field office (percentage)</i>	<i>The Hague (percentage)</i>	<i>Sarajevo field office (percentage)^a</i>	
Professional staff (all levels)	52	10	96	1	159
Male	25 (48)	8 (80)	42 (43.8)	1 (100)	76 (47.8)
Female	27 (52)	2 (20)	54 (56.3)	–	83 (52.2)
Professional staff (P-4 and above)	19	3	27	1	50
Male	12 (63.2)	3 (100)	12 (44.4)	1 (100)	28 (56)
Female	7 (36.8)	–	15 (55.6)	–	22 (44)
Field Service staff (all levels)	31	5	–	–	36
Male	18 (58.1)	3 (60)	–	–	21 (58.3)
Female	13 (41.9)	2 (40)	–	–	15 (41.7)
General Service staff (all levels)	35	24	113	–	172
Male	25 (71.4)	20 (83.3)	66 (58.4)	–	111 (64.5)
Female	10 (28.6)	4 (16.7)	47 (41.6)	–	61 (35.5)
All staff	118	39	209	1	367
Male	68 (57.6)	31 (79.5)	108 (51.7)	1 (100)	208 (56.7)
Female	50 (42.4)	8 (20.5)	101 (48.3)	–	159 (43.3)

^a Notwithstanding the recent closure of the Sarajevo field office, one staff member who is attributable to the location remains on certified sick leave.

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	24	32
Office of the Prosecutor	49	55	104
Registry	100	131	231
Immediate Office of the Registrar	3	2	5
Legal Team	8	8	16
Mechanism Archives and Records Section	6	6	12
Witness Support and Protection Unit	15	3	18
Judicial Records Unit	2	4	6
Language Support Services	6	19	25
External Relations Office	3	6	9
Division of Administration	35	54	89
Security and Safety Section	21	25	46
United Nations Detention Facility ^a and United Nations Detention Unit	1	4	5

^a Notwithstanding the recent closure of the United Nations Detention Facility, one staff member has been temporarily retained to review and organize the documentation accrued over decades of operations, in order to facilitate an orderly transfer of such material to the Mechanism Archives and Records Section. The post will be downsized as at 30 June 2023.

**Annex II to the letter dated 16 May 2023 from the President of
the International Residual Mechanism for Criminal Tribunals
addressed to the President of the Security Council**

[Original: English and French]

**Progress report of the Prosecutor of the International Residual
Mechanism for Criminal Tribunals, Serge Brammertz, for the
period from 16 November 2022 to 15 May 2023**

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I. Overview

1. The Prosecutor submits the present twenty-second progress report pursuant to Security Council resolution 1966 (2010), covering developments between 16 November 2022 and 15 May 2023.

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) expeditiously completing trials and appeals; (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 successfully carry out its mandate in those areas.

3. In *Prosecutor v. Félicien Kabuga (Kabuga case)*, the prosecution continued to take all steps within its mandate to promote the expeditious completion of the trial. As previously reported, the prosecution has undertaken significant efforts to reduce the time required for its case. As a result, it was able to complete the presentation of nearly half of its in-court witnesses prior to the Trial Chamber's order of 30 March 2023 adjourning the trial indefinitely. The prosecution continues to advocate for the resumption of trial proceedings while litigating issues related to the accused's health. The Office of the Prosecutor stands ready to swiftly complete its case-in-chief following a decision by the Trial Chamber on the accused's fitness to stand trial. Regarding the *Stanišić and Simatović* case, the delivery of the appeals judgment on 31 May 2023 will mark the completion of the final war crimes proceeding from the International Tribunal for the Former Yugoslavia.

4. 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 recognizes the excellent assistance, in particular on a direct, operational basis, being provided by key Member States. All four fugitive investigations are swiftly moving forward. At the same time, the Office's investigations are uncovering extensive and ongoing abuse of the refugee process by Rwandan nationals who have provided false or misleading information concerning their activities during the 1994 genocide against the Tutsi in Rwanda and/or with the Forces démocratiques de libération du Rwanda. The Office is working with national partners to move forward in its investigations, while assisting national efforts to enforce immigration laws.

5. Regarding national prosecutions of war crimes committed in Rwanda, the recent commemoration of the twenty-ninth anniversary of the genocide is a reminder that there are still more than 1,000 suspects who have not yet been prosecuted for their alleged crimes. Cooperation among the Office of the Prosecutor, the Prosecutor General of Rwanda and other national prosecutors to address that accountability gap continues to strengthen and increase. During the reporting period, at the request of the Prosecutor General of Rwanda, the Office handed over dossiers and evidence involving nine suspects who were investigated by the International Criminal Tribunal for Rwanda but were not indicted owing to the completion strategy. The Prosecutor General of Rwanda has also requested the Office to assist his office in locating and ultimately bringing to trial fugitives wanted by his office. More justice for crimes committed during the genocide is still urgently needed. In furtherance of article 28, paragraph 3, of the statute and the completion strategy of the International Criminal

Tribunal for Rwanda, the Office will continue to provide the support needed for the accountability process.

6. Regarding national prosecutions 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 Former Yugoslavia. With the completion of the final Tribunal case at the end of May, further accountability for the crimes now depends fully on national judiciaries in the countries of the former Yugoslavia. During the reporting period, the Office continued to respond to a wide range of requests for assistance from national prosecutors. In addition to providing access to its evidence collection, the Office responded to requests for direct case assistance, which entails providing legal, investigative and prosecutorial support for ongoing cases. The Office also handed over another complex investigative dossier to Serbian prosecutors and will work closely with them to move that case forward. Lastly, the Office continued its efforts to improve regional judicial cooperation in war crimes cases. All those efforts, undertaken pursuant to article 28, paragraph 3, of the statute, are highly valued by national prosecutors in the region and produce meaningful results in the justice process.

7. The Office of the Prosecutor previously reported that national prosecutors were experiencing significant challenges in accessing the evidence of the International Tribunal for the Former Yugoslavia and witnesses protected by the Mechanism, whose testimonies are crucial to bringing additional perpetrators to justice. To improve support to national authorities, the Office proposed amendments to the Mechanism's Rules of Procedure and Evidence, which ultimately were not adopted by the plenary. The Office will continue its efforts to address that problem, as it considers that the current procedures can significantly hinder national justice efforts.

8. 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 \(2018\)](#). The Office continued to manage its work appropriately during the reporting period.

II. Trials and appeals

9. During the reporting period, the Office of the Prosecutor litigated one trial (*Kabuga*) and one appeal proceeding (*Stanišić and Simatović*).

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

A. Update on the progress of trials

Kabuga

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

12. 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 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. During the reporting period, the Prosecution presented the evidence of 11 witnesses in Arusha and five witnesses in Kigali. Fifteen of the witnesses were heard under rule 111 and one was heard *viva voce*. In total, for the 16 witnesses whose evidence was presented between 16 November 2022 and 15 May 2023, the prosecution used eight and a half hours of courtroom time, while the defence used 22 hours.

13. During the reporting period, the prosecution litigated the fitness of the accused to stand trial. The prosecution examined three witnesses and made nine filings on the matter. The prosecution further ensured its readiness to resume trial proceedings, filing three motions for the admission of evidence of witnesses and four other filings. In total, since the commencement of the trial, the Prosecution has disclosed more than 16,900 documents comprising some 327,500 pages.

14. At the direction of the Trial Chamber, on 9 May, the prosecution submitted its position regarding the further course of proceedings should the accused be found unfit to stand trial. The prosecution argued that in that circumstance, the Trial Chamber should be guided by international human rights norms, in particular the Convention on the Rights of Persons with Disabilities, and move forward with an “examination of the facts” procedure. Comparable procedures are recognized in many national legal systems. Such a procedure, which could be completed more expeditiously than a full trial, would allow the prosecution to demonstrate the accused’s acts and conduct during the genocide, while affording the accused an opportunity to rebut the charges against him. It is expected that a decision on the accused’s fitness to stand trial and the further course of the proceedings will be issued by the Trial Chamber after the end of the reporting period.

B. Update on the progress of appeals

Stanišić and Simatović

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

16. The prosecution presented its oral arguments in the case on 24 and 25 January 2023. In its first ground of appeal, the prosecution argued that the Trial Chamber had erred in fact and/or law in failing to hold Stanišić and Simatović criminally responsible as members of a joint criminal enterprise. In its second ground of appeal, the prosecution argued that the Trial Chamber had erred in law and/or fact in failing to hold them criminally responsible for aiding and abetting the crimes in the Serbian autonomous region of Krajina and the Serbian autonomous region of Eastern Slavonia, Baranja and Western Srem and in Zvornik, Doboj and Sanski Most. The prosecution also responded to the appeal submissions of both defence teams.

17. The Appeals Chamber is scheduled to deliver its judgment in the case on 31 May.

C. Other proceedings

18. During the reporting period, the Office of the Prosecutor submitted indictments for confirmation against a number of persons pursuant to article 1, paragraph 4 (a) of the statute and rule 90 (A) of the Rules of Procedure and Evidence, as ordered by a

single judge. The Office's investigation uncovered evidence of the publication of a large volume of confidential information of the International Tribunal for the Former Yugoslavia, as well as breaches of Mechanism orders. The publications included information that revealed the identities of dozens of protected witnesses. The large-scale, systematic and ongoing breach of the Tribunal's confidentiality measures are regrettably part of continued efforts to undermine the judgments of the Tribunal and the Mechanism.

19. In addition, the Office continued to receive and monitor information concerning suspected contempt crimes within the Mechanism's jurisdiction and to take appropriate steps in accordance with the Prosecutor's mandate under article 14 of the statute. In accordance with its "one office" policy, the Office absorbed the related requirements for those investigations within existing resources.

D. Cooperation with the Office of the Prosecutor

20. 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.

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

22. In relation to Rwanda, the Office 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 Rwandan authorities has been instrumental to the prosecution's efforts in the *Kabuga* case, as well as in fugitive tracking.

23. In relation to Serbia, during the reporting period, the prosecution received cooperation, albeit delayed, from Serbian authorities in response to requests for assistance. Serbia also failed to serve orders in a timely manner 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.

24. 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 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.

25. The international community continues to play an important role in providing incentives for States to cooperate with the Mechanism and undertake national prosecutions 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

26. The Office of the Prosecutor continues to actively engage in work related to applications for early release by providing its views on those applications to the President. During the reporting period, five applications for early release were filed, and the Office provided comments and information in connection with another five. The President denied one application for early release. The Office will continue to closely follow the implementation of the conditional early release regime.

III. Fugitives

27. During the reporting period, the Office of the Prosecutor continued its efforts to account for the remaining four fugitives indicted by the International Criminal Tribunal for Rwanda: Fulgence Kayishema, Aloys Ndimbati, Charles Ryandikayo and Charles Sikubwabo. Between May 2020 and May 2022, four fugitive files were closed, including all 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.

28. The Office is making important progress in all four of the outstanding fugitive investigations. Consistent with proven practices, the Office has developed, based on credible, reliable and multi-source evidence, narratives for the movement and activities of each fugitive following the genocide. Persons of interest who have information about the past and present whereabouts of the fugitives have been identified. The Office has continued to obtain and rigorously review a large volume of intelligence and data, enabling constant refinement of tracking strategies. It fully anticipates that the whereabouts of one or more fugitives will be determined in the near future.

29. Notwithstanding challenges in recent years, during the reporting period, the Office continued to enjoy strong cooperation with law enforcement and other authorities in a number of key African Member States. Crucially, the Office now has direct, operational cooperation with national task forces in several countries, which bring together representatives from national law enforcement, justice, immigration and other authorities. Under the leadership of the Office, and in conjunction with other efforts by the Office, this model ensures swift and efficient collaboration on its investigations, including by enabling national partners to provide the Office with on-the-ground advice and expertise. The Office is grateful to the respective Governments for establishing the task forces and empowering them to work directly with the Office on a “law enforcement-to-law enforcement” basis. In addition, the Office continues to receive needed support and assistance from a range of Member States through informal channels of cooperation.

30. On a more troubling note, however, it is increasingly evident that there has been and continues to be extensive and ongoing abuse of the refugee process by Rwandan nationals who have provided false or misleading information concerning their activities during the genocide and/or with the Forces démocratiques de libération du Rwanda. This includes the fugitives themselves. For example, the Office has obtained evidence that one fugitive obtained refugee status in multiple countries by providing a false identity and false information about his past. Similarly, fugitives have received support from other Rwandan nationals who have likewise obtained refugee status based on fraudulent information.

31. This is not a new issue. It is well known that many suspected *génocidaires* have obtained refugee status in countries on multiple continents. However, the Office’s

investigations clearly demonstrate that the issue is far more extensive than previously identified. In every country hosting large Rwandan diasporas where the Office has begun to gather information, it has quickly become apparent that a significant number of recognized refugees have lied about or obfuscated their past activities and associations. It is especially disconcerting that such persons have adopted the stories of the survivors and victims of the genocide to obtain refugee status or have made demonstrably deceitful allegations of persecution by the Government of Rwanda.

32. The Office has a long-established track record of working with national partners to vet asylum seekers and thereby defend the legitimacy of the refugee process. The Office is committed to continuing to share information obtained on persons who are likely to have provided fraudulent information to host countries. Looking forward, assistance from the Office will remain vital to the national authorities that are responsible for detecting fraudulent refugee applications and enforcing “no safe haven” policies.

33. The Security Council entrusted the Office of the Prosecutor with the critical mandate of accounting 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. The Office remains grateful to the Security Council, the United Nations and the international community for their continued support for that critical work.

IV. Assistance to national war crimes prosecutions

34. 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 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 prosecutions against suspects who are present in their territory for crimes committed in Rwanda and the former Yugoslavia.

35. The Office of the Prosecutor is mandated to assist and support national prosecutions of these 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 statute of the Mechanism. During the reporting period, the Office continued to receive a high volume of requests for assistance from national judiciaries and international organizations. The requests for assistance address three related areas in which support from the Office is needed: access to evidence; substantive legal, investigative and prosecutorial direct case assistance, including through the preparation and transfer of investigation dossiers; and resolving strategic and/or cross-cutting issues affecting the accountability process.

36. The Office continued to monitor and assess the implementation of the completion strategies of the two Tribunals and national justice processes, including cases referred by the International Criminal Tribunal for Rwanda under rule 11 bis of the Rules of Procedure and Evidence, so-called “category II” cases transferred by the International Tribunal for the Former Yugoslavia and related cases initiated by national prosecutors. The Office provided strategic advice, feedback and support to national prosecution services and justice sectors to assist them in meeting their immense responsibilities and the legitimate expectations of victims. In addition, the Office continued to assist and engage with a range of stakeholders concerning issues directly related to the accountability process, such as denial and glorification, missing persons and capacity-building.

A. Provision of evidence and expertise

37. Pursuant to article 28, paragraph 3, of the statute, the Office of the Prosecutor is mandated to respond to requests from national authorities for assistance in relation to justice for international crimes committed in Rwanda and the former Yugoslavia.

38. National authorities desire, require and request such assistance because the Office 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 thus is available only from the Office. The Rwanda-related evidence collection comprises more than 1 million pages of documents. In addition, the staff members of the Office have a unique insight into the crimes and the cases that can assist national prosecutors in preparing and proving their indictments.

39. The volume and complexity of requests for assistance received, as well as the wide range of authorities who are submitting requests for assistance, clearly demonstrate both the large number of cases still to be processed and that continued assistance from the Office is vital for greater accountability.

40. In relation to Rwanda, during the reporting period, the Office received 11 requests for assistance from six Member States, eight of which have been processed. Three requests were submitted by Rwandan authorities and four requests were submitted by authorities of the United Kingdom of Great Britain and Northern Ireland. Authorities of Canada, France, the Kingdom of the Netherlands and Switzerland each submitted one request. In total, the Office handed over more than 1,300 documents comprising approximately 110,000 pages of evidence and four audiovisual records. In addition, the Office identified and confirmed the whereabouts of 23 witnesses to support national authorities.

41. With respect to requests for direct case assistance relating to Rwanda, during the reporting period, the Office handed over to the Prosecutor General of Rwanda an investigative dossier regarding nine individuals suspected of genocide and other international crimes. The dossier included expert analysis of the crimes, the individual criminal responsibility of the suspects, linkage evidence and contextual evidence. As part of the handover, the Office transferred 206 documents comprising 8,883 pages of evidence.

42. In relation to the former Yugoslavia, the Office received 156 requests for access to evidence from seven Member States and two international organizations. Ninety-two requests for assistance were submitted by authorities of Bosnia and Herzegovina, one by Croatia, ten by Serbia and one by Montenegro. In total, the Office handed over more than 3,400 documents comprising over 89,400 pages of evidence and 17 audiovisual records. In addition, the Office filed seven submissions related to witness protective measures and/or access to evidence in support of national authorities.

43. With respect to requests for direct case assistance relating to the former Yugoslavia, during the reporting period, the Office provided legal, evidentiary and strategic assistance regarding five such requests from two Member States. In addition to providing expert advice and support on the investigation and/or prosecution of the case concerned, the Office transferred 60 documents comprising 1,018 pages of evidence. During the reporting period, the Office also received an additional 20 requests for direct case assistance, which are currently being addressed. The Office handed over a substantial investigative dossier to the Serbian War Crimes Prosecutor's Office regarding two unindicted suspects for their role in an ethnic cleansing campaign during the conflicts in the former Yugoslavia. The dossier included expert analysis of the

crimes, the individual criminal responsibility of the suspects, linkage evidence and contextual evidence. As part of the handover, the Office transferred 527 documents comprising 16,812 pages of evidence and five audiovisual records.

44. The significant growth in recent years in requests for assistance received by the Office was not met by contemporaneous increases in related resources. As a result, a backlog of requests older than six months developed. As at 15 May, that backlog had been reduced to 150 requests. 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 to meet its mandate under article 28, paragraph 3, of the statute.

B. Justice for crimes committed in Rwanda

1. Completion strategy of the International Criminal Tribunal for Rwanda

45. 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.

46. National authorities now have primary responsibility for the continued implementation of the completion strategy of the Tribunal. Courts in countries around the world continue to process cases of crimes committed during the Rwandan genocide. 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.

47. The prior success of the International Criminal Tribunal for Rwanda and Rwandan domestic efforts may give the misleading impression that justice for crimes committed during the genocide has largely been achieved. In reality, there are still many cases that still need to be processed, and many Rwandan victims are still waiting for justice. The Office of the Prosecutor strongly supports the continued efforts by the Prosecutor General of Rwanda to ensure that all those responsible for the genocide are held accountable. The Office continues to work with law enforcement and prosecutorial authorities in third-party countries around the world to detect and extradite or prosecute suspected *génocidaires*.

2. Fugitives

48. 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 to be 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.

49. 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.

50. At the request of the Prosecutor General of Rwanda, the Office 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 Prosecutor

General has also requested that the Office provide assistance in locating, investigating and prosecuting Rwandan nationals suspected of genocide, in particular those living outside Rwanda.

51. It is essential that those who bear individual criminal responsibility for crimes committed during the genocide be investigated, located and prosecuted. Twenty-nine years after the genocide, significant steps towards justice have been achieved, but more remains to be done. The Office stands ready to provide support and assistance to 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 Rwandan genocide.

3. Cases referred to France

52. Laurent Bucyibaruta, prefect of Gikongoro, was indicted by the International Criminal Tribunal for Rwanda in June 2005 on six counts of genocide, direct and public incitement to commit genocide, complicity in genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. The indictment was referred by the Tribunal to France for trial on 20 November 2007, as Bucyibaruta had already been located in that country. The investigation by French authorities was completed in 2018.

53. The trial proceedings commenced on 9 May 2022. On 12 July, Bucyibaruta was convicted of complicity in genocide and crimes against humanity and sentenced to 20 years of imprisonment. It is not currently known when the appeal proceedings will be completed.

4. Cases referred to Rwanda

54. On 3 March 2023, the final ongoing referred case in Rwanda, against Ladislas Ntaganzwa, bourgmestre of Nyakizu commune, was completed with the issuance of the appeals judgment. The Court of Appeals rejected the defence appeal and confirmed the sentence of life imprisonment. Ntaganzwa had been 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 Ntaganzwa 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.

55. The Office applauds the efforts of Rwandan authorities to expeditiously complete trial and appeal proceedings in cases referred by the International Criminal Tribunal for Rwanda under rule 11 bis of its Rules of Procedure and Evidence. The *Ntaganzwa* case was fully completed within seven years following his arrest and transfer to Rwanda, while the *Prosecutor v. Jean Uwinkindi* and *Prosecutor v. Bernard Munyagishari* cases were each completed within approximately eight years following the transfer of the accused to Rwanda. This is a positive demonstration of the Rwandan justice sector's capacity to efficiently and expeditiously process cases referred by the Tribunal.

56. 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.

C. Justice for crimes committed in the former Yugoslavia

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

57. As emphasized by the Prosecutor of the International Tribunal for the Former Yugoslavia in his final completion strategy report (S/2017/1001), 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.

58. Twenty 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. Regional judicial cooperation

59. Judicial cooperation between 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 and cannot be extradited. As reported in the Mechanism's thirteenth progress report (S/2018/1033), regional judicial cooperation in war crimes matters between the countries of the former Yugoslavia has been at its lowest level in recent years.

60. Together with regional prosecutors and authorities, the Office of the Prosecutor has been working intensively over the past several years to reverse this trend. As noted in the twenty-first progress report (S/2022/866), such efforts have generated notable improvements in regional cooperation in war crimes cases among Bosnia and Herzegovina, Montenegro and Serbia. However, in the case of Croatia, cooperation is still challenging owing to political interference in the justice process and a policy of not providing judicial cooperation in war crimes cases.

61. Recently, however, there has finally been one step forward. During the reporting period, the Croatian Ministry of Justice at last began to fulfil its responsibilities and transfer requests for assistance from regional prosecutors and courts to the appropriate Croatian judicial authorities for action. The Ministry of Justice had refused to process nearly 100 requests for assistance, some of which had been pending for up to seven years. However, the Ministry now reports that all such pending requests have been transmitted to judicial authorities and some have already been answered.

62. More remains to be done to strengthen regional judicial cooperation in war crimes cases both in Croatia and throughout the region. Hundreds of cases, including complex cases against senior- and mid-level accused, need to be transferred from Bosnia and Herzegovina for prosecution elsewhere, predominately in Croatia and Serbia. The transfer process for many cases has not even been initiated and even where it has begun, far too much time will be required to finalize the transfer and commence the prosecutions. Prosecutors, judges and justice authorities all have a vital responsibility to move forward and facilitate the process and ultimately ensure justice

for the victims. The number of cases transferred will demonstrate whether they are meeting those responsibilities.

63. Cooperation between Croatia and Serbia is another critical area in which, unfortunately, there is still no progress to report. The Office has previously noted 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). The status quo only ensures effective impunity and is untenable. The Office reiterates its willingness to assist in finding a solution so that the transfer of cases between the two countries can finally begin.

64. The Office urges prosecution offices, judiciaries and justice ministries throughout the former Yugoslavia to urgently and proactively ensure that regional judicial cooperation in war crimes matters is on the right track.

3. Bosnia and Herzegovina

65. During the reporting period, the close collaboration of the Office of the Prosecutor with the Chief Prosecutor, Milanko Kajganić, and his staff continued, including through the provision of assistance on concrete cases, strategic support and the transfer of lessons learned.

66. During the reporting period, the Prosecutor's Office of Bosnia and Herzegovina filed 14 indictments against 42 suspects, while 38 cases against 309 persons were terminated or closed owing to insufficient evidence. In addition, the Prosecutor's Office transferred six cases against seven suspects to foreign countries and 13 cases against 19 suspects to a lower-level prosecution office in Bosnia and Herzegovina. The remaining backlog at the Prosecutor's Office comprises 274 cases against 3,059 persons. Of those, 132 cases against 862 persons are under investigation and the remaining cases are in the pre-investigative phase.

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

68. First, there is a significant backlog of more than 120 cases in Bosnia and Herzegovina that concern more than 350 suspects known to reside outside the country, primarily in Serbia and Croatia. In addition, there are 47 confirmed indictments in Bosnia and Herzegovina that concern 58 indictees known to reside outside the country, again primarily in Serbia and Croatia. Those investigations and cases cannot be prosecuted in Bosnia and Herzegovina and must be transferred to the country in which the suspect or indictee currently resides. The Office is working to facilitate the transfer of the proceedings, in particular key cases and files involving senior- and mid-level accused, to the jurisdictions in which the suspects or accused reside for further processing. The Office hopes to report on concrete progress in that area in the next reporting period.

69. Second, the Office continues to collaborate with Prosecutor's Office of Bosnia and Herzegovina to advance its ongoing investigations and prosecutions. The Chief Prosecutor of Bosnia and Herzegovina has identified 20 priority cases for which investigations should be completed and prosecutorial decisions made before the end of 2023. The Office is directly assisting the Prosecutor's Office of Bosnia and Herzegovina with those priority investigations.

70. 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. The completion of that work, even under ideal circumstances, will take many years, and the passage of time only heightens the urgency to work more expeditiously. The Office of the Prosecutor and the Prosecutor's Office of Bosnia and Herzegovina will also continue to strengthen their cooperation.

4. Croatia

71. In preparation for the present report and to continue engagement with national authorities, the Prosecutor visited Zagreb on 24 and 25 April and met with the Minister of Justice and Public Administration, Ivan Malenica, and representatives of the State Attorney's Office.

72. In its twenty-first progress report (S/2022/866), which built on previous reports, the Office of the Prosecutor detailed its highly negative assessment of war crimes justice in Croatia. In Croatia, there is effective impunity for Croatian nationals suspected of serious crimes, while the Croatian justice sector concerns itself almost exclusively with largely performative in absentia prosecutions of ethnic Serbs that do not achieve real justice.

73. At the same time, the Office underscored that further engagement with Croatian authorities is the only path forward. During his most recent visit to Zagreb, the Prosecutor expressed his gratitude for the opportunity to have open and frank discussions and to receive additional information. While there remain differences in views concerning the overall progress of war crimes justice in Croatia, it was not disputed that first, Croatia has not been processing numerous requests for assistance from neighbouring countries and second, there is a meaningful number of war crimes cases against Croatian citizens, in particular for crimes committed in Bosnia and Herzegovina, that still need to be processed.

74. A step forward has now been taken with respect to the first issue. The Croatian Minister of Justice provided the information that all pending requests for assistance in war crimes cases had been forwarded to the competent judicial authorities for action. This is an important development that will begin to unblock the justice process. The Office fully expects that all remaining requests for assistance, as well as those submitted in the future, will be expeditiously answered and will report thereon in the future.

75. The next steps will be even more critical. The requests that have been blocked for many years and are now seemingly being answered represent cases that will now need to be transferred to Croatia for prosecution. The large majority involve Bosnian Croats now residing in Croatia who are suspected of committing war crimes and crimes against humanity against Bosnians in Bosnia and Herzegovina. Given that Croatia will not extradite the suspects to Bosnia and Herzegovina, they can be prosecuted only in Croatia. Justice demands that Croatian prosecutors proactively cooperate with their counterparts in Bosnia and Herzegovina to ensure that the case files are swiftly transferred and the indictment decisions promptly made.

76. The Office has been monitoring four important pending cases that have not been progressing expeditiously. The *Glavaš* case, a category II case referred by the Office to the State Attorney's Office of Croatia in February 2006, remains at retrial following the revocation by the Constitutional Court, on formalistic grounds, of a 2009 convicting judgment that had been affirmed by the Croatian Supreme Court. A former Major General in the Croatian Army and Member of the Croatian Parliament, Branimir Glavaš is accused of responsibility for the torture and execution of Croatian Serb civilians. Three so-called category II cases files still remain under investigation, notwithstanding that extensive investigations have already been undertaken by the Office and the alleged criminality of the suspects is well documented in Tribunal

judgments. The Office urges the Croatian State's Attorney to ensure that prosecutorial decisions are made expeditiously and reiterates its past offers to assist.

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

5. Montenegro

78. 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 conflicts in the former Yugoslavia. It is well understood that to date, insufficient justice for war crimes has been achieved in Montenegro.

79. The Special State Prosecutor's Office is currently investigating five war crimes cases related to the conflicts in the former Yugoslavia. Two relate to crimes committed in Bosnia and Herzegovina and three relate to war crimes committed in Croatia. No new investigations were opened in the reporting period, while one case against one accused is currently at trial.

80. As previously reported, in November 2019, the Office prepared and handed over to the Special State Prosecutor's Office an investigative dossier concerning more than 15 suspects. Many of these persons are suspected of horrific crimes of sexual violence, including sexual slavery, rape, torture, enforced prostitution and human trafficking 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 has continued to cooperate with the Prosecutor's Office of Bosnia and Herzegovina, possesses relevant evidence and has already prosecuted related cases. The Office 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.

81. Important reforms in domestic law to support war crimes justice are currently under way. As previously reported, drawing on its expertise, the Office has 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. The proposed legal amendments have been prepared and await adoption by Parliament. The Office will continue to provide support, as requested, to ensure progress in those and other important areas.

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

6. Serbia

83. In preparation for the present report and to continue engagement with national authorities, the Prosecutor visited Belgrade on 20 and 21 April and met with President Aleksandar Vučić, the Minister of Justice, Maja Popović, and the Chief War Crimes Prosecutor, Snežana Stanojković. The Serbian authorities reiterated their commitment

to strengthening cooperation with the Office of the Prosecutor as a means of supporting the implementation of the National War Crimes Strategy and the prosecutorial strategy.

84. During the reporting period, the Serbian War Crimes Prosecutor's Office filed five indictments against five persons. Two of the indictments are based on investigations conducted by the Serbian War Crimes Prosecutor's Office and three relate to cases transferred from Bosnia and Herzegovina. As of the end of the reporting period, the Serbian War Crimes Prosecutor's Office was conducting 22 active investigations against 72 suspects and there were 20 ongoing war crimes trials involving 44 accused. Seven first-instance and three second-instance judgments were issued during the reporting period.

85. As previously reported, proceedings in the three category II cases transferred to Serbia from Bosnia and Herzegovina are ongoing, and the Office continues to monitor their progress. In addition, the Office continues to actively engage with the Serbian War Crimes Prosecutor's Office in relation to two case files involving senior-level accused that had been handed over by the Office. One investigation continued during the reporting period, as did the trial 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.

86. During the reporting period, as previously agreed with the Serbian War Crimes Prosecutor's Office, the Office handed over an extensive investigative dossier concerning two Serbian citizens suspected of serious crimes, including forcible transfer and deportation, murder, inhumane treatment, plunder and wanton destruction. The handover of the investigative dossier is an important opportunity for Serbian prosecutors to demonstrate their commitment to addressing impunity and prosecuting cases against senior- and mid-level officials. The Office will continue to assist the Serbian War Crimes Prosecutor's Office in conducting investigations and moving the case file forward.

87. Looking forward, there are more than 100 cases that will need to be transferred from Bosnia and Herzegovina to Serbia for prosecution. In the past several years, cooperation among Bosnian, Serbian and Office prosecutors has demonstrated that such cases can be successfully transferred and prosecuted in Serbian courts. What is needed now is a dramatic increase in the number of cases transferred, as well as a focus on complex cases. The Office has encouraged the Serbian Ministry of Justice to ensure that the Serbian War Crimes Prosecutor's Office and the Serbian courts have the material and legal capacity to expeditiously and effectively manage this very significant workload in the coming years.

88. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, Serbia finds itself at an important juncture. There are still hundreds of cases that need to be prosecuted in Serbia, in particular those involving senior- and mid-level officials and complex crime campaigns. Such individuals have enjoyed impunity in Serbia for decades, and significant efforts must be made if meaningful accountability is to be achieved. Victims, the public and other stakeholders rightly hope to see further signs that there is the will to realize the commitments made in the National War Crimes Strategy. Future developments in key case files will be an important indicator in that regard.

D. Denial and glorification

1. Rwanda

89. In 2006, 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. In particular, the Appeals Chamber concluded 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 relating to the Rwandan genocide was one of the Tribunal's most important contributions to re-establishing peace and security in Rwanda and promoting reconciliation between the affected communities.

90. Notwithstanding the established facts, genocide denial continues to this day. 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, hundreds of thousands of innocent persons 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.

91. 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 such efforts. The Office reiterates its commitment to vigorously investigating and prosecuting those who interfere with witnesses with the aim of falsely undermining the established facts of the genocide committed in Rwanda.

2. Former Yugoslavia

92. 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 are 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. Anniversaries of crimes committed during the conflict, which should be used as opportunities for remembrance and reconciliation, are often co-opted to promote denial, revisionism and the glorification of war criminals. Throughout the region, convicted war criminals regularly appear in the media, at round tables and at other public events as experts and featured speakers. The Office has expressed its grave concern in that regard and has called for urgent attention to those issues. Acceptance of the truth of the recent past is the foundation for reconciliation and healing between communities in the former Yugoslavia.

93. Unfortunately, there continued to be negative developments during the reporting period. In Croatia, the President decorated a unit whose members had been convicted of war crimes. In Bosnia and Herzegovina, the President of the Federation publicly referred to convicted war criminal Dario Kordić as her friend and asserted that he was no longer a war criminal. In the Republika Srpska, the President continued to deny the Srebrenica genocide and other war crimes. In Serbia, senior public officials continued to deny war crimes and glorify convicted war criminals, including during debates in Parliament. Cities throughout Serbia are covered with murals of Ratko Mladić; more than 250 have now been counted in Belgrade alone, which is 100 more than only six months ago.

94. 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.

95. The Office of the Prosecutor calls upon all officials and public figures in the region to act responsibly and put the victims and civilian suffering at the forefront in

all activities. They should publicly condemn the denial of crimes and glorification of war criminals, rather than supporting them with public rhetoric, divisive actions and funds. A break with the rhetoric of the past is long overdue, and leadership in favour of reconciliation and peacebuilding is urgently needed.

E. Missing persons

96. The search for persons still missing from the conflicts 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 conflicts must be located, identified and returned to their families.

97. During the reporting period, the Office of the Prosecutor and the International Committee of the Red Cross (ICRC) continued their cooperation pursuant to the memorandum of understanding signed in October 2018. This important agreement enables ICRC to have access to the evidence collection of the Office to obtain information that may assist for purely humanitarian purposes in clarifying the fate and whereabouts of persons who are still missing. The Office and ICRC are also working jointly, in accordance with their respective mandates, to analyse information, identify new leads and provide files to domestic missing persons authorities for action. From 16 November 2022 to 15 May 2023, the Office responded to 65 requests for assistance from ICRC and handed over 1,141 documents comprising nearly 41,100 pages as well as three audiovisual records. The Office also continued to provide extensive investigative assistance and operational support to national authorities searching for missing persons.

98. Support provided by the Office 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 50 missing persons. Overall, in the four years since initiating its cooperation with ICRC in October 2018, the Office has searched for information in its evidence collection concerning approximately 7,770 missing persons.

F. Capacity-building

99. 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. Shortly after the end of the reporting period, the Office will conduct a training programme on the prosecution of sexual violence crimes for prosecutors from Eswatini. The training, which was organized at the request of Eswatini authorities, will be financed by the Rule of Law Program for Sub-Saharan Africa of the Konrad Adenauer Stiftung. The training will use a training manual on the prosecution of conflict-related sexual violence crimes produced by the Office in cooperation with the Konrad Adenauer Stiftung.

100. Within the limits of its operational capacity and existing resources, the Office will continue to engage with training providers and donors to ensure that appropriate

practical training on investigative and prosecutorial techniques in war crimes justice is made available. The Office expresses its deep gratitude to partners for providing financial, logistical and other support to enable its capacity-building and training efforts.

V. Other residual functions

101. In its twenty-first progress report (S/2022/866), the Office of the Prosecutor noted challenges that were arising in the application of rule 86 of the Rules of Procedure and Evidence of the Mechanism. Rule 86 governs the variation of protective measures granted to International Criminal Tribunal for Rwanda, International Tribunal for the Former Yugoslavia and Mechanism witnesses to enable national prosecutors and courts to access that evidence. As the Office noted, in the course of their own investigations, national investigators and prosecutors often realize that an International Criminal Tribunal for Rwanda, International Tribunal for the Former Yugoslavia or Mechanism protected witness has provided testimony critical to those investigations. To obtain access to that evidence, the national prosecutor must file a motion under rule 86.

102. Through feedback from colleagues, the Office has identified that in many situations, rule 86 motions have been denied and national prosecutors have not been granted access to the evidence of protected witnesses. 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 the evidence of the International Criminal Tribunal for Rwanda, International Tribunal for the Former Yugoslavia or Mechanism protected witness.

103. Recognizing that under the completion strategies of the two Tribunals, national prosecutions are essential to continue the justice process begun by the ad hoc tribunals, the Office considered it critical to bring this issue to the attention of the plenary, as well as to seek amendments to the rules to better support national justice efforts. However, the plenary decided to maintain the status quo and did not adopt the proposed amendments.

104. The Office continues to believe that the protection of witnesses and assistance to national jurisdictions are complementary functions, in particular given that national authorities already have primary responsibility in practice for safeguarding International Criminal Tribunal for Rwanda, International Tribunal for the Former Yugoslavia and Mechanism protected witnesses. The Office also recognizes that national prosecutors cannot meet their responsibilities and victims' desire for justice without full support from the Mechanism. The Office will continue to advocate that in performing its residual functions, the Mechanism do its utmost to promote more justice for victims and survivors.

VI. Management

105. 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 across both branches.

Under the policy, staff and resources are available to be flexibly deployed to work on matters arising from either branch as necessary.

106. The Office is reducing its resources and downsizing staff consistent with the expected completion of the final case transferred from the International Tribunal for the Former Yugoslavia, *Stanišić and Simatović*. On 30 April, the Office officially closed its Sarajevo field office, the final remaining field office in the former Yugoslavia. Field office staff were downsized as of that date, and additional positions will be downsized on 30 June following the announcement of the *Stanišić and Simatović* appeal judgment. The only remaining field office is in Kigali. To ensure that it can continue to carry out its mandate following the closure of the Sarajevo field office, the Office will, from The Hague, maintain contact with relevant interlocutors in the region and travel regularly to the region for engagement and activities in relation to mandated functions.

107. As the Office continues to maintain “lean” staffing, it regularly confronts workloads that exceed its resources, placing a heavy burden on staff. Given that the Office cannot defer mandated activities and must continue to meet its legal responsibilities in accordance with judicially ordered timelines, staff members 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, it underscores that full approval of its limited budget requests is necessary to ensure the expeditious completion of trials and appeals and the achievement of the other mandated functions.

VII. Conclusion

108. The Office of the Prosecutor is pleased that shortly after the end of the reporting period, the *Stanišić and Simatović* case will conclude with the delivery of the appeal judgment. This will mark the completion of the final war crimes proceeding from the International Tribunal for the Former Yugoslavia. The prosecution continues to litigate the *Kabuga* trial and is committed to presenting its case expeditiously.

109. There are now only four remaining fugitives, the top priority being Fulgence Kayishema. To bring the fugitives to justice, the Office will continue to apply the methods and practices that have resulted in four fugitives being accounted for in the past two years and expects to report in the future on the progress achieved. 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.

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

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