



Security Council

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Letter dated 15 April 2024 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council

I am pleased to transmit herewith the fifth review report of the International Residual Mechanism for Criminal Tribunals (see annex), submitted pursuant to paragraph 17 of Security Council resolution [1966 \(2010\)](#) and in accordance with the procedures set out in the statement by the President of the Security Council of 4 March 2024 ([S/PRST/2024/1](#)).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Graciela **Gatti Santana**
President



**Annex to the letter dated 15 April 2024 from the President of the
International Residual Mechanism for Criminal Tribunals
addressed to the President of the Security Council**

**Fifth review report of the International Residual Mechanism for
Criminal Tribunals**

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I. Introduction

1. The International Residual Mechanism for Criminal Tribunals was established pursuant to Security Council resolution [1966 \(2010\)](#) to carry out the 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, which closed in 2015, 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 2017.¹

2. In accordance with article 3 of its statute, the Mechanism comprises 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 commenced operations exactly one year later, assuming functions derived from the International Tribunal for the Former Yugoslavia. In accordance with article 4 of its statute, the Mechanism consists of three organs: the Chambers, the Prosecutor² and the Registry. Each organ is headed by a full-time principal, who exercises responsibility over both branches.

3. While, pursuant to Security Council resolution [1966 \(2010\)](#), the Mechanism was created 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, the workload it inherited from the ad hoc Tribunals was in reality far from residual. On the contrary, the Mechanism was required to take on the remaining cases of not one, but two, fully operational courts, with responsibility for numerous trial and appeal proceedings relating to the core crimes included in its statute, as well as the tracking of nine fugitives of the International Criminal Tribunal for Rwanda, alongside many other mandated functions. It is against this backdrop that the significance of the results achieved by the Mechanism during the reporting period, detailed below, can be fully appreciated.

4. In line with paragraph 17 of resolution [1966 \(2010\)](#), the Mechanism was set up to operate for an initial period of four years, to be followed by subsequent periods of two years, after reviews of the progress of its work, unless the Security Council decides otherwise. To date, the Mechanism's progress has been reviewed on four occasions, in 2016, 2018, 2020 and 2022.³ The fifth review of the Mechanism's progress is in accordance with the aforementioned provision and the procedures set out in the statement by the President of the Security Council of 4 March 2024 ([S/PRST/2024/1](#)), in which the Council requested the Mechanism to present by 15 April 2024 a report on the progress of its work since the last review of the Mechanism, in June 2022.

¹ On 1 January 2018 the Mechanism took over all remaining functions from both Tribunals and became a stand-alone institution.

² "Office of the Prosecutor" and "Prosecution" are used interchangeably in the present report.

³ See [S/2015/896](#), [S/2018/347](#), [S/2020/309](#) and [S/2022/319](#).

5. The present report provides an overview of the work that the Mechanism undertook from 15 April 2022 to 15 April 2024⁴ to substantially advance its mandate.⁵ Pursuant to the procedures outlined in the President's statement, the report sets out the Mechanism's progress, including towards completing its functions, as well as detailed timelines for the completion of those functions. It is indicated in the report that the requested detailed and, so far as possible, realistic options for the transfer of functions of the Mechanism are contained in the revised framework of operations to complete functions, which was formally submitted to the Security Council Informal Working Group on International Tribunals. In addition, the report illustrates how the Mechanism has addressed the recommendations made by the Group, provided in Security Council resolution 2637 (2022), particularly the steps taken to further enhance efficiency and effective and transparent management. The report also outlines the very encouraging results of the recent evaluation by the Office of Internal Oversight Services (OIOS) of the Mechanism's methods and work, which includes a positive assessment of the relevance, effectiveness and coherence of the Mechanism's residual activities.⁶

6. The Mechanism notes that there was a change in leadership during the reporting period. On 1 July 2022, Judge Graciela Gatti Santana (Uruguay) assumed the Presidency of the Mechanism, succeeding Judge Carmel Agius (Malta), who had served as President since 19 January 2019 and who remains on the judicial roster of the Mechanism. The Mechanism takes this opportunity to once more express heartfelt gratitude to Judge Agius for his outstanding service and most capable stewardship of the institution. The Prosecutor, Serge Brammertz (Belgium), and the Registrar, Abubacarr M. Tambadou (Gambia), have served in their respective positions throughout the reporting period. The President is based in The Hague, while both the Prosecutor and the Registrar are based in Arusha. The current terms of office of the three principals run until 30 June 2024.

7. The Mechanism is pleased to report that its achievements over the past two years have been not only substantial, but also transformative. Indeed, during the reporting period, there was a major shift in the Mechanism's outlook and a new phase of its lifespan began. The milestone reached cannot be overstated: for the first time, approximately 30 years since the establishment of the ad hoc Tribunals, there are no more active trials or appeals of core crimes cases before the Mechanism. As a result, the Mechanism is now a truly residual institution. This is a considerable accomplishment, given the nature and volume of the functions with which it was tasked.

8. Key developments have led to this moment. In *Prosecutor v. Jovica Stanišić and Franko Simatović*, the final case pertaining to the International Tribunal for the Former Yugoslavia, the appeal judgment was delivered in May 2023, marking the completion of all core crimes cases brought before that Tribunal, just days after the thirtieth anniversary of its historic creation. In *Prosecutor v. Félicien Kabuga*, the final case arising from the International Criminal Tribunal for Rwanda, the trial

⁴ The last review of the progress of work of the Mechanism formally concluded in June 2022. While the review period itself runs from June 2022 to June 2024, in order to ensure that there are no gaps in the information provided to the Security Council, the present report covers the two-year period following the submission of the fourth review report on 14 April 2022. This two-year period, from 15 April 2022 to 15 April 2024, is referred as "the reporting period" to throughout the present report. All figures and information contained in the present report are accurate as at 15 April 2024, unless otherwise indicated.

⁵ The present report should be read in conjunction with the Residual Mechanism's biannual progress reports to the Security Council and annual reports to the Council and the General Assembly in accordance with article 32 of the statute of the Mechanism.

⁶ See S/2024/199.

proceedings were stayed indefinitely in September 2023, thus closing that Tribunal's core caseload only a few months before the thirtieth commemoration of the genocide against the Tutsi in Rwanda of 1994.

9. After more than a decade of functioning as a fully operational court, and having effectively concluded the substantive case work of the ad hoc Tribunals, the Mechanism can now finally heed the call of the Security Council and focus on the truly residual functions it was originally intended to pursue. These include tracking the remaining fugitives of the International Criminal Tribunal for Rwanda, supervising the enforcement of sentences, responding to national requests for assistance, ensuring the continued protection of victims and witnesses, monitoring cases referred to national jurisdictions and managing the archives of the Mechanism and its predecessor Tribunals. The Mechanism has continued to advance in all of these areas.

10. In particular, strong progress has been made in relation to fugitive tracking. At the beginning of the biennium, the Mechanism was responsible for tracking six fugitives, one of whom was expected to be tried by the Mechanism. Now, following the arrest of Fulgence Kayishema in May 2023, and the confirmation of the deaths of Protais Mpiranya, Phénéas Munyarugarama and Aloys Ndimbati, only two fugitives of the International Criminal Tribunal for Rwanda are left, both of them expected to be prosecuted in Rwanda.

11. The Mechanism completed its monitoring of cases referred to national jurisdictions during the reporting period, following the conclusion of the two final cases in Rwanda and France. It should be noted, however, that the Mechanism will resume its monitoring role in the near future in two other proceedings, namely, *Prosecutor v. Fulgence Kayishema*, which was referred to Rwanda in 2012, and *Prosecutor v. Vojislav Šešelj et al.*, referred to Serbia in February 2024.

12. Future planning has also been a critical, and necessary, feature of the Mechanism's activities over the past two years. While the Mechanism had already begun to actively prepare for its next phase, in response to Security Council resolution [2637 \(2022\)](#) and in view of the impending completion of its core judicial caseload, it devoted extensive time and attention to the future of its operations and the ultimate drawdown or transfer of all remaining functions. Details on the Mechanism's immense efforts in this regard are set out in a dedicated section of the present report (sect. IV).

13. Although the Mechanism has done its utmost to make progress in all areas of operations, it continues to face significant difficulties in terms of State cooperation. In relation to the contempt case against Petar Jojić and Vjerica Radeta, Serbia has persisted in its refusal to execute arrest warrants and orders for transfer of the accused. Another ongoing challenge has been the enforcement of sentences. Several convicted persons were temporarily returned to the United Nations Detention Unit in The Hague during the biennium owing to States' inability to continue enforcing sentences, although there were some positive developments in relation to this predicament at the end of the reporting period. Unfortunately, the protracted situation relating to the acquitted and released persons who were relocated to the Niger in December 2021 persists and, moreover, has deteriorated, following the coup d'état that took place in July 2023. Attempts to identify a State where Mr. Kabuga can be provisionally released have also proved to be discouraging.

14. Despite these obstacles and the impact of the recent downsizing of its operations, the Mechanism is heartened by the tremendous momentum and accomplishments achieved during the reporting period, as well as the support of key stakeholders. The Mechanism stands resolute in its commitment to fulfil its weighty mandate and discharge all remaining responsibilities in the most fair, efficient and effective manner possible. It trusts that the present report will facilitate a

comprehensive assessment by the Security Council of the Mechanism's progress of work and looks forward to actively engaging with the Council and its Informal Working Group on International Tribunals in the coming period.

II. President

15. The President is the institutional head and highest authority of the Mechanism and is responsible for the overall execution of its mandate. The President coordinates the work of the Chambers, presides over proceedings in the Appeals Chamber, supervises the activities of the Registry, supervises the enforcement of sentences and the monitoring of referred cases, issues practice directions as appropriate, represents the Mechanism before the Security Council and the General Assembly, and performs other representational functions vis-à-vis Member States, the Secretary-General and other external stakeholders. The President is also responsible for exercising a number of judicial, quasi-judicial and administrative functions conferred by the statute and the Rules of Procedure and Evidence.⁷ The President is supported by a small team of legal and administrative staff at both branches of the Mechanism.

A. Priorities

16. Upon taking office on 1 July 2022, and having closely examined Security Council resolution [2637 \(2022\)](#), President Gatti Santana set about developing the initial priorities for her Presidency.⁸ These were: (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.⁹

17. In view of the notable conclusion of the final core crimes cases in 2023, the President considered it appropriate to revise these priorities in order to better reflect the Mechanism's new phase as a truly residual institution.

18. On 18 October 2023, President Gatti Santana presented to the General Assembly her three new priorities, as follows: (a) to present the Security Council with a framework of operations to complete functions during the Mechanism's new residual phase; (b) to promote effective leadership and good governance in the performance of mandated functions and residual activities; and (c) to continue consolidating the legacy of the ad hoc Tribunals and the Mechanism and working closely with all main stakeholders.

19. The first priority builds on the President's existing efforts to proactively plan for the future and reflects her ongoing commitment to ensuring that the Mechanism does its utmost to promptly complete its remaining work. This includes addressing in full resolution [2637 \(2022\)](#), wherein the Security Council, inter alia, requested the

⁷ Available at www.irmct.org/en/documents/rules-procedure-and-evidence.

⁸ Information regarding the priorities of the former President, Judge Carmel Agius, during the first 10 weeks of the reporting period may be found in the fourth review report of the Mechanism ([S/2022/319](#)).

⁹ For further information regarding these priorities, see [S/2022/866](#), annex I, and [S/2023/357](#), annex I.

Mechanism to provide clear and focused projections of completion timelines for all activities and, for the first time, options for the transfer of its remaining activities in due course.

20. In line with this priority, the President continued to spearhead the collaborative work of the Mechanism's principals and organs to develop the aforementioned framework. These endeavours bore fruit and the President submitted a draft framework of operations to complete functions to the Security Council Informal Working Group on International Tribunals in December 2023. This document contains the Mechanism's scenario-based workforce plan, which arose from a prior OIOS recommendation that has now been closed. The framework sets out the Mechanism's remaining functions, their anticipated completion dates, and scenarios for what might be expected in the future, including options and recommendations on the potential transfer of activities. In addition, the document contains suggestions for the restructuring and streamlining of certain portfolios and reflects the recommendations of the Mechanism's Panel on Judicial Functions. Further details on the framework and related future planning activities are provided in section IV below.

21. The President's second priority evinces her determination to demonstrate the value of transparency and responsibility and show that a resource-constrained institution can still uphold the highest standards of performance. This requires a delicate balance between, on the one hand, operating with limited resources and amid continued downsizing, and, on the other, maintaining a functional and successful organization that exemplifies best practices. In line with this priority, the President has been encouraging closer cooperation among the institution's leadership and senior management in order to foster good governance and steer operations in a transparent, efficient and responsible manner. In this context, the periodic review, evaluation and audit processes that the Mechanism undergoes play a major role in guaranteeing both its continued accountability and responsiveness to change.

22. The third priority recognizes the critical importance of solidifying the legacy of the ad hoc Tribunals and the Mechanism, especially now that the final core crimes cases have effectively concluded. This legacy, which will endure long after the Mechanism has closed, can play a pivotal role not only in combating genocide denial and related phenomena, but also in serving the broader goals of international criminal justice. In this regard, it is crucial to ensure maximum accessibility of the Mechanism's public judicial records, including through the Mechanism's website, public databases and library. Moreover, the President is committed to further advancing where possible the Mechanism's facilitation of the establishment of information centres, in line with resolution 1966 (2010). In addition, the Mechanism will continue to support national jurisdictions in countries of the former Yugoslavia, Rwanda and other States by responding to requests for assistance, among other activities.

B. Judicial activities

1. Coordination of Chambers

23. In accordance with article 12 of the Mechanism's statute, the President coordinates the work of the Chambers and manages the judicial roster. The President designates the Mechanism's duty judges and assigns judicial work to single judges or benches as appropriate, while considering an equitable and geographical distribution of work among the judges, as well as gender balance and any possible conflicts of interest. Both the current and former President endeavoured to assign work in the most efficient, expeditious and balanced manner, to ensure steady progress with regard to the disposal of any judicial matter before the Mechanism.

24. A total of 67 assignment orders were issued by the President during the reporting period,¹⁰ namely, 29 between 15 April 2022 and the end of 2022, 28 in 2023 and 10 in the first three-and-a-half months of 2024. Of these, 24 orders pertained to rule 86 of the Rules of Procedure and Evidence. In total, 42 assignment orders related to the Arusha branch and 25 orders related to The Hague branch. For each of the assigned matters, the President carefully considered the amount of work and associated remuneration required, on the basis of similar past assignments.

25. Pursuant to article 12, paragraph 2, of the statute, the President continued to assign, on an alternating basis, Judge Joseph E. Chiondo Masanche, Judge William Hussein Sekule and Judge Vagn Prüsse Joensen to serve as duty judge at the Arusha branch. The decision to assign judges who reside in the United Republic of Tanzania maximizes efficiency, and they are remunerated only to the extent that they exercise judicial functions in the capacity as duty judge.

2. Appeals, review and other proceedings

26. In accordance with article 12, paragraph 3, of the statute, the President is a member of the Appeals Chamber and presides over its proceedings.

27. During the first 10 weeks of the reporting period, Judge Agius, then the President of the Mechanism, continued to preside over the *Stanišić and Simatović* case, as well as the final stages of the appeal proceedings in the contempt case *Prosecutor v. Marie Rose Fatuma et al.*¹¹ Judge Agius also presided over the Appeals Chamber in a matter concerning a request for legal aid to cover costs associated with the initiation of proceedings for review.

28. Following her appointment as President of the Mechanism, Judge Gatti Santana replaced Judge Agius as the presiding judge and pre-appeal judge in the *Stanišić and Simatović* case. She served in that capacity until the delivery of judgment, not only fully respecting the timelines announced to the Security Council but also ensuring that the case could be concluded earlier than previously projected (see sect. III.B.2). President Gatti Santana has also presided over a number of appeals of decisions of single judges, relating to, inter alia, the assignment of counsel, the relocation of acquitted and released persons and requests filed pursuant to rule 86 of the Rules of Procedure and Evidence.

29. Separately, President Gatti Santana has presided over two requests for review of final judgment in accordance with article 24 of the statute, one of which remains pending.

30. In addition, the President adjudicated two requests for review of administrative decisions and one complaint regarding the conditions of detention at the United Nations Detention Unit.

31. Information on the President's judicial activity in relation to the enforcement of sentences is provided in section II.B.4 below.

32. With regard to the situation of the acquitted and released persons who were relocated to the Niger, on 19 December 2022, President Gatti Santana issued an order instituting a reporting regime whereby the Registrar files regular submissions on the record concerning, inter alia, his efforts to find a solution in line with the

¹⁰ This total includes six orders assigning a duty judge for the Arusha branch of the Mechanism.

¹¹ The proceedings in the *Fatuma et al.* case involved appeals from the trial judgment issued in *Prosecutor v. Anselme Nzabonimpa et al.* At trial, the *Nzabonimpa et al.* case was first known as *Prosecutor v. Maximilien Turinabo et al.* Following the death of Mr. Turinabo and the termination of proceedings against him in April 2021, it became known as the *Nzabonimpa et al.* case. For further information, see sect. III.B.6 of the present report.

Mechanism's duty of care towards the relocated persons. In addition, she issued nine decisions and orders in relation to other motions filed by the relocated persons, including two requests for review of administrative decisions, mentioned above, and one request for transfer. President Gatti Santana is also currently seized of a pending request by one of the relocated persons, joined by a second relocated person, to convene a status conference for the purposes of discussing the progress made towards finding another relocation State. This judicial activity is in addition to the President's assignment of single judges to consider motions filed by the relocated persons, adjudication of their requests for judicial review and presiding over certain appeals filed by the relocated persons.

3. Monitoring of cases referred to national jurisdictions

33. In accordance with article 6, paragraph 5, of the statute, the Mechanism is responsible for monitoring cases referred to national jurisdictions, with the assistance of international and regional organizations and bodies. The President is responsible for the overall supervision of the monitoring process while the Registry deals with logistical aspects.

34. During the reporting period, the number of cases being actively monitored by the Mechanism was reduced from two to zero, following the conclusion of the case against Ladislav Ntaganzwa in Rwanda and the case against Laurent Bucyibaruta in France.

35. However, it is anticipated that two additional cases referred to national jurisdictions will require active monitoring in the near future, namely, the *Kayishema* case and the *Šešelj et al.* case. The Mechanism is in the process of arranging an effective monitoring mechanism for these two referred cases.

36. Details on the four above-mentioned cases are provided in section VI.G below.

4. Supervision of enforcement of sentences

37. In accordance with article 25, paragraph 2, of the statute, the Mechanism is responsible for supervising the enforcement of sentences pronounced by the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism. Sentences are enforced within the territory of Member States that have concluded agreements to this effect or have indicated their willingness to accept convicted persons under an ad hoc arrangement.¹²

38. Currently, 42 persons convicted by the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia or the Mechanism are serving their sentences in the territories of 12 Member States, subject to the supervision of the Mechanism.

39. A total of 25 persons convicted by the International Criminal Tribunal for Rwanda continue to serve their sentences under the supervision of the Mechanism in two different States: Benin (17) and Senegal (8).

40. During the reporting period, Mali, which, since 1999, had been enforcing sentences for the International Criminal Tribunal for Rwanda and, later, the Mechanism, ceased to be an enforcement State following the death of the two

¹² Additional information Mechanism's enforcement functions, including the locations where convicted persons are serving their sentences, may be found at www.irmct.org/en/about/functions/enforcement-of-sentences.

remaining convicted persons in that country.¹³ In addition, one convicted person died while serving his sentence in Benin.¹⁴

41. A total of 17 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 (1), Sweden (1) and the United Kingdom of Great Britain and Northern Ireland (2).

42. In addition, four convicted persons are currently detained at the United Nations Detention Unit in The Hague,¹⁵ and one detainee at the Unit is awaiting transfer to a State on provisional release.¹⁶ During the reporting period, three convicted persons were returned to the Unit on a temporary basis,¹⁷ one of whom was subsequently transferred from the Unit to serve his sentence in an enforcement State.¹⁸ Two other convicted persons were granted conditional early release.¹⁹

43. A total of three convicted persons who were granted conditional early release by the Mechanism now remain under its supervision until their sentences have been completed.²⁰ During the reporting period, two persons passed away while on conditional early release,²¹ and another convicted person completed his sentence on conditional early release.²²

44. Regarding the designation of the State in which a convicted person is to serve his or her sentence, following delivery of a final judgment, the President makes this decision in accordance with article 25 of the statute, rule 127 of the Rules of Procedure and Evidence and the relevant practice direction,²³ on the basis of

¹³ Sylvestre Gacumbitsi and Mikaeli Muhimana passed away on 10 September 2023 and 26 October 2023, respectively, while serving their sentences in Mali.

¹⁴ François Karera passed away on 9 May 2022 while serving his sentence in Benin.

¹⁵ The four convicted persons at the United Nations Detention Unit who are awaiting transfer to an enforcement State are Radislav Krstić, Ratko Mladić, Jovica Stanišić and Stojan Župljanin.

¹⁶ The detainee is Mr. Kabuga, whose trial proceedings were stayed indefinitely on 8 September 2023.

¹⁷ *Prosecutor v. Radislav Krstić*, Case No. MICT-13-46-ES.1, Order for the Transfer of Radislav Krstić to the United Nations Detention Unit on a Temporary Basis, 27 October 2023; *Prosecutor v. Stojan Župljanin*, Case No. MICT-13-53-ES.1, Order for the Transfer of Stojan Župljanin to the United Nations Detention Unit on a Temporary Basis, 12 May 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.

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 *Prosecutor v. Franko Simatović*, Case No. MICT-15-96-ES.1, Decision on the Application for Early Release of Franko Simatović, 29 August 2023 (public redacted version); *Prosecutor v. Radoslav Brđanin*, Case No. MICT-13-48-ES, Reasons for the 3 September 2022 Decision on the Application for Early Release of Radoslav Brđanin, 26 September 2022 (public redacted version), pp. 1, 57; *Prosecutor v. Radoslav Brđanin*, Case No. MICT-13-48-ES, Decision on the Application for Early Release of Radoslav Brđanin, 3 September 2022.

²⁰ *Prosecutor v. Franko Simatović*, Case No. MICT-15-96-ES.1, Decision on the Application for Early Release of Franko Simatović, 29 August 2023 (public redacted version); *Prosecutor v. Milivoj Petković*, Case No. MICT-17-112-ES.5, Decision on the Early Release of Milivoj Petković, 16 December 2021 (public redacted version); *Prosecutor v. 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).

²¹ Radoslav Brđanin passed away on 7 September 2022 while on conditional early release in Bosnia and Herzegovina, and Aloys Simba passed away on 4 July 2023 while on conditional early release in Benin.

²² Valentin Ćorić completed his sentence on 22 January 2024 while on conditional early release.

²³ Residual Mechanism, document MICT/2 Rev.1, 24 April 2014.

information provided by the Registrar and any other enquiries the President chooses to make.

45. Within the Mechanism's supervisory responsibility, and according to article 26 of the statute, the President also 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, 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 set out the President's powers when receiving such requests and reflect the long-standing practice of the ad hoc Tribunals and the Mechanism in this respect.²⁴

46. During the reporting period, the President issued three orders designating enforcement States in which convicted persons are to serve their sentences. In addition, the President issued seven decisions and orders regarding the transfer of convicted persons to or from an enforcement State, as well as two decisions on complaints relating to the conditions of imprisonment in an enforcement State.

47. In consultation with other judges, pursuant to rule 150 of the Rules of Procedure and Evidence, the President issued 16 decisions relating to applications for pardon, commutation of sentence or early release of persons convicted by the ad hoc Tribunals or the Mechanism. In two cases, the President granted early release subject to conditions.²⁵ The President also issued 25 other orders and four other decisions on enforcement-related matters. As of 15 April 2024, the President remains seized of seven requests related to the enforcement of sentences.

48. For part of the reporting period, enforcement States continued to provide information on the coronavirus disease (COVID-19) situation in prisons where the Mechanism's convicted persons are housed. The President ended this reporting regime on 19 May 2023, after the announcement by the World Health Organization that the COVID-19 pandemic no longer constituted a global health emergency.²⁶

49. The conditions of imprisonment in the enforcement States must be compatible with international standards of detention.²⁷ During the reporting period, the International Committee of the Red Cross (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.

50. With a view to distilling best practices, challenges and lessons learned in the enforcement of sentences, an independent thematic review of the Mechanism's "end-of-justice cycle" was undertaken by ICRC. The thematic review was concluded and the Mechanism recently received the ICRC draft report, which includes a number of findings and recommendations on the relevant practices of the Mechanism and its enforcement States. On 12 March 2024, the President was pleased to host Hague-based representatives of enforcement States for a presentation on the report by ICRC representatives. The Mechanism expresses its sincere gratitude to ICRC and all those

²⁴ See also Residual Mechanism, document MICT/3/Rev.3, 15 May 2020.

²⁵ *Prosecutor v. Franko Simatović*, Case No. MICT-15-96-ES.1, Decision on the Application for Early Release of Franko Simatović, 29 August 2023 (public redacted version); *Prosecutor v. Radoslav Brđanin*, Case No. MICT-13-48-ES, Reasons for the 3 September 2022 Decision on the Application for Early Release of Radoslav Brđanin, 26 September 2022 (public redacted version), pp. 1, 57; *Prosecutor v. Radoslav Brđanin*, Case No. MICT-13-48-ES, Decision on the Application for Early Release of Radoslav Brđanin, 3 September 2022.

²⁶ See Case No. MICT-12-01-ES, Order Vacating the Tenth Order in Relation to COVID-19 Updates from Enforcement States, 19 May 2023.

²⁷ These include the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

who contributed to the thematic review. It looks forward to further engaging on the insights offered, which could be very useful both to enforcement States and other international courts and tribunals.

51. Moreover, the Mechanism wishes to wholeheartedly thank and commend the 12 enforcement States for their outstanding support during the reporting period and their demonstrated commitment, not only to the mission of the Mechanism, but also to international criminal justice more broadly.

52. The Mechanism strongly encourages other States to follow their lead. In recent years, and as acknowledged by OIOS in its recent evaluation report,²⁸ the Mechanism has faced considerable challenges in the area of enforcement of sentences; these challenges have not been seen with such frequency before and will require ongoing, robust support from States. As mentioned above, three convicted persons were temporarily returned to the United Nations Detention Unit during the reporting period by States that were unable to continue enforcing their sentences, owing to limitations in domestic law or for other reasons internal to those States. The Unit has as a result become a de facto prison and the Mechanism's enforcement responsibilities risk becoming long-term detention problems. As the Unit was never intended to house returned convicted persons in such a manner, such returns strain the Mechanism's resources and create additional burdens for the host country. The Mechanism reiterates that it will not be able to overcome these difficulties alone.

53. Fortunately, towards the end of the reporting period, the Mechanism received some urgently needed support. Designation orders have been issued in respect of certain individuals currently housed at the United Nations Detention Unit, and the Registrar is working on identifying new States for the remaining persons. At the time of writing, details in this regard remain confidential; however, the Mechanism expects to be in a position to provide relevant updates in its next biannual report, due shortly, in May 2024. In this respect, the Mechanism is particularly grateful to those States that have recently indicated their willingness to enforce the sentences of additional convicted persons. By agreeing to enforce the sentences of persons convicted by the ad hoc Tribunals and the Mechanism, these States, together with the Mechanism's other enforcement States, have taken on additional responsibilities that are both weighty and complex. In so doing, they enable the Mechanism to continue fulfilling one of its most critical tasks.

54. Indeed, supervising the enforcement of sentences remains one of the key mandated functions of the Mechanism and will require active support and cooperation in the coming years. In terms of the remaining work in this area, 15 convicted persons are currently serving life sentences, while the sentences of 16 convicted persons will come to an end between 2030 and 2040, and those of another 8 persons after 2040. Notwithstanding the Security Council's request for precise projections regarding the duration of these activities and possibilities for transfer of enforcement functions, rule 128 of the Rules of Procedure and Evidence provides that the Council may designate another body to supervise the enforcement of sentences after the Mechanism ceases to exist.

C. Managerial activities

55. As head of the institution, the President carries out a range of managerial activities, including convening plenaries of judges and serving as chair of the Mechanism Coordination Council, as well as supervising activities of the Registry. These activities are additional to the President's judicial management, which is

²⁸ S/2024/199, paras. 33 and 34.

exercised through the coordination of Chambers and assignment of work to judges, as set out above, and the related approval of remuneration.

1. Plenaries

56. During the reporting period, the President convened three plenaries of Mechanism judges in accordance with rule 26 of the Rules of Procedure and Evidence.

57. In November 2022, the judges gathered in The Hague for a series of confidential, in-depth discussions over two-and-a-half days. Owing to the COVID-19 pandemic, this was the first in-person plenary to be held in almost four years. The judges discussed a number of issues, including proposed amendments to rule 86 of the Rules of Procedure and Evidence and the Mechanism's future planning activities. Regarding the former topic, the matter was reverted to the Rules Committee and further discussed by the judges in writing after the plenary. Ultimately, no amendments to rule 86 were adopted. In relation to future planning, the President considered it important to seek the views of the other judges regarding the outlook for the Mechanism's judicial functions and judicial roster. It was decided at this plenary that a panel of judges should be established to assess these matters. Further detail on the activities of the Panel on Judicial Functions is provided in section IV below.

58. As the budget of the Mechanism allows for in-person plenaries to be held only every two years, in September 2023 the President convened the Mechanism's second virtual plenary. The session was held over two half-days. With judges attending from 18 different countries and numerous time zones, the smooth and secure running of this session, which included simultaneous interpretation, was again a significant operational achievement. This was largely owing to the unique virtual platform built in-house by the Mechanism's Information Technology Services Section during the COVID-19 pandemic. Several topics were canvassed, including proposed amendments to rule 155 of the Rules of Procedure and Evidence, which sets out a procedure for the systematic declassification of judicial records. It was decided that this agenda item should be carried over to the next plenary. The judges also discussed and decided to adopt a revised version of the report produced by the Panel on Judicial Functions.

59. In February 2024, the President convened an in-person plenary, held over two days at the Mechanism's Arusha branch. Following further discussions on the proposed amendments to rule 155 of the Rules of Procedure and Evidence, the judges decided to eliminate the rule in its entirety, considering in particular that, at this advanced stage of the Mechanism's lifespan, it would be unrealistic to conduct a systematic declassification procedure, and that confidential material could instead be considered for declassification upon request. The President informed the President of the Security Council of this decision shortly thereafter. In addition, the judges engaged on proposed amendments to rules 84, 97 and 125 of the Rules of Procedure and Evidence, and it was decided that a pro bono working group of judges should be set up to examine this matter more closely before putting the proposals to a vote. Also on the agenda for consideration by the judges were the ethical principles for international criminal judges, adopted in Paris on 15 May 2023 within the framework of the ETHICA Project. The judges agreed to recognize these principles as an important complement to the existing code of judicial conduct and provisions regulating the duties and functions of judges of the Mechanism.

60. While every plenary session provides important opportunities for the judges of the Mechanism to engage on matters of judicial and institutional significance, the two in-person plenaries held during the reporting period demonstrate the tremendous

value of face-to-face interactions and dialogue. Particularly for the Mechanism's judges, who work predominantly from their own countries, such gatherings better facilitate the exchange of knowledge and the forging of closer connections, thereby fostering collegiality and team spirit.

2. Mechanism Coordination Council

61. According to rule 25 of the Rules of Procedure and Evidence, the Mechanism Coordination Council consists of the President, the Prosecutor and the Registrar. During the reporting period, this forum proved once more to be an essential tool for enhanced inter-organ coordination and communication among the leadership of the Mechanism. Chaired by the President, the Council continued to meet regularly, allowing the principals to engage on cross-cutting institutional matters such as budgetary issues, downsizing and the Mechanism's future planning activities.

62. The Mechanism Coordination Council met on 13 occasions during the reporting period. This was in addition to frequent informal interactions among the three principals.

3. Supervision of Registry activities

63. In accordance with rule 23, paragraph A, of the Rules of Procedure and Evidence, the President has supervisory authority over the activities of the Registry, and, in accordance with rule 31, paragraph A, it is under the President's authority that the Registrar is responsible for the administration and servicing of the Mechanism.

64. Given this structure and the overlap between their areas of responsibility, it is crucial that the President and Registrar work closely together so that the President is apprised of all relevant developments concerning the Mechanism's operations. To this end, the two principals communicated regularly during the reporting period, holding meetings and maintaining frequent contact through other internal communications. In this regard, a number of issues required particularly close cooperation between the President and Registrar. These included areas where both principals play active but distinct roles, such as the enforcement of sentences, the monitoring of referred cases and the situation of the acquitted and released persons in the Niger.

65. The President has identified the enforcement of sentences as an area where the activities of her Office and the Registry may be streamlined in various respects in order to increase efficiency and avoid duplication of processes. Certain aspects of the external relations function and the monitoring of referred cases have also been identified as ripe for optimization. The President and Registrar are engaged in ongoing discussions regarding these processes and are committed to ensuring efficient workflows and outcomes.

66. The situation of the acquitted and released persons in the Niger necessitated equally close collaboration between the President and Registrar and the proactive sharing of relevant information to ensure a unified and transparent approach. Through the above-mentioned reporting regime instituted by the President, the Registrar files regular submissions on the record concerning his efforts to resolve the matter. Alongside these submissions, the President receives regular informal updates from the Registrar regarding the situation on the ground, including the health of the relocated persons. Separately, in line with the related recommendation made recently by OIOS, the two principals are in the process of further clarifying and documenting their respective responsibilities in this area.

67. As indicated above, the President is also responsible for the judicial review of certain administrative decisions of the Registrar, including decisions on legal aid or

detention matters and other requests for relief, as provided in the Mechanism's legal framework.

D. Representational functions

68. The President is responsible for a number of representational duties, including reporting to the Security Council and the General Assembly, and, together with the Prosecutor, serving as interlocutor in the Council's Informal Working Group on International Tribunals. The President also interacts with the diplomatic community and other external stakeholders. Of particular importance is the President's engagement with the host countries and other countries most affected by the Mechanism's work.

69. In accordance with article 32 of the statute, the President reported to the Security Council and the General Assembly, as appropriate. The twentieth, twenty-first, twenty-second and twenty-third biannual progress reports of the Mechanism were submitted to the Council on 18 May 2022, 15 November 2022, 15 May 2023 and 15 November 2023, respectively. In addition, the President submitted the tenth annual report of the Mechanism to the Assembly and the Council on 29 July 2022 and the eleventh annual report on 28 July 2023.

70. Judge Agius presented his final address as President of the Mechanism to the Security Council in June 2022, while President Gatti Santana addressed the Council for the first time in December 2022, and subsequently in June and December 2023. She also addressed the General Assembly in October 2022 and October 2023. In connection with their briefings to the Council and the Assembly, both Presidents met with the Council's Informal Working Group on International Tribunals, as well as representatives of Member States and senior officials from the Secretariat.

71. The next biannual progress report to the Security Council is due in mid-May 2024 and the President is expected to address the Council in June 2024.

72. During the reporting period, Judge Agius undertook a final official visit to Rwanda in June 2022 before stepping down as President. President Gatti Santana subsequently conducted a number of official visits to Rwanda and the countries of the former Yugoslavia in order to engage directly with government officials and members of the affected communities. She participated in the twenty-seventh and twenty-eighth commemorations of the Srebrenica genocide, and the twenty-ninth and thirtieth commemorations of the genocide against the Tutsi in Rwanda of 1994, taking the opportunity to hold meetings with government officials and others during these missions.

73. President Gatti Santana also participated in the commemoration ceremony marking 30 years since the massacre in Ahmići, Bosnia and Herzegovina, as well as a conference in Sarajevo marking 30 years since the establishment of the International Tribunal for the Former Yugoslavia. On the margins of the latter event, she took the opportunity to convene a round table with judges of the Court of Bosnia and Herzegovina, the Mechanism and the International Criminal Court focused on good practices and lessons learned in processing cases involving international crimes. In addition, the President conducted her first official visit to Zagreb to meet with high-level officials of the Croatian Government and, inter alia, advance talks on the establishment of an information centre in that city. Separately, while working from the Arusha branch, the President travelled to Dar es Salaam and Dodoma to meet with officials of the Tanzanian Government. Lastly, the President conducted visits to both Geneva and Strasbourg, France, to meet with representatives of stakeholders, including ICRC and the European Committee for the Prevention of Torture, as well

as the President of the European Court of Human Rights and other representatives of the Council of Europe.

74. Also in connection with her representational function, in late February 2024, the President convened the Mechanism's second judicial colloquium in Arusha. This event was funded through a generous contribution from the late Benjamin B. Ferencz, former Prosecutor at the Nuremberg Tribunal, and his son, Donald Ferencz. The colloquium, entitled "The new face of atrocity crime proceedings: Internationalization of standards, regional dialogue on procedural and cooperation matters, and use of new technologies", brought together approximately 100 international and regional experts, including eminent jurists and practitioners from the countries of the East African Community, to exchange views on a diverse range of topics. The second judicial colloquium was timed to take place immediately after the recent in-person plenary of Mechanism judges in Arusha.

III. Chambers

A. Judges

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

76. The period under review saw a number of changes in the judicial roster. Very sadly, on 5 January 2023 Judge Elizabeth Ibanda-Nahamya (Uganda) passed away, having served with distinction as a judge of the Mechanism since March 2018. The Secretary-General subsequently appointed Judge Lydia Mugambe (Uganda) to serve the remainder of Judge Ibanda-Nahamya's term of office, effective 26 May 2023. More recently, Judge Mahandrisoa Edmond Randrianirina (Madagascar) resigned from his duties as a judge at the Mechanism, effective 4 October 2023, and Judge René José Andriatianarivelo (Madagascar) was appointed in his place, effective 20 February 2024. The Mechanism was delighted that this appointment took place in time for Judge Andriatianarivelo to be able to attend the in-person plenary of judges in Arusha and the second judicial colloquium later the same month. The number of female judges on the Mechanism's roster remains at 8 out of 25. All judges' terms of office currently expire on 30 June 2024.

77. The current judicial roster comprises (in order of precedence): Judge Graciela Gatti Santana, President (Uruguay), Judge Jean-Claude Antonetti (France), Judge Joseph E. Chiondo Masanche (United Republic of Tanzania), Judge William Hussein Sekule (United Republic of Tanzania), Judge Lee G. Muthoga (Kenya), Judge Carmel Agius (Malta), Judge Alphons M. M. 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 Claudia Hoefler (Germany), Judge Iain Bonomy (United Kingdom), Judge Fatimata Sanou Touré (Burkina Faso), Judge Margaret M. deGuzman (United States of America), Judge Lydia Mugambe (Uganda) and Judge René José Andriatianarivelo (Madagascar).

78. To help carry out their functions, the judges on the roster are provided with legal and administrative support by staff of the Chambers Legal Support Section. The legal

staff are assigned to multiple matters across the branches to ensure maximum flexibility and facilitate legal research, analysis, and the drafting of orders, decisions and judgments, in addition to providing individualized support to judges, as needed, in connection with their judicial work.

79. In addition to supporting the judges with their judicial work, the Chambers Legal Support Section maintains the Mechanism's case-law database, which provides the public with direct access to extracts and full-text versions of key judgments and decisions rendered by the Appeals Chambers of the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism. During the reporting period, the Chambers Legal Support Section significantly increased its efforts to ensure that the case-law database is up to date and to make this valuable resource accessible to researchers, practitioners and judges as part of the assistance provided to national jurisdictions.

B. Judicial activities

80. During the reporting period, the Mechanism concluded the last core crimes case inherited from the International Tribunal for the Former Yugoslavia with the delivery of the appeal judgment in the *Stanišić and Simatović* case in May 2023. In addition, in September 2023, an indefinite stay of proceedings was imposed in the *Kabuga* case, the final core crimes case related to the International Criminal Tribunal for Rwanda. As set out below, the Trial Chamber in that case is now tasked with Mr. Kabuga's provisional release process, the monitoring of his health condition and the recovery of assets following the determination that he is non-indigent.

81. As there are no further active trial or appeal proceedings in core crimes cases, the Chambers are focused on discharging the Mechanism's residual judicial functions, which include adjudicating requests for review, considering whether to authorize contempt proceedings and adjudicating requests for access to confidential material and for variation of witness protective measures. In relation to contempt proceedings, the Appeals Chamber delivered its judgment in the *Fatuma et al.* case in June 2022, and in February 2024, a single judge referred the *Šešelj et al.* case to Serbia for trial. Unfortunately, there have been no developments in the *Jojić and Radeta* case.

1. Trial proceedings

82. The only remaining core crimes trial before the Mechanism – the *Kabuga* case – was indefinitely stayed by the Trial Chamber on 8 September 2023 because Mr. Kabuga was determined to be unfit for trial and very unlikely to recover. The Trial Chamber continues to maintain jurisdiction over the case, but its focus is on monitoring Mr. Kabuga's health, identifying an appropriate State for his provisional release and recovering assets to reimburse the Mechanism for legal aid expenditures. Periodic status conferences will be held while Mr. Kabuga remains detained until a State of release is found, but the evidentiary phase of the case has effectively concluded.

83. As projected in the May 2022 progress report to the Security Council,²⁹ the trial in the *Kabuga* case commenced on 29 September 2022 with the Trial Chamber and the accused participating from The Hague branch. Prior to the imposition of the indefinite stay of proceedings, the Trial Chamber heard 24 Prosecution witnesses in court. Witnesses appeared before the Trial Chamber in person in The Hague and via videoconference link from Arusha and Kigali. The evidence of 47 other Prosecution witnesses was admitted at the start of the trial exclusively in written form. At the time

²⁹ S/2022/404, annex I, para. 45.

the proceedings were stayed, an additional 30 Prosecution witnesses remained to be heard in court.

84. The start of the trial followed an extended pretrial phase of the proceedings where it was necessary for the Trial Chamber to examine whether Mr. Kabuga was fit for trial and whether the appropriate venue for the proceedings, in view of his health condition, was The Hague branch or the Arusha branch. This process included multiple examinations by medical experts, and a hearing, held at the end of May and in early June 2022, where the parties and the Trial Chamber had the opportunity to examine the medical experts. On 13 June 2022, the Trial Chamber determined that the trial could proceed and established a monitoring regime to be implemented by a panel of independent medical experts (two forensic psychiatrists and one neurologist). The Hague was selected as the venue for the trial, taking into account the expert medical advice that transferring Mr. Kabuga to Arusha would likely significantly impact the time it would take to start the trial. The Trial Chamber's decision was affirmed by the Appeals Chamber in August 2022.

85. As a result of Mr. Kabuga's health condition and in line with the medical advice at the time, the Trial Chamber was generally limited to sitting three days per week (Tuesdays, Wednesdays and Thursdays) for two hours per day (10 a.m. to 12 p.m.). In the event that Mr. Kabuga elected not to attend court in person or via videoconference link from the United Nations Detention Unit, the Trial Chamber sat for extended hours.

86. Between 29 September and 22 December 2022, the Trial Chamber sat for a total of 29 days. Mr. Kabuga waived his right to attend on 8 of those days (29 and 30 September and 6, 12, 13, 18, 19 and 20 October 2022). He elected to participate via videoconference link on three occasions (5 and 25 October and 22 November 2022) and attended court proceedings in person on the remaining 18 days (11 October, 8, 9, 10, 15, 16, 17, 23 and 24 November, and 1, 7, 8, 13, 14, 15, 20, 21 and 22 December 2022). During this period, the Trial Chamber was able to hear a total of 19 witnesses.

87. On 12 December 2022, the independent panel of experts filed a report indicating that, on the two dates in November it had examined Mr. Kabuga, he had not been fit for trial. The panel also recommended that it should reassess Mr. Kabuga within three months to determine whether the decline in his health was temporary or permanent. The Trial Chamber ordered a follow-up medical report but declined to immediately stay the proceedings until after considering the next expert report.

88. After the end-of-year recess, court proceedings were scheduled to resume on 17 January 2023, but were postponed until 14 February 2023 owing to Mr. Kabuga's fatigue resulting from several intercurrent illnesses, including flu and pneumonia, detailed in the reports of the United Nations Detention Unit medical officer. The Trial Chamber's decision to resume proceedings after Mr. Kabuga's recovery also included a temporary change in trial modalities. As from 14 February 2023, the Trial Chamber resumed trial hearings on the basis of a reduced schedule of two hearings per week of 90 minutes each, with a minimum of one 15 minute break, and with Mr. Kabuga attending exclusively via videoconference link from the Unit, in order to take into account medical recommendations and his level of fatigue. Mr. Kabuga attended trial proceedings on 14, 15, 22, 23 and 28 February and on 1 and 2 March 2023 via videoconference link from the Unit. During this period, the testimony of an additional four witnesses was completed.

89. On 6 March 2023, the Registry filed a follow-up medical report from the independent panel of experts, wherein it opined that Mr. Kabuga's health had further declined since it had submitted its December 2022 report and that he was not fit for trial. Following the filing of this report, the Trial Chamber temporarily suspended the

presentation of the Prosecution's evidence and held a procedural hearing on 8 March 2023 concerning the next steps. Following the hearing, the Trial Chamber and the parties examined each of the three expert members of the panel in hearings held on 15, 16, 17, 23 and 29 March 2023, and heard the parties' oral submissions on this evidence on 30 March 2023. Mr. Kabuga attended each of these hearings via videoconference link. Following the completion of the parties' submissions, the Trial Chamber deliberated on the issue of Mr. Kabuga's fitness and also considered the parties' submissions concerning the next stages of proceedings if he were found to be unfit.

90. On 6 June 2023, the Trial Chamber held, by majority, that, on the basis of the unanimous opinion of the three medical experts, Mr. Kabuga was not fit for trial and was very unlikely to regain fitness. Judge El Baaj dissented and considered that Mr. Kabuga was fit for trial and that the trial proceedings should resume. Furthermore, the Trial Chamber, by majority, decided that, because Mr. Kabuga was unlikely to regain fitness, it should conduct an alternative finding procedure. The Trial Chamber considered that the obligation to respect Mr. Kabuga's rights warranted adopting an alternative procedure, rather than staying the proceedings without providing him any opportunity for exoneration and unconditional release. It noted that, principally owing to the risk of arbitrary detention, the Committee on the Rights of Persons with Disabilities had urged States parties to the Convention on the Rights of Persons with Disabilities to provide disabled accused persons with procedures that were as close as possible to those generally afforded to an accused person.

91. In addition, the Trial Chamber considered that staying proceedings in this case was not the best way to achieve the goals of the Mechanism, which included combating impunity and contributing to the restoration and maintenance of peace in Rwanda. It added that such a stay would leave victims and survivors without any findings in relation to allegations of conduct attributed to Mr. Kabuga. Lastly, the Trial Chamber noted that Mr. Kabuga's decision to evade justice for more than two decades had led to the present situation, making it particularly unfair to privilege his preference for termination or stay of proceedings over the needs of victims and survivors.

92. The Trial Chamber maintained the temporary stay of the hearing of the Prosecution evidence until the expiration of the period for the parties to seek certification to appeal or the resolution of any such appeal. It also maintained the medical monitoring regime by the panel of independent experts put in place by the decision of 13 June 2022, with the next report being due 180 days from the filing of the report of 6 March 2023.

93. Both the Prosecution and the Defence filed appeals against the Trial Chamber's decision and, as the trial proceedings had been suspended since March 2023, a status conference was held in July 2023. On 7 August 2023, the Appeals Chamber issued its decision on the appeals. Details are provided section III.B.3 below.

94. On 31 August 2023, the Trial Chamber received the medical monitoring report filed by the panel of independent experts, in which the experts maintained their view that Mr. Kabuga lacked four capacities necessary for meaningful participation in a trial and that, on the balance of probabilities, his mental capacities would not improve to the extent that he could be fit for trial.

95. On 8 September 2023, following the Appeals Chamber's decision and after hearing the parties, the Trial Chamber issued a decision indefinitely staying the proceedings, ordering that Mr. Kabuga should remain in detention at the United Nations Detention Unit, pending the resolution of the issue of his provisional release, and maintaining his medical monitoring regime. The Trial Chamber further ordered the Registry to use its good offices to provide all possible support in facilitating

contact and communication between the Defence and the appropriate authorities of national jurisdictions to which Mr. Kabuga would be seeking provisional release. The Defence was thereafter ordered to file regular reports regarding progress made in identifying an appropriate State willing to accept Mr. Kabuga on provisional release.

96. On 13 December 2023, the Trial Chamber held a status conference, in particular to discuss the efforts of the Defence in relation to Mr. Kabuga's provisional release. On 26 February 2024, the Trial Chamber received a further joint expert monitoring report, in which the experts maintained their view that Mr. Kabuga remained unfit to stand trial and was unlikely to regain fitness to stand trial. The experts further noted that Mr. Kabuga was receiving care and treatment of a high quality which was appropriate to his high level of need. The Trial Chamber held a further status conference on 26 March 2024.

97. In relation to possible provisional release, the Trial Chamber has received regular reports from the Defence on its efforts to identify a suitable State. On 15 February 2024, in the interests of transparency, the Trial Chamber issued an order to file on the record a submission received by the Registry from the Ministry of Justice of Rwanda indicating that Rwanda was a willing and appropriate destination for Mr. Kabuga's provisional release. In issuing this order, the Trial Chamber noted that it would not consider the submission at that time since Mr. Kabuga's provisional release to Rwanda was not currently a live issue before it and the Rwandan Government was not a party to the proceedings. The Trial Chamber noted that Rwanda would be heard at the appropriate time, if and when the matter properly arose. On 29 February 2024, the Trial Chamber issued a confidential decision, in which it denied Mr. Kabuga's request for a State to be ordered to accept him onto its territory as a provisionally released accused pursuant to article 28 of the statute of the Mechanism.

98. Concerning a different aspect of the proceedings, in October 2023, the Registrar concluded his investigation regarding Mr. Kabuga's means and deemed that the accused was non-indigent and capable of fully funding his entire defence before the Mechanism. The Registrar, however, deferred seeking an order from the Trial Chamber for reimbursement for ongoing legal aid funding until frozen assets could be accessed. The Defence did not seek review of this determination before the Trial Chamber. With respect to the recovery of legal aid funds following the Registrar's decision of October 2023, the Trial Chamber issued a confidential order for submissions on 26 February 2024, in which it requested that the Registrar file a submission responding to several questions that would, hopefully, assist in determining the realistic feasibility and the most effective method of recovering the substantial cost of Mr. Kabuga's legal expenses from the assets attributed to him.

99. The original composition of the Trial Chamber, which was maintained throughout the pretrial phase of the case, was: Judge Bonomy, presiding, Judge Gatti Santana and Judge Ibanda-Nahamya. In August 2022, following her appointment as President of the Mechanism, President Gatti Santana assigned Judge El Baaj to replace her on the bench, and Judge deGuzman to serve as the reserve judge. Following the passing of Judge Ibanda-Nahamya in January 2023, Judge deGuzman replaced her on the bench, and the President of the Mechanism assigned Judge Rosa as the reserve judge. In August 2023, after the Appeals Chamber ordered the Trial Chamber to impose an indefinite stay of proceedings, the President of the Mechanism modified the composition of the Trial Chamber, finding that it was no longer necessary to have a reserve judge to ensure the expeditious conduct of the trial. In view of the procedural posture of the case, following the stay of trial proceedings, the Trial Chamber has been working remotely, with the judges being remunerated only for a limited number of days per month rather than on a full-time basis, as had been the case until 30 September 2023.

2. Appeals from judgment

100. The Appeals Chamber of the Mechanism – presided over by the President – is responsible for conducting appeal proceedings in cases in which trials were completed after the commencement of operations at each of the respective branches of the Mechanism, and in any case in which a trial or retrial was conducted by the Mechanism.

101. During the reporting period, the Appeals Chamber was seized of appeals from judgment in one core crimes case, the *Stanišić and Simatović* case. It delivered its judgment on 31 May 2023, one month earlier than originally projected. With the conclusion of this last core crimes case from the International Tribunal for the Former Yugoslavia, and the indefinite stay of proceedings imposed in the *Kabuga* case, the Mechanism anticipates receiving no more appeals from judgment in relation to core crimes cases.

102. In the judgment, the Appeals Chamber, composed of Judges Gatti Santana, presiding, Muthoga, N’gum, Aksar and Hoefler, dismissed the appeals filed by Mr. Stanišić and Mr. Simatović against their convictions for aiding and abetting murder as a violation of the laws or customs of war, as well as murder, deportation, inhumane acts (forcible transfer) and persecution as crimes against humanity committed in connection with and following the April 1992 takeover of Bosanski Šamac in Bosnia and Herzegovina. The Appeals Chamber also dismissed challenges raised by Mr. Stanišić and Mr. Simatović to their sentences of 12 years of imprisonment.

103. Furthermore, the Appeals Chamber granted aspects of the Prosecution’s appeal and reversed Mr. Stanišić’s and Mr. Simatović’s acquittals of joint criminal enterprise liability. Specifically, it found each liable as a member of a joint criminal enterprise that had a common criminal purpose to forcibly and permanently remove the majority of non-Serbs from large areas of Croatia and Bosnia and Herzegovina, through the commission of murder, deportation, inhumane acts (forcible transfer) and persecution. The Appeals Chamber found Mr. Stanišić and Mr. Simatović responsible for all or some such crimes committed by various Serb forces in Bosnia and Herzegovina in 1992 in Bijeljina, Zvornik, Bosanski Šamac, Doboj and Sanski Most, and for crimes committed in 1995 in Trnovo and Sanski Most. It also found them responsible for a murder committed in Daljska Planina, Croatia, in June 1992. The Appeals Chamber increased Mr. Stanišić’s and Mr. Simatović’s sentences to 15 years of imprisonment.

104. The trial judgment in the *Stanišić and Simatović* case was pronounced on 30 June 2021 and the written reasons were filed on 6 August 2021. All three parties to the case appealed against the trial judgment, filing their notices of appeal on 6 September 2021. Following an extension of one month for the filing of the response briefs, the appeal briefing concluded on 15 February 2022. The original projection for completion of the appeal proceedings in this case was accelerated by six months, to the end of June 2023, owing to the assessment of the scope of the appeals following the conclusion of the briefing.

105. The Appeals Chamber was initially composed of Judges Agius, presiding, Muthoga, N’gum, Aksar and Hoefler. However, following her appointment as President of the Mechanism, Judge Gatti Santana replaced Judge Agius as the presiding and pre-appeal judge on the case in July 2022. The Appeals Chamber conducted status conferences on 16 December 2021, 1 April, 23 June and 22 September 2022, and on 19 January and 17 May 2023. The hearing of the appeals was held in The Hague before the Appeals Chamber on 24 and 25 January 2023.

106. Throughout the appeal process, the Appeals Chamber leveraged technology to conduct remote proceedings to avoid potential delays caused by the physical unavailability of courtroom participants. Mr. Stanišić and Mr. Simatović, as well as counsel for Mr. Stanišić and the Prosecution, were authorized to participate in status conferences remotely. Furthermore, when circumstances prevented Mr. Stanišić's counsel from travelling to The Hague days before the hearing of the appeals, 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. Similarly, Mr. Simatović and counsel for Mr. Stanišić were authorized to follow the delivery of the appeal judgment remotely.

107. Furthermore, and notwithstanding the recomposition of the Bench, the Appeals Chamber, with the support of the Chambers Legal Support Section, diligently advanced the appeal proceedings, issuing its judgment in advance of projections and 26 decisions and orders during the proceedings, including the adjudication of three motions filed days before the delivery of the appeal judgment. Aside from the hearing of the appeals and the delivery of the appeal judgment, Judges Muthoga, N'gum, Aksar and Hoefler worked remotely on the case.

3. Other appeal activity

108. Beyond appeals from judgment and review proceedings, the Appeals Chamber is responsible for considering appeals from decisions of a Trial Chamber or a single judge. During the reporting period, the Appeals Chamber has considered appeals pertaining to, inter alia, decisions on requests for variation of witness protective measures, financial assistance for and relocation of acquitted and released persons, fitness to stand trial and assignment of counsel. The Appeals Chamber is expected to continue such judicial activity in line with the levels of judicial activity of the Trial Chamber and single judges.

109. On 12 August 2022, the Appeals Chamber dismissed an appeal by Mr. Kabuga and affirmed the Trial Chamber's determination that Mr. Kabuga was, at the time, fit for trial. Subsequently, on 4 November 2022, the Appeals Chamber dismissed an appeal against the Trial Chamber's decision denying a request for the withdrawal of Mr. Kabuga's assigned counsel shortly before the commencement of trial.

110. Following the deterioration in Mr. Kabuga's condition, on 7 August 2023, the Appeals Chamber affirmed the Trial Chamber's determination that Mr. Kabuga was no longer fit to stand trial and very unlikely to regain fitness. The Appeals Chamber, however, reversed the Trial Chamber's decision to conduct an alternative finding procedure, determining, among other things, that such a procedure was not compatible with the provisions of the Mechanism's statute and Rules of Procedure and Evidence and thus was outside the Mechanism's mandate. The Appeals Chamber remanded the matter to the Trial Chamber with the instruction to impose an indefinite stay of proceedings and to expeditiously address the issue of Mr. Kabuga's detention and consider appropriate modalities and conditions for his release. In reaching its decision, the Appeals Chamber considered that the imposition of an indefinite stay of proceedings was consistent with prior practice and struck the appropriate balance between upholding the statutory guarantees afforded to all accused before the Mechanism and ensuring that the accused, who was allegedly responsible for some of the most egregious crimes and who had evaded justice for over two decades, remained under the Mechanism's jurisdiction.

111. Lastly, in two separate decisions, the Appeals Chamber dismissed appeals from Ferdinand Nahimana, on 7 August 2023, and Emmanuel Rukundo, on 15 August

2023, in which they challenged decisions denying them additional financial support following their release from prison.

4. Review proceedings

112. In accordance with article 24 of the Mechanism's statute, a convicted person's right to the review of a final judgment issued by the ad hoc Tribunals or the Mechanism is fundamental. While there is no time limit on a convicted person's right to seek review, the Prosecution also has the ability to seek review in the first year after the issuance of a final judgment. Review proceedings require a threshold determination by the Appeals Chamber of whether the applicant has identified a new fact that was unknown during the original proceedings, which, if established, would have been a decisive factor in reaching the verdict. If the threshold is met, a review of the judgment is authorized, further proceedings are held and a review judgment is issued.

113. During the reporting period, the Appeals Chamber, composed of Judges Gatti Santana, presiding, Masanche, Hall, Liu and N'gum adjudicated a second request for review filed by Augustin Ngirabatware on 14 March 2023. Mr. Ngirabatware's first request for review of his convictions was dismissed by the Appeals Chamber in a judgment on review rendered on 27 September 2019, followed by a contempt trial and appeal proceedings that saw Mr. Ngirabatware and four of his associates convicted of contempt through knowingly and willfully interfering with the administration of justice. In his second request for review, Mr. Ngirabatware argued that new evidence and findings in the contempt trial undermined the credibility of the four key witnesses whose testimony underpinned his convictions for direct and public incitement to commit genocide and for instigating and aiding and abetting genocide, as entered by a trial chamber of the International Criminal Tribunal for Rwanda and affirmed by the Appeals Chamber of the Mechanism. On 10 October 2023, the Appeals Chamber dismissed Mr. Ngirabatware's second request for review, finding that his arguments pertaining to the credibility of the four witnesses were extensively litigated throughout the original trial, appeal and review proceedings, and that none of the material and findings in the contempt trial amounted to a new fact for the purposes of review.

114. The Appeals Chamber, composed of Judges Gatti Santana, presiding, Antonetti, Hall, N'gum and Park is currently seized of a request for review filed confidentially on 14 December 2023 by Gérard Ntakirutimana against his convictions for genocide and murder and extermination as crimes against humanity entered by the International Criminal Tribunal for Rwanda. The fact that Mr. Ntakirutimana is seeking review more than 19 years after the delivery of his final judgment, and more than 10 years after being released early, demonstrates the long-term nature of the Mechanism's review responsibilities and the difficulty of making realistic predictions in this respect. Briefing on the matter concluded on 28 March 2024, and a decision is anticipated in April or early May 2024. If a review is authorized, it is estimated that the matter could be completed within three to six months, unless there are intervening circumstances warranting a longer period. Until recently, the Appeals Chamber in this case was composed of Judges Gatti Santana, presiding, Antonetti, Hall, Arrey and N'gum. On 5 April 2024, owing to changes in the availability of Judge Arrey to perform her judicial duties in the context of the request for review, she was replaced on the bench by Judge Park.

115. In an ancillary matter, on 30 June 2022, the Appeals Chamber, composed of Judges Agius, presiding, Hall, Arrey, Rosa and deGuzman, dismissed a request by Gaspard Kanyarukiga for legal aid to cover costs associated with the initiation of proceedings for review of his convictions for planning genocide and extermination, as a crime against humanity, entered by the International Criminal Tribunal for Rwanda. In its decision, the Appeals Chamber recalled that, before a review pursuant

to article 24 of the statute is authorized, an applicant is only entitled to legal assistance at the expense of the Mechanism if the Appeals Chamber deems it necessary to ensure the fairness of the proceedings and, in general, where it cannot exclude the likelihood of success of a potential ground for review. Such determination is, to a great extent, assessed in light of the potential grounds for review put forth by the applicant and, in view of Mr. Kanyarukiga's failure to provide any information on the potential grounds for review of his convictions, the Appeals Chamber dismissed his request for legal aid.

116. Review is an extraordinary remedy and the threshold for authorizing it is high.³⁰ While review has been seldom granted, a convicted person's ability and right to seek review remains an essential fair trial guarantee and adjudicating such applications is a continuous judicial function for the Mechanism. Based on recent experience, projections have been revised and it is now estimated that the Mechanism will receive on average one request for review per year. If review is authorized, it is estimated that the proceedings will last approximately 10 months from the filing of the initial request for review to the issuance of the review judgment, in the absence of exceptional circumstances.

5. Fugitive-related proceedings

117. With respect to proceedings relating to the fugitives of the International Criminal Tribunal for Rwanda, on 14 September 2022, the proceedings against Mr. Mpiranya, the last fugitive expected to be tried before the Mechanism, were terminated. Mr. Mpiranya was initially indicted by the International Criminal Tribunal for Rwanda in 2000 and the operative indictment against him was confirmed in 2012. In deciding to terminate the proceedings, the single judge, Judge Arrey, examined the evidence presented by the Prosecution, including a forensic report containing DNA analysis of exhumed remains, and determined that there was sufficient information to establish that Mr. Mpiranya was deceased.

118. Separately, on 16 December 2022, the proceedings against Mr. Munyarugarama before the Mechanism were terminated on account of his death. Mr. Munyarugarama was initially indicted by the International Criminal Tribunal for Rwanda in 2002 and the operative indictment against him was confirmed in 2012. Shortly thereafter, the proceedings against him 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, Judge Sekule, 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 contradicting that information, the single judge terminated the proceedings against Mr. Munyarugarama before the Mechanism.

119. With regard to the *Kayishema* case, Mr. Kayishema was arrested in South Africa on 24 May 2023 and continues to be subject to domestic criminal proceedings there. Mr. Kayishema was indicted by the International Criminal Tribunal for Rwanda in 2001 and his case was referred to trial in Rwanda in February 2012. Warrants of arrest issued by the International Criminal Tribunal for Rwanda and, subsequently, the Mechanism, required that Mr. Kayishema be arrested and transferred to the National Public Prosecution Authority of Rwanda. However, Mr. Kayishema's arrest warrant was amended in March 2019 to provide for his temporary transfer to the Arusha branch of the Mechanism. This amendment was granted based on a Prosecution

³⁰ *Prosecutor v. Augustin Ngirabatware*, Case No. MICT-12-29-R, Review Judgment, 27 September 2019, para. 63.

motion raising concerns that a key partner who could assist in tracking and apprehending Mr. Kayishema would no longer be able to do so if the arrest warrant provided for his transfer to Rwanda. Mr. Kayishema's March 2019 arrest warrant was made public by an order of a single judge on 7 September 2023. Consequently, it is expected that Mr. Kayishema will be transferred first to Arusha, on a temporary basis, and thereafter to Rwanda, where he will be tried.

120. On 19 March 2024, the proceedings against Mr. Ndimbati before the Mechanism were terminated on account of his death. Mr. Ndimbati was initially indicted by the International Criminal Tribunal for Rwanda in 1995 and the operative indictment against him was confirmed in 2012. Shortly thereafter, the proceedings against him 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. Having examined the information presented by the Prosecution showing that Mr. Ndimbati is deceased, which, according to the Prosecution, was corroborated by an independent investigation conducted by the authorities of Rwanda, a single judge, Judge Nyambe, terminated the proceedings against Mr. Ndimbati before the Mechanism.

6. Contempt of court and false testimony

121. In accordance with article 12, paragraph 1, of the statute of the Mechanism, a single judge of the Mechanism is responsible for conducting any trials for contempt of court or false testimony related to cases before the ad hoc Tribunals or the Mechanism, provided that such cases are not referred to a national jurisdiction in accordance with article 1, paragraph 4, of the statute. Any appeals from such trials before a single judge are to be dealt with by a three-judge bench of the Appeals Chamber of the Mechanism.

122. During the reporting period, the Appeals Chamber, composed of Judges Agius, presiding, Orié and Panton, adjudicated appeals filed by Ms. Fatuma and the Prosecution against the trial judgment pronounced by a single judge, Judge Joensen, on 25 June 2021 in *Prosecutor v. Anselme Nzabonimpa et al.*³¹ In the trial judgment, the single judge convicted Mr. Ngirabatware, Mr. Nzabonimpa, Jean de Dieu Ndagijimana and Ms. Fatuma of contempt for witness interference. Mr. Ngirabatware was also convicted for contempt on the basis of violating court orders. The single judge entered a verdict of not guilty for a co-accused, Dick Prudence Munyeshuli, on a single contempt charge for violations of court orders. The single judge sentenced Mr. Ngirabatware to two years' imprisonment, to be served concurrently with his existing sentence for core crimes, while Mr. Nzabonimpa, Mr. Ndagijimana and Ms. Fatuma were sentenced to time served, having spent over 11 months in pretrial detention.

123. Ms. Fatuma appealed her conviction and sentence, and the Prosecution appealed Mr. Munyeshuli's acquittal and certain aspects of Mr. Ngirabatware's sentence. Mr. Ngirabatware, Mr. Nzabonimpa and Mr. Ndagijimana did not appeal the trial judgment. As a result of the reduction in the number of parties to the case, the case name changed from *Prosecutor v. Anselme Nzabonimpa et al.* to *Prosecutor v. Marie Rose Fatuma et al.* Following the completion of the written briefing of the appeals, the Appeals Chamber decided that holding an oral appeal hearing was not necessary.

124. The appeal judgment in the *Fatuma et al.* case was delivered on 29 June 2022, and the appeal proceedings were thereby completed in line with the updated projection provided in the last review report, which was five months earlier than initially projected. In the appeal judgment, the Appeals Chamber dismissed

³¹ See footnote 11 above.

Ms. Fatuma's appeal in its entirety, setting aside her sentence of time served and imposing a new sentence of 11 months of imprisonment. The Appeals Chamber granted the entirety of the Prosecution's appeal and overturned Mr. Munyeshuli's acquittal of contempt, sentencing him to five months of imprisonment. It also set aside Mr. Ngirabatware's concurrent sentence of two years of imprisonment for contempt, imposing, by majority, a sentence of two years of imprisonment to be served consecutively with the 30-year sentence that Mr. Ngirabatware is already serving for his convictions for genocide and direct and public incitement to commit genocide.

125. In relation to the *Jojić and Radeta* case, the Mechanism deeply regrets that there have been no developments since the last review report, with Serbia again continuing to refuse to arrest and transfer the accused, Mr. Jojić and Ms. Radeta, who remain at large. The Mechanism does not hold trials in absentia and therefore relies on the cooperation of Member States to secure the presence of the accused. Once more, the Mechanism underscores that all States, including Serbia, must abide by their obligations under Chapter VII of the Charter of the United Nations. They are therefore expected – and, moreover, are legally required – to act in accordance with the outstanding arrest warrants and to ensure the arrest and detention of the accused and their transfer to the custody of the Mechanism without delay. As indicated in the last review report, in the event of the accused's arrest and transfer to the Mechanism, on the basis of experience with cases of similar complexity, the trial phase of the *Jojić and Radeta* case would last approximately one year from the initial appearance to the trial judgment, and the appeal phase would last one year from the issuance of the trial judgment to the issuance of the appeal judgment. These projections will be updated following the arrest of either of the accused and then again following the completion of the trial judgment and the filing of the notices of appeal, if any, when it becomes possible to determine more accurately the scope and complexity of the case on appeal.

126. In the *Šešelj et al.* case, on 11 August 2023, a single judge, Judge Liu, confirmed an indictment submitted by the Prosecution against Mr. Šešelj, Miljan Damjanović, Miroljub Ignjatović, Ljiljana Mihajlović and Ognjen Mihajlović for contempt of the International Tribunal for the Former Yugoslavia and the Mechanism. The indictment alleges that the accused disclosed information in knowing violation of court orders, including orders for the protection of witnesses, and failed to comply with court orders to cease and desist from the publication of confidential information. In the decision confirming the indictment, the single judge requested the authorities of Serbia to serve the indictment on the accused and instructed the Registry to complete service of the indictment should service not be fully executed within the set deadline. On 18 December 2023, the Registry notified the single judge that it had not received proof of service from Serbia and had therefore completed service of the indictment on all accused.

127. In view of article 6, paragraph 2, of the statute, on 5 October 2023, the single judge referred the matter to the President for the appointment of a judge to determine whether the case against the accused should be referred to the authorities of a State. On 9 October 2023, the President assigned the same single judge, Judge Liu, who shortly thereafter invited submissions from Serbia and the Prosecution on whether the case should be referred to Serbia for trial. Following the service of the indictment on the accused, on 22 December 2023, the single judge invited the accused to file submissions on the suitability of referring the case to Serbia.

128. In its submissions before the single judge, Serbia indicated that all legal requirements for the referral of the case had been met. In this regard, Serbia noted its legal obligation to cooperate with the Mechanism, observed that the accused resided in its territory and stated that it had the necessary legal framework to prosecute the conduct alleged in the indictment. In its submissions, the Prosecution expressed the view that Serbia had met the initial criteria for referral of the case, given that the

alleged crimes had been committed in its territory, but had failed to sufficiently demonstrate that it had an adequate legal framework that criminalized the conduct alleged in the indictment. In turn, the accused indicated their support for the referral of the case to Serbia and expressed their commitment to appear before the relevant domestic authorities when summoned.

129. Having considered the submissions by Serbia, the Prosecution and the accused, on 29 February 2024, the single judge ordered the case to be referred to Serbia for trial. The factors in favour of referring the case to Serbia considered by the single judge included the fact that the accused resided in Serbian territory, which is also where the crimes were allegedly committed, and the fact that no concerns were raised in relation to the accused's right to a fair trial, should the case be referred. In relation to certain reservations regarding the existence in Serbia of an adequate legal framework criminalizing most, if not all, of the accused's conduct alleged in the indictment, the single judge took into account the availability of a revocation procedure under the statute and the Rules of Procedure and Evidence, should it become clear that the conditions for the referral of the case are no longer met and it is in the interests of justice to order a deferral of the case. Specifically, the single judge noted that, should the accused not be brought to trial within a reasonable time, or should a competent Serbian court determine that it does not have jurisdiction over the accused for the alleged conduct, a deferral of the case may be sought in the interests of justice. Having considered the strong preference in the statute for referral, should all relevant conditions be met, the single judge found it appropriate to exercise his discretion and refer the case to Serbia, instructing the Registry to take appropriate measures for the implementation of an effective monitoring mechanism.

130. In relation to a possible contempt matter that came to light during the trial in the *Nzabonimpa et al.* case, on 25 October 2021, a single judge directed the Registrar to appoint an amicus curiae to investigate the matter and for a report to 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 and a supplement to the report on 13 June 2023, as requested by the single judge. These concluding submissions from the amicus curiae raised complex questions as to whether certain materials he relied upon to conduct his investigation could be admitted in any possible contempt proceeding. Consequently, the single judge, on 27 October 2023, sought further submissions from the subject of the investigation and the amicus curiae on these issues, with the briefing concluding on 4 January 2024. The single judge issued his decision on the matter on 2 April 2024, and the amicus curiae filed a confidential motion on 9 April 2024 seeking certification to appeal aspects of the decision. Further briefing on this motion, as provided for in the Rules of Procedure and Evidence, is expected to conclude by 30 April 2024. The matter of whether or not to proceed to trial on the basis of the information in the report and its supplement remains under consideration, as the aforementioned litigation may have a bearing on the viability of prosecuting, if appropriate, certain violations identified by the amicus curiae. If a decision is taken to proceed to trial, the single judge will first need to consider whether it is appropriate to refer the case to a national jurisdiction.

131. 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 2022. On 19 September 2022, 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 of whether or not to proceed to trial on the basis of the information in the report remains under consideration. If a decision is taken to proceed to trial, the next step will be consideration of whether to refer the case to a national jurisdiction.

132. If a trial were authorized, and assuming the accused were surrendered, each of these cases, if tried at the Mechanism, would be of short duration and involve minimal in-court activity of perhaps no more than 15 to 30 days of court time per case. The cases would also be tried by a single judge who would largely work remotely, except when in-court activity would be required. The total duration of the proceedings, including preparation time for the parties, in-court proceedings and final submissions, is likely to be in the range of 10 to 15 months. An appeal, if any, by a panel of three judges could be concluded in 7 to 10 months.

133. As the Mechanism has an ongoing obligation to safeguard the administration of justice, its duty to investigate and prosecute allegations of contempt or false testimony, subject to the provisions of article 1, paragraph 4, of the statute, is a continuous judicial function. With respect to forecasting its remaining judicial activities in this area, the Mechanism projects that the number of future contempt proceedings before it will be exceedingly low, given the strong preference in the statute for the referral of such cases to national jurisdictions for trial.

7. Other judicial workload

134. In addition to the functions described above, the Mechanism conducted substantial judicial activity during the reporting period.

135. As provided in article 12, paragraph 1, of the statute, single judges are responsible for dealing with a wide variety of requests in the first instance. Apart from requests related to contempt of court and false testimony, during the reporting period, single judges addressed, *inter alia*, requests related to variation of and/or information on witness protection measures, access to materials, financial assistance and relocation of acquitted and released persons, reclassification or redactions of filings, *non bis in idem* matters and termination of proceedings.

136. During the reporting period, one third of the matters before single judges related to witness protection and requests for access to confidential material for use in cases before domestic jurisdictions or in proceedings before the Mechanism. In this respect, single judges continued to receive and consider numerous requests pursuant to rule 86 of the Rules of Procedure and Evidence, which provides, *inter alia*, for the rescission, variation or augmentation of protective measures granted to witnesses who testified in cases before the *ad hoc* Tribunals or the Mechanism. During the reporting period, 41 orders and decisions were issued in relation to such requests.³² In adjudicating these matters, the Mechanism discharged its residual functions *vis-à-vis* both protecting victims and witnesses, in line with article 20 of the statute, and responding to requests for assistance from national authorities, in accordance with article 28, paragraph 3, of the statute. Further information in relation to these functions is set out VI.D and VI.H. Information regarding the Prosecutor's activities in these areas is provided in section V.

137. With regard to the acquitted and released persons in the Niger, a single judge issued five decisions during the reporting period, including in relation to reclassifying filings, requests for legal aid and attorney visits, and requests for subsistence funds. Specifically, on 3 May 2023, the single judge, Judge Masanche, dismissed the requests of Tharcisse Muvunyi and Innocent Sagahutu for a declaration of indigency and the allocation of additional funds for an attorney visit in the Niger in order to

³² This figure excludes the related assignment orders issued by the President.

evaluate the sufficiency of their housing, food and medical care, on the basis that they failed to demonstrate the existence of exceptional circumstances or negligence on the part of the Mechanism in the context of its duty of care towards the relocated persons. The single judge dismissed a request for reconsideration of this decision on 15 June 2023. On 12 January 2023 and 4 January 2024, the single judge authorized the payment of a lump sum subsistence grant of \$10,000 to each of the relocated persons, in view of the continued breach of the relocation agreement by the Niger. In the decision of January 2024, the single judge noted that the payment of these subsistence funds did not amount to an annual entitlement and that any future payments would be contingent on an assessment of the situation of the relocated persons at the time of the request.

138. During the reporting period, single judges issued 38 decisions or orders (25 in the Arusha branch and 13 in The Hague branch) in 2022, and 59 (27 in the Arusha branch and 32 in The Hague branch) in 2023. Single judges issued 17 decisions or orders (8 in the Arusha branch and 9 in The Hague branch) in the first three-and-a-half months of 2024.

139. It is expected that judicial activity before single judges will remain constant over the next several years, particularly in view of ongoing national proceedings related to cases heard before the ad hoc Tribunals and the Mechanism. Between 20 and 30 requests per year for variation of witness protective measures and related access to confidential witness testimony are anticipated, as assisting national jurisdictions in conducting proceedings concerning war crimes cases related to the conflicts in the former Yugoslavia and Rwanda remains a priority. Projections in relation to contempt proceedings have been set out above. With regard to applications concerning *non bis in idem* issues, the Mechanism anticipates receiving on average one per year, with minimal resource implications.

IV. Future planning

140. As highlighted above, since concluding its substantive caseload the Mechanism has become the truly residual institution it was originally intended to be. The Mechanism has intensified its planning for this critical turning point and for the future of its operations over the course of the reporting period.

141. The Mechanism's focus on its future planning was magnified by the impending completion of all core crimes trials and appeals, as well as Security Council resolution [2637 \(2022\)](#), wherein, for the first time, the Council called upon the Mechanism to provide options regarding the transfer of its remaining activities in due course. In addition, two recommendations of OIOS in relation to scenario-based planning and strategic institutional thinking (see sect. VIII.A), which were then outstanding, urged the Mechanism to think ahead and to carefully assess and prepare for the various directions that its operations might potentially take in the coming years. More recently, in the 4 March 2024 statement of the President of the Security Council, the Mechanism was requested to report on the progress of its work since the last review, including its progress in completing its functions, detailed timelines for the completion of all those functions, and detailed and, so far as possible, realistic options for the transfer of functions.

142. The Mechanism has consistently demonstrated its commitment and determination to adequately plan for the future. As early as 2021, the senior management of the Mechanism worked closely together to produce a concept note, which outlined the institution's approach to long-term planning and contained a list and description of all remaining functions with specific completion projections. This

document was presented to the Security Council's Informal Working Group on International Tribunals in December 2021.

143. Since then, the Mechanism has taken major strides to further advance its future and scenario-based planning. At the end of 2022, the Mechanism produced a road map to develop a Mechanism-wide scenario-based workforce plan, which set out in broad terms the Mechanism's vision for the future and expected timelines for each of its functions. The road map was also shared with the Informal Working Group on International Tribunals and formed the basis for the Mechanism's subsequent internal discussions on future planning.

144. As mentioned above, the future of the Mechanism also featured prominently during discussions of the judges at the in-person plenary held in The Hague in November 2022. 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, as well as their potential transferability. The Panel on Judicial Functions, chaired by Judge Joensen and composed of nine judges of the Mechanism, provided its assessment to the President in July 2023. The report of the Panel was subsequently discussed by all judges at the virtual plenary in September 2023 and adopted in slightly revised form as the "Report on Judicial Functions". This Report was extremely useful in informing the development of the Mechanism's plans for the future.

145. The Mechanism's cross-organ working group of senior managers, which had previously been set up to work on the Mechanism's scenario-based workforce planning and produced the aforementioned concept note in 2021, was revived in early 2023. The cross-organ working group, steered by representatives of the President's Office, held a number of productive meetings, during which scenarios for the Mechanism's mandated functions were further elaborated. The discussions also canvassed numerous possibilities regarding the transfer of the Mechanism's remaining activities in due course.

146. In addition to drawing on experience within the Mechanism, the President also reached out to other residual courts and tribunals that have transitioned from functioning as an operational court to serving as 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.

147. Meetings were also held with Secretariat officials and 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.

148. Moreover, the President has consulted the Mechanism's jurisdiction States, as well as its host countries, in relation to the institution's future planning, so as to be in a position to consider all relevant factors from key stakeholders and allow the Security Council to take informed decisions on the basis of comprehensive information received from the Mechanism.

149. All these efforts culminated in the development of the framework of operations to complete functions, which the President presented to the Security Council Informal Working Group on International Tribunals in December 2023 in draft format. The members of the Group were subsequently invited to share their comments on the document. Since December, the Mechanism has been in close contact with the Group in order to further clarify the framework so that it can serve as a solid product for the Council's review. While recognizing that the framework is by nature a living document that requires constant updating and adapting, the Mechanism has formally submitted a revised version to the Group and trusts that this will be of assistance to the Council during its review.

150. The framework reflects a functions-based approach and is structured around the following topics: proceedings regarding contempt of court and false testimony; other judicial matters such as *non bis in idem* applications or requests for review of judgments by convicted persons; monitoring of cases referred to national jurisdictions; implementation and variation of judicial orders concerning witness protection; supervision of the enforcement of sentences and pardon or commutation of sentences; management of the archives; tracking of the remaining fugitives; and provision of assistance to national jurisdictions.

151. Expected completion dates for each function as well as diverse scenarios that anticipate future developments are specified in the framework. These scenario-based plans encompass varied workload projections and corresponding resource allocations, thus empowering the Mechanism to adeptly respond to evolving circumstances.

152. With regard to the anticipated duration of the functions, it is important to note that a given duration of a function does not necessarily mean that the Mechanism itself is required to exist for such duration. The Security Council, in its resolution [2637 \(2022\)](#), requested the Mechanism to consider the possibility that there might be a transfer of activities to another entity. Much of the analysis in the framework is dedicated to this matter, thereby also responding to the request for detailed and realistic options for transfer contained in the 4 March 2024 statement of the President of the Security Council.

153. In this respect, the Mechanism has incorporated additional information on the various transfer options directly into the framework, so that the members of the Informal Working Group on International Tribunals are able to consider and discuss such information and adequately inform the Security Council's review process. Furthermore, the framework sets out a comprehensive analysis of the general feasibility of transferring the Mechanism's functions, thus offering a more fitting context for a detailed discussion than the present report. The Mechanism will of course make the framework public³³ should the Security Council consider that this would be appropriate.

154. Irrespective of any transfer of function, it is indicated in the framework that the Mechanism's workload will gradually decrease over time, which, for planning purposes, is projected to involve three phases. Phase one is the period during which ad hoc judicial activity and the tracking of fugitives is expected to be completed; this is anticipated to be achieved in 2024. Phase two is the period during which the Mechanism is projected to have a substantial workload with respect to its long-term functions. This phase is currently projected to continue until at least 2032. Phase three, from 2032 onwards, is likely to involve a greatly reduced workload.

155. The framework includes a comprehensive analysis of the complexities of transferring judicial and prosecutorial functions. While it is concluded in the

³³ For example, by attaching the framework as an enclosure to the Mechanism's next biannual progress report, due in May 2024.

framework that it would in theory be possible to transfer the Mechanism's functions, the political and practical obstacles and likely financial inefficiencies that such transfers would bring are also highlighted.

156. Despite the obvious appeal of transferring functions as a means to cease the Mechanism's organizational activities, after engaging in an analysis of the transferability of functions, the Mechanism is of the strong view that, at present, maintaining the Mechanism on a smaller scale is the best and most realistic option for continuing to perform the mandated functions entrusted to it by the international community as efficiently and effectively as possible.

157. Furthermore, the Mechanism believes that certain practical arrangements could be beneficial during its drawdown process. Such arrangements are already being undertaken by the Administration Division of the Mechanism, which has been outsourcing certain services, such as services relating to human resources, finance and procurement, to other United Nations offices. Co-location and cost-sharing arrangements with other courts and tribunals or States to meet the Mechanism's premises and facility requirements (e.g. courtrooms and detention centres) should also be considered.

158. Irrespective of the modalities or existence of the Mechanism as an institution, however, what matters most is that its functions are not curtailed and that the international community ensures the continuation and proper conclusion of the Mechanism's remaining activities.

V. Prosecutor³⁴

159. During the reporting period, the Office of the Prosecutor completed one key residual function: the prosecution of core crimes trials and appeals transferred from the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. The Office will soon complete another residual function: accounting for the whereabouts of the remaining fugitives indicted by the International Criminal Tribunal for Rwanda. Lastly, as recognized by OIOS in its evaluation of the methods and work of the Mechanism, the Office delivered highly valued services to Member States investigating and prosecuting crimes committed during the conflicts in the former Yugoslavia and Rwanda. Those services, as reported by Member States, had significant impact and contributed to important positive outcomes.³⁵

160. The Office of the Prosecutor continues to manage its staff and resources in accordance with the Security Council's instructions and expectations. OIOS found that the Office appropriately responded to changing contexts in its assistance and tracking activities. While continuing to downsize staff, the Office managed a significant increase in the number of requests for assistance within existing resources.³⁶ OIOS also favourably noted that the Office made changes to increase the effectiveness of its fugitive tracking efforts, including through the appointment of new co-leaders, the recruitment of staff with relevant skills in complex investigations and advanced analytical tools, and by updating its practices for multi-source investigations.³⁷ By the end of 2024, the Office will have reduced its general temporary assistance resources by 50 per cent while reducing its overall budget by 35

³⁴ This section reflects the views of the Prosecutor of the Mechanism, who acts independently as a separate organ, pursuant to article 14 of the statute.

³⁵ See [S/2024/199](#), paras. 15–27.

³⁶ *Ibid.*, para. 19.

³⁷ *Ibid.*, para. 22.

per cent since the beginning of 2022, demonstrating again that it continues to implement its mandate and achieve successful outcomes while maintaining a small, temporary and efficient structure.

A. Expeditious completion of trials and appeals

161. During the reporting period, the Office of the Prosecutor successfully completed its mandate to prosecute core crime cases transferred from the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. The Office secured convictions on appeal in two cases, *Stanišić and Simatović* and *Fatuma et al.* In the *Kabuga* case, the Prosecution commenced the presentation of its evidence; however, the trial was effectively brought to an end following the Trial Chamber's determination that Mr. Kabuga is not fit to stand trial and its imposition of an indefinite stay in the proceedings.

1. *Prosecutor v. Jovica Stanišić and Franko Simatović*

162. On 31 May 2023, the Appeals Chamber issued its judgment in the *Stanišić and Simatović* case. The Appeals Chamber accepted the Prosecution's arguments that Mr. Stanišić and Mr. Simatović are criminally liable as participants in a joint criminal enterprise for a significant number of horrific crimes committed against civilians. The Appeals Chamber confirmed that this joint criminal enterprise comprised, in addition to Mr. Stanišić and Mr. Simatović, many senior Serbian, Croatian Serb and Bosnian Serb political, military and police leaders, including Slobodan Milošević, Milan Martić, Milan Babić, Goran Hadžić, Radovan Karadžić, Ratko Mladić, Momčilo Krajišnik, Biljana Plavšić and Željko Ražnatović (also known as Arkan). The purpose of this joint criminal enterprise was to forcibly and permanently remove, through the commission of the crimes of persecution, murder, deportation and inhumane acts (forcible transfers), the majority of non-Serb civilians, predominantly Croats, Bosnian Muslims and Bosnian Croats, from large areas of Croatia and Bosnia and Herzegovina. The Appeals Chamber also dismissed the Defence appeals in full. Lastly, the Appeals Chamber increased the imprisonment sentences of Mr. Stanišić and Mr. Simatović to 15 years each.

2. *Prosecutor v. Félicien Kabuga*

163. In the *Kabuga* case, the Prosecution presented its opening statement on 29 September 2022 and called its first witness on 5 October 2022. Between October 2022 and May 2023, the Prosecution presented the evidence of 71 witnesses, of whom 24 gave evidence orally (7 in The Hague, 12 in Arusha and 5 in Kigali). Two of the Prosecution witnesses testified *viva voce*, 21 witnesses testified pursuant to rule 111 of the Rules of Procedure and Evidence, one witness testified pursuant to rule 116 and the evidence of the remaining 40 witnesses was introduced in writing under rules 110 and 112. This enabled the Prosecution to only utilize 12 hours of courtroom time for the presentation of its evidence, while the Defence utilized 40 hours in cross-examination. In addition, 416 Prosecution exhibits, totalling nearly 30,000 pages of evidence, were admitted. At the time the trial was halted, the Prosecution had presented the majority of its case. Evidence from a further 30 witnesses remained to be heard, while a Prosecution motion for the admission of the evidence of 2 witnesses pursuant to rule 110 and a Prosecution motion for the admission of 109 exhibits from the bar table were pending.

164. On 6 June 2023, the Trial Chamber found, by majority, that Mr. Kabuga was no longer fit to stand trial and decided to continue the proceedings with an alternative finding procedure. The Prosecution appealed the ruling regarding Mr. Kabuga's fitness, while the Defence appealed the decision to utilize an alternative finding

procedure. On 7 August 2023, the Appeals Chamber issued its decision granting the Defence appeal and rejecting the Prosecution's appeal. Accordingly, the Appeals Chamber upheld the finding that Mr. Kabuga was no longer fit to stand trial and remanded the matter to the Trial Chamber to impose an indefinite stay of proceedings. On 8 September 2023, the Trial Chamber issued its decision staying the proceedings indefinitely.

165. While the Office of the Prosecutor accepts this outcome, it cannot be satisfied with it. Even more, the victims and survivors in Rwanda are bitterly disappointed that Mr. Kabuga will not face judgment for his alleged crimes, in particular because he was one of the world's most wanted fugitives for more than two decades, during which he was harboured by his family and associates.

3. *Prosecutor v. Marie Rose Fatuma et al.*

166. On 29 June 2022, the Appeals Chamber delivered its judgment in the *Fatuma et al.* case, granting the Prosecution's appeal arguments in their entirety. As a result, the Chamber convicted Mr. Munyeshuli, an investigator on Mr. Ngirabatware's Defence team, for contempt through knowingly and willfully interfering with the administration of justice and sentenced him to five months of imprisonment. The Chamber further decided that Mr. Ngirabatware's sentence of two years of imprisonment for contempt should be served consecutively to his prior sentence of 30 years' imprisonment for the crime of genocide. The Chamber also dismissed all eight of Ms. Fatuma's challenges to her conviction and sentence.

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

4. Conclusion

168. The Office of the Prosecutor is pleased to have expeditiously and effectively completed the key residual function. Over the course of its mandate, which began in July 2012, the Office prosecuted in total three trials involving a total of nine accused, six appeals and one review hearing. The Office secured eight new convictions, including two convictions on appeal following acquittals at trial. The Office further secured sentences of imprisonment totalling more than 45 years as well as one life sentence. The Office proved important facts beyond reasonable doubt, including that the armed conflict in Bosnia and Herzegovina was international in nature, that a minister in the interim Government of Rwanda committed direct and public incitement to genocide and that many senior Serbian, Croatian Serb and Bosnian Serb political, military and police leaders committed extensive crimes against humanity and war crimes in Bosnia and Herzegovina and Croatia pursuant to a joint criminal enterprise to forcibly and permanently remove the majority of non-Serb civilians. The Office thereby contributed to the strong record of accountability achieved by the ad hoc Tribunals, which, combined, indicted more than 250 individuals and secured more than 150 convictions for genocide, crimes against humanity and war crimes committed during the genocide against the Tutsi in Rwanda of 1994 and the conflicts in the former Yugoslavia.

169. While the international prosecution of these crimes has now come to an end, the accountability process must continue. There are still more than 1,000 accused

“génocidaires” to be brought to justice in national courts, and thousands of war crimes suspects throughout the countries of the former Yugoslavia who remain to be prosecuted. The ongoing commemoration of the thirtieth anniversary of the genocide against the Tutsi underscores the need for sustained commitment. The Office will continue its intensive efforts to provide support and assistance to national counterparts to ensure that more justice is achieved for more victims.

B. Fugitives

170. As recognized by OIOS, during the reporting period the Office of the Prosecutor achieved “a relatively high rate of success” in its fugitive tracking efforts compared to previous periods.³⁸ OIOS attributed this progress to “reforms implemented by the Office of the Prosecutor and recognition of the critical need for diplomatic engagement and securing partnerships with relevant Member States”.³⁹ Stakeholders in Member States similarly confirmed that this collaborative approach was integral to the success of tracking activities in recent years.⁴⁰

171. As at the beginning of the reporting period, six fugitives indicted by the International Criminal Tribunal for Rwanda for crimes committed during the genocide against the Tutsi in Rwanda remained at large. Over the past two years, the tracking team has accounted for four of the fugitives – two-thirds – including the last remaining major fugitive whose trial would have been prosecuted at the Mechanism. The Office fully anticipates that the files of the remaining two fugitives will be closed shortly after the end of the reporting period.

1. Fulgence Kayishema

172. On 24 May 2023, the co-leaders of the Office of the Prosecutor’s tracking team, in cooperation with South African authorities, located and arrested Mr. Kayishema in Paarl, South Africa. Mr. Kayishema was indicted in 2001, and he had been a fugitive from justice for more than two decades. He is charged with genocide, complicity in genocide, conspiracy to commit genocide, and crimes against humanity for killings and other crimes committed in Kivumu Commune, Kibuye Prefecture, during the genocide against the Tutsi in Rwanda. The indictment alleges that, on 15 April 1994, Mr. Kayishema, together with other co-perpetrators, murdered more than 2,000 men, women, elderly people and children who had sought refuge at Nyange Church in Kivumu commune.

173. Mr. Kayishema was located and arrested as a result of a detailed, methodical and thorough investigation conducted by the tracking team. The investigation spanned multiple countries across Africa and elsewhere. During his flight from justice, Mr. Kayishema utilized many aliases and false documents to conceal his identity and presence. He also relied on a network of trusted supporters, including family members, former members of the Rwandan Armed Forces and of the Forces démocratiques de libération du Rwanda (FDLR), and those aligned with the genocidal Hutu Power ideology. To overcome these challenges, the fugitive tracking team undertook an analysis-driven investigation exploiting multi-source evidence using both traditional and leading-edge methodologies.

174. The full and effective cooperation of Member States was essential to this result. The tracking team established joint task forces with a number of African countries, including, notably, Eswatini, Mozambique and South Africa. Rwandan authorities,

³⁸ S/2024/199, para. 29.

³⁹ Ibid.

⁴⁰ Ibid.

under the leadership of the Prosecutor General of Rwanda, also provided essential assistance. Lastly, other countries, including the United States, Canada and the United Kingdom, gave important help.

175. Following his transfer to Kigali, via Arusha, Mr. Kayishema will be prosecuted in a Rwandan national court. The Office of the Prosecutor is already providing expert advice and assistance to the National Public Prosecution Authority of Rwanda with respect to this case.

2. Protais Mpiranya

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

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

178. Zimbabwe provided cooperation to exhume the grave-site identified by the Office of the Prosecutor, thus enabling a positive DNA analysis. The Office appreciates the efforts of the Inter-Ministerial Task Force to assist with this important task.

3. Phénéas Munyarugarama

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

180. As a result of a detailed investigation, the Office of the Prosecutor was able to conclude that Mr. Munyarugarama had died on or about 28 February 2002 in Kankwala, Democratic Republic of the Congo. Mr. Munyarugarama was at that time serving as a senior leader in FDLR. As part of an internal reorganization within FDLR, he and others were travelling from North Kivu and South Kivu to meet other senior FDLR commanders. Mr. Munyarugarama became ill and soon passed away. The Office's investigation was impeded by challenges in getting access to Munyarugarama's grave-site, which is in a remote and dangerous area of the Democratic Republic of the Congo. To complete this file, the Office's tracking team changed its approach, identifying and interviewing a large number of persons present

at the time of Mr. Munyarugarama's death. The consistent and compelling evidence from those witnesses, including family members and FDLR associates, established the facts of his death to the required level of confidence.

4. Aloys Ndimbati

181. On 14 November 2023, the Office of the Prosecutor announced that it had confirmed the death of Mr. Ndimbati. Mr. Ndimbati, former *bourgmestre* of Gisovu commune, Kibuye Prefecture, was first indicted by the International Criminal Tribunal for Rwanda in November 1995. He was charged with seven counts of genocide, complicity in genocide, direct and public incitement to commit genocide and the crimes against humanity of extermination, murder, rape and persecution. It was alleged that, at the onset of the genocide, Mr. Ndimbati travelled around Gisovu commune publicly calling for the elimination of Tutsis. Between April and June 1994, Mr. Ndimbati, together with other local leaders, then organized attacks against Tutsi refugees in locations throughout Gisovu commune and the Bisesero area. Mr. Ndimbati was alleged to have personally organized and directed the massacre and killing of thousands of Tutsis at locations including Bisesero hill, Kidashya hill, Muyira hill, Nyakavumu cave, Gitwe hill, Rwirambo hill, Byiniro hill and Kazirandimwe hill.

182. Following a comprehensive and challenging investigation, the Office of the Prosecutor was able to conclude that Mr. Ndimbati died at about the end of June 1997 in the area of the current Gatore Sector, Kirehe District, Eastern Province, Rwanda. While the exact circumstances of his death have not been determined owing to the confusion and absence of order at the time, the evidence gathered by the Office demonstrates that Mr. Ndimbati did not leave the Gatore area, and that he was never seen or heard from again. No reliable and corroborated evidence of him being alive after that time has been identified. Mr. Ndimbati's death at this approximate time and place was independently confirmed by the National Public Prosecution Authority of Rwanda following its own investigation.

5. Conclusion

183. There are now only two fugitives remaining, Charles Sikubwabo and Ryandikayo. The Office of the Prosecutor's tracking team is making important progress on both investigations. Consistent with proven practices, the Office has developed narratives, based on credible, reliable and multi-source evidence, for the movement and activities of both fugitives after the genocide against the Tutsi. Persons of interest have been identified who have information about the fugitives' past and present whereabouts. The Office has obtained and rigorously reviewed a large volume of intelligence and data, enabling constant refinement of tracking strategies. The Office continues to project that results will be achieved shortly after the reporting period, which would bring the fugitive tracking function to completion.

184. All fugitives indicted by the International Tribunal for the Former Yugoslavia have been accounted for. In the near future, the same result will be achieved with respect to those indicted by the International Criminal Tribunal for Rwanda. Accounting for all fugitives of the ad hoc Tribunals demonstrates that impunity for serious international crimes will not be tolerated.

185. However, much more work remains to be done to account for fugitive génocidaires sought by national courts for crimes committed during the genocide against the Tutsi of 1994, of whom more than 1,000 still remain at large. That so many suspected perpetrators of genocide have fled to third countries where they enjoy seeming impunity should be of significant concern to the international community as a whole. Victims and survivors of the genocide cannot understand how those who

wronged them now live in new homes in new countries. It is 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 FDLR.

186. At the request of the Prosecutor General of Rwanda, the Office of the Prosecutor is providing essential assistance to find solutions to this ongoing challenge, including by supporting national efforts to locate, investigate and prosecute Rwandan nationals suspected of genocide, in particular those living outside Rwanda. The Office fully expects that it will be able to report in the future that, with the Office's support, national authorities are locating, arresting and bringing to justice more fugitives.

C. Assistance to national war crimes prosecutions

187. Pursuant to article 28, paragraph 3, of the statute, the Office of the Prosecutor is mandated to respond to requests for assistance from national authorities in relation to investigation, prosecution and trial of persons suspected of committing crimes during the genocide against the Tutsi in Rwanda of 1994 and the conflicts in the former Yugoslavia. With the closure of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, further accountability for crimes committed in Rwanda and the former Yugoslavia now entirely depends on national justice sectors, consistent with the completion strategies of those Tribunals.

188. In this regard, national prosecutors face a significant backlog of cases to process. As noted, there are still more than 1,000 accused Rwandan génocidaires to be brought to justice in national courts. Thousands of war crimes suspects throughout the countries of the former Yugoslavia remain to be prosecuted.

189. To assist the Member States investigating and prosecuting these cases, the Office of the Prosecutor responds to requests in three related areas where its support is needed: access to evidence and information; substantive legal, investigative and prosecutorial direct case assistance, including through the preparation and transfer of investigation dossiers; and assistance in resolving strategic and/or cross-cutting issues affecting the accountability process, including the challenges presented by fugitives and the need for extensive international cooperation.

190. As concluded by OIOS, during the reporting period the Office of the Prosecutor prioritized its support to Member States and successfully delivered on its mandate. There has been significant growth in the number and complexity of requests for support submitted to the Office; 696 such requests were received by the Office between 1 January 2021 and 26 April 2023.⁴¹ OIOS further highlighted that “the Office of the Prosecutor took steps to proactively engage with countries to meet their needs”, including “direct case assistance in the form of expertise and advice to domestic investigations and prosecutions, as well as the preparation and handing over of dossiers of evidence on potential war crimes cases”.⁴²

191. Representatives of Member States interviewed by OIOS confirmed that the Office of the Prosecutor provides unique assistance not available from other sources and delivers significant value to Member States by supporting their national efforts. Some 82 per cent of stakeholders surveyed “strongly agreed or agreed that the assistance received had contributed to facilitating investigations and judicial proceedings in their jurisdictions”.⁴³ Member States noted that the Office shares

⁴¹ S/2024/199, table.

⁴² Ibid., para. 20.

⁴³ Ibid., para. 27.

“evidence that would otherwise not be available to national judiciary actors” and provided “experience in prosecuting complex cases”.⁴⁴ They “explicitly praised” the timely, extensive and high-quality support provided by the Office, and also “specifically commended” the Office’s Electronic Disclosure System, its familiarity with national legal systems and the provision of services in local languages.⁴⁵ Representatives highlighted the distinctive contributions of the Office, such as the provision of a notebook that proved to be crucial evidence in a particular case and the sharing of evidence on the command structure of perpetrator groups, which offered assistance that went beyond just individual cases.⁴⁶

192. Member States further confirmed that the Office of the Prosecutor provides a wide range of valuable support in addition to sharing its evidence and expertise. OIOS noted that the Office “played an active role in facilitating regional cooperation [between prosecutors] including advocacy for cooperation, requests for mutual legal assistance and the transfer of cases between jurisdictions, where applicable”.⁴⁷ Trainings for prosecutors by the Office were described by Member State representatives as “relevant, useful and satisfying, contributing to the processing of numerous cases at lower-level courts”; they further affirmed “the effectiveness of having national jurisdictions learn from concrete cases that had been processed by the [ad hoc] Tribunals and the Mechanism”.⁴⁸ Member States also commended the Office’s contributions to revising national war crimes processing strategies, which resulted in “managing the case load, and ultimately leading to transitional justice”.⁴⁹

193. The Office of the Prosecutor is grateful to OIOS and Member States for the positive recognition of its intensive work to assist national accountability efforts for crimes committed in Rwanda and the former Yugoslavia. The Prosecutor identified this mandate as a strategic priority for the Office in 2016, and the Office has undertaken numerous efforts since to review, strengthen and enhance the support it provides to Member States. Collaboration between the Office and national partners is now at an exceptionally high level, and, as Member States themselves report, it is delivering important results.

194. During the reporting period, the previously reported trend of a significantly greater than expected workload persisted. From 16 April 2022 to 15 April 2024, the Office of the Prosecutor received 629 requests for assistance. In responding to these requests, the Office provided support to a total of 219 national case files.

195. In the context of its cooperation with the National Public Prosecution Authority of Rwanda and other national prosecution services, the Office of the Prosecutor received 71 requests for assistance from 10 Member States in relation to crimes committed in Rwanda. Twenty-one requests were submitted by Rwanda, 17 by the United Kingdom, 7 by France, 4 by the Kingdom of the Netherlands and 3 by Canada. Forty-four requests for access to evidence and information were received from nine Member States. In total, the Office handed over 2,699 documents and six audiovisual records. In addition, the Office identified and confirmed the whereabouts of 69 witnesses to support investigations by national authorities. The Office also provided legal, evidentiary and strategic assistance in response to 27 requests for direct case assistance from six Member States. This work entailed transferring one investigative dossier to national prosecutors, transferring two investigation plans, providing intelligence and evidence concerning the whereabouts of nine fugitives and

⁴⁴ Ibid., para. 18.

⁴⁵ Ibid., para. 24.

⁴⁶ Ibid., para. 27.

⁴⁷ Ibid., para. 18.

⁴⁸ Ibid., para. 25.

⁴⁹ S/2024/199, para. 27.

conducting 50 operational meetings with national counterparts, as well as the transfer of 2,277 documents comprising more than 50,000 pages of material.

196. In relation to crimes committed in the former Yugoslavia, the Office of the Prosecutor received 552 requests for assistance from seven Member States and four international organizations. Of these, 362 were submitted by Bosnia and Herzegovina, 39 by Serbia, 8 by Montenegro, 5 by Croatia and 16 by the United States. Some 521 requests for access to evidence and information were received from six Member States, four international organizations and one *amicus curiae*. The Office handed over a total of more than 17,400 documents, comprising more than 575,800 pages of evidence, and 100 audiovisual records. In addition, the Office filed 20 submissions related to witness protective measures and/or access to evidence in support of national authorities. Further, the Office provided legal, evidentiary and strategic assistance relating to 38 requests for direct case assistance from three Member States. This work entailed the preparation of 10 crime base reports, 10 memorandums and analytical reports and the holding of 29 operational meetings, as well as the transfer of 2,701 documents comprising 51,343 pages of material. In addition, the Office facilitated the cooperation of four witnesses who were critical to national war crimes proceedings and is continuously engaging with other witnesses. The Office also transferred two investigative dossiers, which included more than 22,000 pages of evidence, to national prosecutors.

197. Notable examples of the assistance provided by the Office of the Prosecutor to Member States that demonstrate the value of such assistance are detailed below.

198. In July 2023, the Office of the Prosecutor provided an investigative lead to the National Public Prosecution Authority of Rwanda concerning a previously unidentified perpetrator suspected of participating in a notorious mass atrocity during the genocide. Through its work on a related case, the Office was able to ascertain the identity of a person referenced in victim and witness statements and was further able to locate that individual in an African country. At the request of the Prosecutor General of Rwanda, the Office prepared and handed over in November 2023 a dossier detailing the individual's identity and location, analysing the available evidence concerning the person's criminal responsibility and providing a collection plan to move forward the investigation. The Office is now assisting Rwandan prosecutors to obtain and review relevant evidence, as well as prepare for extradition proceedings.

199. In February 2023, the Chief Prosecutor of Bosnia and Herzegovina identified priority complex cases to be assigned to prosecutors as their principal focus for the year and requested the assistance of the Office of the Prosecutor to effectively and efficiently complete investigations and prepare cases for trial. The priority cases concerned crimes committed between 1992 and 1995 across several regions in Bosnia and Herzegovina, including eastern Bosnia, central Bosnia, the Sarajevo area, the Krajina region and Herzegovina, and generally focused on notorious crimes, such as mass killings of civilians, including children, and/or the involvement of high-ranking suspects in crimes. In response, the Office closely cooperated at the operational level with the respective prosecutors, including through in-person meetings and regular remote collaboration. The Office provided analytical reports and memoranda addressing a range of discrete evidentiary and legal topics, including comprehensive reports on military and police structures, detailed incident reports, in-depth analyses of expert witness evidence and comprehensive victim charts. As part of these efforts, the Office transferred a substantial body of evidence, including 915 documents totalling more than 21,000 pages and 24 audiovisual files. As a result of the Office's assistance, indictments have already been confirmed in a number of cases, and the Office continues to provide support to ongoing investigations which are anticipated to be successfully completed in the near future.

200. In addition to providing assistance with concrete cases, the Office supports national partners to strengthen their international cooperation, as highlighted by OIOS.⁵⁰ Judicial cooperation is essential to the effective investigation and prosecution of crimes committed in Rwanda and the former Yugoslavia, particularly as victims, suspects and evidence are often spread across multiple countries.

201. On 11 March 2024, the Prosecutor convened a trilateral discussion with the Prosecutor General of Rwanda and the head of the national counter-terrorism prosecution service of France. It was agreed that moving forward, it will be essential for prosecutors from the Mechanism, the National Public Prosecution Authority of Rwanda and the national counter-terrorism prosecution service of France to further increase their direct operational cooperation on specific cases, including through the exchange of evidence and coordinated investigations. The Office was further requested to provide expanded assistance to Rwandan and French counterparts, particularly by sharing its knowledge and expertise. Prosecutors from the three entities held further technical discussions on identified priority cases, which will offer an opportunity to engage in enhanced cooperation in practice.

202. Throughout the reporting period, the Office of the Prosecutor continued to support the Chief Prosecutor of Bosnia and Herzegovina and the Chief War Crimes Prosecutor of Serbia to strengthen their bilateral cooperation in war crimes cases. Having previously engaged to resolve issues related to the arrest in Serbia of Bosnian nationals for alleged crimes committed in Bosnia and Herzegovina,⁵¹ the Office worked with Bosnian and Serbian partners to facilitate the transfer of case files involving Serbian nationals from Bosnia and Herzegovina to Serbia. Meaningful progress was achieved, including the commencement of trial proceedings in Serbia 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. Other important case files from Bosnia and Herzegovina are now under investigation in Serbia, and the Chief Prosecutors have agreed to the transfer of additional investigative dossiers.

203. A similar example of assistance provided by the Office of the Prosecutor during the reporting period with respect to key strategic issues related to accountability is the support it offered, in response to a request from the Prosecutor General of Rwanda, to help locate suspected génocidaires who have so far evaded justice by hiding in other countries, particularly in Africa. This accountability gap is particularly concerning, as it includes government, military and other leaders and officials who planned and organized genocidal attacks. The Office obtained valuable intelligence on the past and current whereabouts of such persons, as well as their support networks, during its own fugitive tracking activities. The Office is committed to working with the Prosecutor General of Rwanda and other national counterparts to ensure that such suspected génocidaires do not continue to enjoy safe haven and evade accountability for their crimes.

204. The Office of the Prosecutor anticipates that, for the foreseeable future, the workload involved in responding to requests for assistance from national partners will remain at the current high level, and a commensurate level of resources will be required. Member States have a great need for the Office's support, across a wide range of areas, to achieve their national accountability goals. In relation to Rwanda, the National Public Prosecution Authority of Rwanda is currently pursuing more than 1,000 fugitives worldwide. In relation to the countries of the former Yugoslavia, Member States throughout the region have adopted national war crimes strategies to address a backlog of thousands of cases. Third-party States around the world are still

⁵⁰ S/2024/199, para. 18.

⁵¹ See S/2021/955, annex II, para. 76.

investigating and prosecuting persons in their territories for crimes committed in Rwanda and the former Yugoslavia. In addition to being large in volume, these requests for assistance continue to be increasingly complex, requiring legal expertise and in-depth analysis.

205. The mandate of the Office of the Prosecutor under article 28, paragraph 3, of the statute to assist Member States prosecuting crimes committed during the genocide against the Tutsi and the conflicts in the former Yugoslavia is essential to secure more justice for more victims of atrocity crimes. The Office places a high priority on undertaking activities that are highly valued by national partners and generate concrete results. It will continue to support and assist Member States' accountability efforts, in accordance with the statute and the completion strategies of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia.

D. Management

206. The Office of the Prosecutor is committed to managing its staff and resources in line with the instruction of the Security Council that the Mechanism be a "small, temporary and efficient structure". The Office continues to be guided by the views and requests of the Council, as set forth in, inter alia, paragraphs 18 to 20 of Council resolution [2256 \(2015\)](#), paragraphs 7 and 8 of Council resolution [2422 \(2018\)](#) and paragraphs 8 and 9 of Council resolution [2529 \(2020\)](#). 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 deployed flexibly at either branch as necessary.

207. The Office of the Prosecutor demonstrated again during the reporting period the efficacy of its management efforts and continued adherence to the Security Council's expectations, in particular across four important areas identified by the Council: (a) implementation of a human resources policy consistent with its temporary mandate; (b) further reduction of costs, including through flexible staff engagement; (c) ensuring geographical diversity and gender balance of staff, while ensuring continued professional expertise; and (d) coordination and information-sharing across the three organs of the Mechanism on matters that affected them equally in order to ensure systematic thinking and planning about the future.

208. With regard to points (a) and (b), as recognized by OIOS, the Office of the Prosecutor continues to have "a small, temporary and efficient structure with a small number of staff commensurate with its reduced functions".⁵² Even so, the Office continued appropriate downsizing during the reporting period, particularly at The Hague branch.⁵³ The Office has reduced its budget, from an annual appropriation of \$18.1 million in 2022, to \$11.9 million in 2024, a 35 per cent reduction. During the same period, the Office reduced its general temporary assistance resources, from 77 positions as at 1 January 2022 to 38 positions by 31 December 2024, representing a 50 per cent reduction. In this regard, the Office's "skeletal" staff numbers⁵⁴ are the minimum required to meet the continued high workload across mandated functions, particularly to respond to Member States' requests for assistance.

209. Furthermore, the Office of the Prosecutor was able to generate results while maintaining its lean staffing structure through its flexible human resources practices. As OIOS recognized, "changes to the Office of the Prosecutor's tracking team were

⁵² [S/2022/148](#), paras. 27 and 32.

⁵³ *Ibid.*, para. 31.

⁵⁴ *Ibid.*, paras. 27 and 32.

made to address the slow progress achieved in previous years”, including appointing new co-leaders and ensuring that staff skills were appropriate to investigative requirements.⁵⁵ The Office similarly was able to quickly downsize positions and redeploy resources following the unexpected termination of the trial of Mr. Kabuga in August 2023.

210. With respect to point (c), the Office of the Prosecutor, like the Mechanism as a whole, has ensured the geographical diversity of staff. The Office has also maintained gender parity, with 55 per cent of staff comprising women and 45 per cent men. Among professional staff in the Office, 57 per cent are women and 43 per cent are men.

211. Lastly, with respect to point (d), the Office of the Prosecutor played an active role in Mechanism-wide planning, including in the preparation of the road map to develop a Mechanism-wide scenario-based workforce plan and the framework of operations to complete functions.

E. Implementation of the recommendations of the Office of Internal Oversight Services

212. There were no outstanding OIOS recommendations concerning the Office of the Prosecutor. The Office worked in close collaboration with the Office of the President to respond to OIOS recommendations 1 and 3 from 2022.⁵⁶

213. In its most recent report on the Mechanism, OIOS issued one recommendation relevant to the Office of the Prosecutor, recommendation 4, which the Office has accepted in full. As OIOS rightly recognizes, the Office’s activities moving forward will be focused on providing support to Member States, and it will continue to strengthen its “client orientation” accordingly. The Office further agrees that statistics regarding requests for assistance and feedback from client Member States are key indicators of its workload and demonstrate the value and impact of its activities.⁵⁷

F. Conclusion

214. The Office of the Prosecutor is grateful to OIOS for its report and recognition of the steps that the Office has taken to adhere to the Security Council’s expectations. The Office is particularly pleased that OIOS concluded that the Office has established deep and sustained cooperation with Member States and is delivering services to Member States that are highly valued and produce tangible results. As OIOS noted, the Office identified that responding to Member States’ requests for assistance is its most critical residual function moving forward and adjusted its orientation and activities accordingly. The Office deployed its limited resources to address the significant growth in requests for assistance from Member States. Through deep engagement with Member State stakeholders, the Office proactively identified their needs and provided effective assistance in response, which it is uniquely placed to do in light of the knowledge and expertise it has developed.

215. The Office of the Prosecutor appreciates its privileged relationships with Member States and the trust they place in it. The Office welcomes the fact that, during the reporting period, Member States requested it to provide additional support and assistance across a range of critical investigative and prosecutorial areas. The Office will continue to strengthen its cooperation and partnerships with national judicial

⁵⁵ S/2024/199, para. 22.

⁵⁶ See S/2022/148.

⁵⁷ Ibid., paras. 12–14.

authorities and deliver services to them that have impact, thereby demonstrating that justice can be achieved for victims and survivors through direct cooperation between international and national law enforcement agencies.

VI. Registry support for Mechanism activities

216. The Registry is responsible for the administration and servicing of both branches of the Mechanism, in line with article 15 of the statute. With the Registrar at the helm, the Registry carries out critical work for the effective execution of the Mechanism's mandate. This includes the provision of support for the Mechanism's remaining judicial activities and other functions and ensuring a smooth administration of the Mechanism as an institution, by fulfilling its responsibilities in respect of human resources, safety and security, management of facilities, information technology support services, budget, finance, procurement and regulatory compliance. Lastly, the Registry continues to address evolving contextual challenges by identifying new efficiencies and strategies and by refining existing practices and procedures, as detailed below, in order to complete its above-mentioned critical activities as seamlessly and promptly as possible, despite challenges such as the lack of State cooperation and the downsizing of staff.

A. Support for judicial functions

217. The Registry's support for judicial activities during the reporting period has included undertaking organizational and logistical arrangements to facilitate all court-related operations, as well as implementing judicial orders, protecting victims and witnesses who testified before the ad hoc Tribunals and the Mechanism, and making oral and written representations on a range of matters. In particular, the Registry has managed and implemented technology applications for court proceedings and judicial plenaries, provided interpretation services, prepared transcripts of proceedings and their translation, and processed documents, filings and exhibits presented in court.

218. During the reporting period, the Registry provided support for the completion of the Mechanism's remaining ad hoc judicial activity for core crimes cases at both branches. At the Arusha branch, it facilitated the delivery of the appeal judgment in the *Fatuma et al.* case on 29 June 2022. In The Hague, the Registry facilitated six status conferences in the *Stanišić and Simatović* case, as well as the hearing of the appeals in that case on 24 and 25 January 2023, and the delivery of the appeal judgment on 31 May 2023. On several of these occasions, upon authorization by the Appeals Chamber, the Registry established a secure videoconference link that allowed the parties and/or counsel to participate in the proceedings remotely from different locations, including the United Nations Detention Unit, thus helping to ensure that the proceedings could continue without delay.

219. In the *Kabuga* case, the Registry offered support services for a total of 52 hearing days. Between the commencement of trial on 29 September 2022 and the indefinite stay of proceedings on 8 September 2023, 45 hearings took place, including 36 days of trial, reporting by medical experts, and the related court hearings on the accused's fitness to stand trial. Drawing on best practices adopted by the Mechanism during the COVID-19 pandemic and in line with the Mechanism's commitment to keep costs at a minimum, the Registry ensured a videoconference link was in place between the courtrooms in Arusha and The Hague and a conference room at the Kigali field office, which enabled witnesses to be heard and parties to participate from all three locations, with the Trial Chamber sitting at The Hague branch. Since the indefinite stay of proceedings, the Registry has continued to provide support to the Defence in

the *Kabuga* case, including facilitating contact and communication between the Defence and the appropriate authorities of the national jurisdictions to which the accused seeks to be provisionally released. Support was provided for a total of six status conferences in the *Kabuga* case during the reporting period.

220. The Registry also provided support in the *Šešelj et al.* case, which has now been referred to Serbia following the decision of the single judge on 29 February 2024. Prior to this referral, the Registry played a key role in fulfilling the challenging task of securing the prompt serving of cease-and-desist orders, indictments and other judicial documents on several individuals, including the accused and representatives of companies in Serbia during the investigation, indictment and case referral phases.

221. In support of the aforementioned proceedings, as well as other judicial procedures pursuant to the Rules of Procedure and Evidence, the Judicial Records Unit processed and disseminated more than 2,896 judicial filings during the reporting period, including 781 Registry legal submissions, and managed court hearings for a total of 60 sitting days. Although the main in-court activity has now been concluded, the Registry will continue to provide judicial support services to the Mechanism's other ongoing judicial functions.

222. While in-court hearings are unlikely to be required in the future, the Registry is exploring alternative arrangements, such as cost-sharing with other courts and tribunals, should temporary courtroom facilities be necessary. However, the Registry will still need to retain the ability to process, distribute and manage the judicial records of the ad hoc Tribunals and the Mechanism; enhance secure accessibility of the records; implement orders relating to rules 86 and 87 of the Rules of Procedure and Evidence; change the classification of documents; and provide assistance to national jurisdictions regarding public records and information. In the new reality, where the Mechanism truly conducts residual functions, the Registry will continue to streamline and ensure further efficiencies with respect to the management of judicial records by merging the Judicial Records Unit with the Mechanism Archives and Records Section in the first half of 2024.

223. During the reporting period, the Language Support Services provided approximately 36,500 pages of translations in support of ongoing judicial proceedings and other activities of the Mechanism. Additionally, the Language Support Services translated judgments of the Mechanism and, as part of its backlog, some of the judgments from the ad hoc Tribunals, with priority given to those that would be needed for future proceedings, such as potential review cases. At the Arusha branch, the Language Support Services translated 12 judgments of the International Criminal Tribunal for Rwanda and one judgment of the Mechanism into Kinyarwanda, and two judgments in cases referred to Rwanda into French. At The Hague branch, the Language Support Services translated three judgments of the Mechanism into Bosnian-Croatian-Serbian; three judgments of the International Criminal Tribunal for Rwanda, three judgments of the International Tribunal for the Former Yugoslavia and two judgments of the Mechanism into French, and three judgments in cases referred to Rwanda, as well as one judgment in a case referred to France, into English. Currently, there are no judgments to be translated into Bosnian-Croatian-Serbian and no judgments of the International Criminal Tribunal for Rwanda to be translated into French. However, 15 judgments of the International Criminal Tribunal for Rwanda await translation into Kinyarwanda, and five judgments of the International Tribunal for the Former Yugoslavia and three judgments of the Mechanism await translation into French.

224. The Mechanism emphasizes that 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.

225. On 1 January 2023, as part of the Registry's ongoing efforts to further streamline its activities, the work of the Office for Legal Aid and Defence Matters was absorbed by the Office of the Registrar at The Hague branch of the Mechanism. As a result, the Office for Legal Aid and Defence Matters is no longer a stand-alone office. Nonetheless, during the reporting period, at both branches of the Mechanism, routine financial, administrative and logistical assistance continued to be provided to approximately 90 Defence and amicus curiae personnel in approximately 64 teams, which are predominantly engaged in pro bono work in post-conviction proceedings such as requests for early release, potential requests for review of judgment and relocation. During the reporting period, 413 legal aid invoices, travel requests and related expense reports were processed. In view of anticipated early release requests, and considering the workload generated in relation to persons convicted by the ad hoc Tribunals and the Mechanism, post-conviction matters will remain an activity of the Mechanism for the foreseeable future.

B. Closure of field offices

226. The Registry's work has been aided by the Sarajevo field office, which closed on 31 March 2023, and the Kigali field office, which is scheduled to close on 30 September 2024 after it ceases operations on 31 August 2024. During the reporting period, both field offices actively collaborated with national authorities on matters related to witness protection and the conduct of witness interviews, and other matters, such as providing support to missions of Mechanism officials.

227. Up until its closure, the Sarajevo field office provided support services to witnesses who had previously been called to appear before the International Tribunal for the Former Yugoslavia or the Mechanism, liaised with national and local authorities on those issues and facilitated requests for the variation of protective measures for witnesses.

228. Following the closure of the Sarajevo field office, the direct lines of communication between the Mechanism and the relevant authorities of Bosnia and Herzegovina, which had been put in place in advance, allowed for continuing cooperation with local government and non-governmental entities on issues of mutual interest, including witness protection. In addition, witnesses were given a local telephone number so that they could directly contact staff of the Mechanism's Witness Support and Protection Unit in The Hague. Staff of that Unit also liaised with interlocutors in the field and regularly travelled to the countries of the former Yugoslavia to address protection and support issues. This included interacting with counterparts at local courts handling war crimes cases to ensure the provision of ongoing protection and support services for witnesses, as well as sharing expert knowledge on witness protection and support with other United Nations entities.

229. During the reporting period, the Kigali field office provided support in relation to the *Kabuga* case, facilitated meetings with senior Government officials and victims' groups and fostered discussions on cooperation and the Mechanism's ongoing activities. In addition, the clinic at the Kigali field office continued to provide medical and psychosocial care to victims and witnesses.

230. Discussions have commenced with key stakeholders to efficiently manage the closure of the Kigali field office. In particular, officials of the Mechanism and the Government of Rwanda have recognized the critical importance of ensuring ongoing comprehensive medical support care to protected victims and witnesses and have started consultations aimed at facilitating a seamless transition of the existing medical

support services prior to the closure of the clinic. The main goal is to ensure the efficient transfer of these essential services to either the Rwandan Government or non-governmental organizations operating in the country. A joint working group comprising representatives of the Registry and the Rwandan Government has been established and commenced discussions in March 2024. Prior to the transfer of services, the medical team of the Witness Support and Protection Services will, *inter alia*, share its expertise with the personnel who will be responsible for continuing the provision of medical support to the victims and witnesses. Further arrangements concerning support for witness protection are also being considered. Lessons learned from the closure of the Sarajevo field office will be applied to improve the protection and assistance provided to victims and witnesses.

231. The closure of the field offices represents a substantial stride towards a more reduced organizational footprint and reflects the Mechanism's new status as a truly residual entity, consistent with the vision of the Security Council.

C. Legal and regulatory framework

232. The legal and regulatory framework of the Mechanism was further strengthened during the reporting period by the updating and creation of important governance documents.

233. As mentioned above, at their in-person plenary in Arusha, the judges of the Mechanism decided on 26 February 2024 to adopt an amendment to the Rules of Procedure and Evidence, namely, the deletion of rule 155 in its entirety. In line with article 13 of the statute, this amendment took effect upon adoption by the judges, and the President of the Security Council was informed accordingly. The Registrar ensured that the revised version of the Rules of Procedure and Evidence was promptly made available on the Mechanism's website.

234. On 25 May 2023, following consultation with the President of the Mechanism and extensive working-level exchanges, the Registrar issued the Practice Direction on Judicial Records,⁵⁸ which replaced the Practice Direction on Filings Made before the International Residual Mechanism for Criminal Tribunals of 4 January 2019.

235. Separately, the Mechanism Archives and Records Section issued a revised preservation strategy in July 2022 and subsequently issued two other internal governance documents in line with evolving good practices. On 22 February 2023, the Witness Support and Protection Unit issued guidelines on the response to breaches of judicial protective measures. On 10 November 2023, the United Nations Detention Unit issued guidelines on requesting medical records of detainees, thereby responding to a recommendation made by ICRC.

236. The Registry has also completed a standard operating procedure for reviewing and providing access to transcripts of judicial proceedings of the International Criminal Tribunal for Rwanda, as well as three standard operating procedures for managing and providing access to audiovisual recordings of judicial proceedings of the ad hoc Tribunals and the Mechanism, respectively. The Registry is currently finalizing guidelines for third parties seeking to serve documents on detainees at the United Nations Detention Unit.

⁵⁸ Residual Mechanism, document MICT/42, 25 May 2023.

D. Victim and witness protection

237. 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. Physical protection by security personnel, beyond that which facilitates participation in judicial proceedings, is not provided by the Mechanism.⁵⁹

238. Approximately 3,200 witnesses benefit from judicial and/or extrajudicial protective measures in line with the Mechanism's statutory obligations. The Witness Support and Protection Unit implements judicial and non-judicial protective measures for those who have testified in cases before the ad hoc Tribunals or the Mechanism. This includes monitoring and assessing threats to ensure protective measures for specific victims and witnesses remain effective and coordinating responses to security-related requirements with national authorities. During the reporting period, the Unit implemented 25 judicial orders regarding requests for the rescission, variation or augmentation of protective measures, which required the Unit to contact 67 protected victims and witnesses for their views and consent.

239. Additionally, the Witness Support and Protection Unit at both branches facilitated contact between parties and witnesses in judicial proceedings. With respect to the *Kabuga* case, during the reporting period, the Unit successfully ensured the movement and videoconference testimony of 12 witnesses from the Arusha branch, 5 witnesses from the Kigali field office and 14 witnesses from The Hague, including the *viva voce* testimony of seven experts. Separately, the Witness Support and Protection Unit at The Hague branch also provided detailed information to the President regarding eight early release applications which impacted 1,166 witnesses.

240. As outlined above, after the closure of the Sarajevo field office, the Witness Support and Protection Office in The Hague continued to provide support to witnesses in the countries of the former Yugoslavia and liaise with local interlocutors in the field on witness protection and other matters.

241. During the reporting period, staff of the Witness Support and Protection Unit provided medical and psychosocial care at its clinic in Kigali to over 500 victims and witnesses, including those living with HIV/AIDS as a result of crimes committed against them during the genocide against the Tutsi in Rwanda. As indicated above, the clinic will cease operations on 31 August 2024 when the Kigali field office is closed.

242. The Witness Support and Protection Unit will continue to be relied upon to fulfil its responsibilities in the future, in accordance with judicial protection orders that will apply unless rescinded or waived. With respect to the limited number of relocated witnesses, this involves the provision of support until the last member of each witness's immediate family has passed away.

E. Detention facilities

243. During the reporting period, the Registry managed the United Nations Detention Facility in Arusha. From October to December 2022, the Facility housed 10 detained witnesses from Rwanda, who provided their trial testimonies in the *Kabuga* case from the Arusha branch. Following its official closure on 23 February 2023, the United

⁵⁹ Further information in relation to the protection of victims and witnesses is available at www.irmct.org/en/about/functions/witnesses.

Nations Detention Facility was returned to the Tanzanian authorities on 28 February 2023.

244. The Registry continues to manage the United Nations Detention Unit in The Hague, which as set out above (see sect. II.B.4) currently houses four convicted persons awaiting designation or transfer to an enforcement State, as well as Mr. Kabuga, pending the identification and judicial approval of a national jurisdiction to which he can be provisionally released. The Registry has been working hard during the reporting period to identify one or more enforcement State(s) for the remaining convicted persons. In addition, it is assisting the Defence in the *Kabuga* case to find a State to which Mr. Kabuga may be provisionally released, so that the United Nations Detention Unit can also be closed. Ad hoc arrangements are being explored, including with Dutch authorities, for any residual detention requirements.

245. The United Nations Detention Unit continued to be regularly inspected by ICRC to ensure that the Mechanism's rules of detention⁶⁰ are properly applied and the facilities operate in accordance with international standards. Separately, during the reporting period, the Unit continued to closely monitor the COVID-19 situation in view of the age and medical histories of its vulnerable detainees. This activity was and continues to be guided and supported by the Dutch national approach to managing the disease, including the vaccination regime.

246. The Mechanism takes its responsibility towards detainees very seriously. Its established legal and regulatory framework supports full compliance with this duty, including through the Mechanism's Regulations on the Complaints Procedure for Detainees,⁶¹ regular status conferences⁶² and the above-mentioned independent inspections. In this regard, too, the Mechanism takes into account paragraph 13 of resolution 2637 (2022), in which the Security Council recalled the importance of ensuring the rights of persons detained on the authority of the Mechanism in accordance with applicable international standards, including those related to health care.

F. Supervision of the enforcement of sentences

247. The Registry supports the enforcement of sentences pronounced by the ad hoc Tribunals and the Mechanism. In particular, the Registry supports the President in supervising the enforcement of sentences by providing legal, diplomatic and administrative services. Details concerning convicted persons and enforcement States are set out in section II.B.4 above.

248. During the reporting period, the Registry continued to play an essential role in securing the enforcement of sentences and overall administration thereof. It communicated with States that have signed an agreement with the United Nations to enforce these sentences, convicted persons and/or their counsel, international monitoring bodies, such as ICRC and the European Committee for the Prevention of Torture, and the United Nations Development Programme. At the President's direction, the Registry also obtained information to assist the President's decision-making on convicted persons' requests for pardon, commutation of sentence or early release, in accordance with the Mechanism's Practice Direction on the Procedure for

⁶⁰ 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.

⁶¹ Residual Mechanism, document MICT/25, 5 December 2018. See also Rules of Detention, rules 91–97; Residual Mechanism, document MICT/24, 5 December 2018, regulations 8 and 10; Residual Mechanism, document MICT/23, 5 December 2018, regulation 23.

⁶² See rule 69 of the Rules of Procedure and Evidence.

the Determination of Applications for Pardon, Commutation of Sentence or Early Release of Persons Convicted by the ICTR, the ICTY, or the Mechanism.

249. The Registry at both branches continues to work in close cooperation with authorities in the enforcement States. This includes facilitating inspections of the relevant prisons by international monitoring bodies and liaising with the State authorities to address any recommendations from those inspections.

G. Monitoring of cases referred to national jurisdictions

250. The Registry facilitates the Mechanism's statutory monitoring of cases that are referred to national courts by the ad hoc Tribunals and the Mechanism. While, as set out above, the President is responsible for the overall supervision of the monitoring process, the Registry provides logistical support, including through the appointment of and communication with monitors.

251. During the reporting period, the Registry supported the monitoring of the *Ntaganzwa* case, which had been referred to Rwanda and was monitored with the pro bono assistance of the Kenyan Section of the International Commission of Jurists, and the *Bucyibaruta* case, which had been referred to France and was monitored by a Mechanism staff member.

252. With respect to the *Ntaganzwa* case, the appeal hearing commenced on 19 December 2022 and culminated in the Court of Appeal of Rwanda delivering its appeal judgment upholding the trial judgment on 3 March 2023 and issuing its written judgment on 28 March 2023. On 31 March 2023, Mr. Ntaganzwa filed a notice for review of the appeal judgment before the Supreme Court of Rwanda. The review judgment rejecting Mr. Ntaganzwa's application was delivered on 5 July 2023, thereby bringing the case to a close. Mr. Ntaganzwa is serving a life sentence in Rwanda for genocide and the crimes against humanity of extermination, rape and murder.

253. The trial in the *Bucyibaruta* case commenced on 9 May 2022 before the Paris Court of Assizes. On 13 July 2022, the Court convicted Mr. Bucyibaruta for complicity in genocide and crimes against humanity. He was sentenced to 20 years of imprisonment. On 18 and 19 July 2022, Mr. Bucyibaruta and the Office of the Prosecutor of the Paris Court of Appeal respectively filed appeals against the trial judgment before the Paris Court of Appeal. On 6 December 2023, Mr. Bucyibaruta passed away while awaiting the conclusion of appeal proceedings. On 5 February 2024, the President of the Mechanism considered that the death of an appellant must result in the termination of proceedings for lack of continued jurisdiction and, therefore, declared that the Mechanism's monitoring of the case had concluded.

254. While the Mechanism is no longer monitoring these cases, it is expected that it will actively monitor two other cases in the near future. In response to the arrest on 24 May 2023 of Mr. Kayishema, whose case was referred to the authorities of Rwanda in 2012, the Registry is in the process of concluding arrangements to ensure that monitoring in the Kayishema case will commence as soon as the accused is transferred to Rwanda. Moreover, in view of the Mechanism's decision on 29 February 2024 to refer the *Šešelj et al.* case to Serbia, the Registry is in the process of arranging an effective monitoring mechanism for this case.

H. Assistance to national jurisdictions

255. Pursuant to article 28, paragraph 3, of the statute, the Mechanism responds 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.⁶³

256. In fulfilment of this statutory duty, the Registry received and responded to approximately 105 requests for assistance during the reporting period. Some 2,420 judicial records were provided to national authorities or parties for use in domestic proceedings in Bosnia and Herzegovina, France, the Kingdom of the Netherlands, Kosovo,⁶⁴ Montenegro, Serbia and the United States regarding conflicts in the former Yugoslavia and the genocide against the Tutsi in Rwanda of 1994. Twenty-five of the requests for assistance were based on applications to vary protective measures ordered in proceedings before the ad hoc Tribunals or the Mechanism, which represents a continued rise in the number of such requests. Based on the recent increase in applications for variation of protective measures, particularly at The Hague branch, the Mechanism anticipates that the substantial demand for national assistance will continue.

257. The Registry provides guidance to external stakeholders wishing to submit a request for assistance, both on the Mechanism's website and, on request, through the Judicial Records Unit. This includes the provision of training by the Unit to members of national judiciaries on the organization of the judicial records of the ad hoc Tribunals and Mechanism, use of the unified court records database and how to submit requests for public and/or confidential records. On 24 November and 20 December 2022, the Unit delivered such training, in cooperation with the European Union Rule of Law Mission in Kosovo, to prosecutors in Kosovo.

I. Archives and records management

258. In accordance with the Mechanism's statutory duty and the relevant policies of the United Nations and the Mechanism, the Mechanism Archives and Records Section manages the archives of the ad hoc Tribunals and the Mechanism, including the preservation of and provision of access to physical and digital records, while ensuring the protection of confidential information.⁶⁵

259. The Mechanism Archives and Records Section currently manages more than 4,400 linear metres of physical records, including 174 artifacts and approximately three petabytes of digital records. It continued to implement the Mechanism's digital preservation programme to safeguard against technological obsolescence, media degradation and other vulnerabilities. During the reporting period, 17.7 terabytes (65,985 digital files) of audio-visual recordings of judicial proceedings, websites, email accounts and a variety of records documenting different aspects of the work of the ad hoc Tribunals were transferred into a digital repository, where their long-term integrity, reliability and usability is maintained. To date, 375 terabytes (290,525 digital files) have been transferred, with 86.1 per cent of the digital records still to be transferred. While much work remains in this respect, the Section is committed to advancing its digitization in the coming period, in line with the focus of the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee in the context of the Mechanism's budget proposals for 2023 and 2024.

260. The Mechanism Archives and Records Section also prioritized the preservation of audiovisual records to mitigate the risk of loss associated with old and outdated storage media and formats. It digitized 6,447 analogue audiovisual recordings.

⁶³ Further information as well as guidance regarding the submission of requests for assistance is available on the Mechanism's website at www.irmct.org/en/about/functions/requests-assistance.

⁶⁴ References to Kosovo shall be understood to be in the context of Security Council resolution 1244 (1999).

⁶⁵ Further information on the Mechanism's archives is available at www.irmct.org/en/archives.

Thirteen per cent of the audiovisual records await digitization. A further 1,780 physical audiovisual recordings were assessed to determine their preservation needs. A total of 700 audiovisual exhibits and 602 recordings were migrated from optical discs and prepared for transfer to the digital preservation system.

261. Separately, the Section preserved 2,283 physical files, including 1,183 items on thermal paper that were at high risk of loss owing to fading ink.

262. The Mechanism Archives and Records Section responded to 231 requests for access to records in line with the access policy for the records held by the Mechanism and briefed 1,188 visitors on the archives. It also continued to produce physical and online exhibitions and facilitated the loan of an artifact to The Hague-based Museon Omniversum for its United Nations-themed exhibition entitled, “One planet, let’s UNite!”. In December 2023, the Section launched a publicly accessible archives catalogue, prepared in accordance with international standards, which describes the archives of the ad hoc Tribunals and the Mechanism.⁶⁶ The Section created 4,002 entries in the catalogue, bringing the total number of entries to 10,802. Cataloguing of the archives will only be completed after all the archives of the ad hoc Tribunals and the Mechanism have been transferred to the Mechanism Archives and Records Section.

263. To ensure compliance with policies of the United Nations,⁶⁷ the Mechanism Archives and Records Section continued to provide training and advice on record-keeping to Mechanism staff, and administered and upgraded the Mechanism’s Electronic Document and Records Management System. This system supports cross-branch coordination, cooperation and collaboration by enhancing information-sharing and record-keeping practices. It has been implemented in 11 Mechanism offices. In addition, with the assistance of the United Nations Archives and Records Management Section and the Office of Legal Affairs, the Section facilitated the review and update records retention schedules, two for the Mechanism and nine for the International Tribunal for the Former Yugoslavia. Such schedules provide instructions for the retention of records according to their administrative, fiscal, legal, historical and informational value. Separately, the Section has shared its digital preservation experience and lessons learned with several United Nations offices, including the United Nations Archives and Records Management Section and the United Nations Office at Geneva.

264. Further, the Mechanism Archives and Records Section ensured the correct disposition of records, in accordance with approved records retention schedules, by assisting Mechanism offices with 95 transfers of records to the archives and the destruction of expired records, particularly during the liquidation of the Sarajevo field office and the United Nation Detention Facility. The downsizing of the Mechanism, including the closure of offices, has resulted in a surge of requests from offices to the Section for practical assistance with the appraisal and transfer of records to the Section, in accordance with retention schedules. This trend is expected to continue until the cessation of the Mechanism’s mandate.

265. Archives are records deemed to be of permanent value, and they are maintained accordingly.⁶⁸ As judicial activity comes to an end, the secondary value of the archives of the ad hoc Tribunals and the Mechanism, namely, their public memory, education and research value, progressively increases. It is becoming more and more important to promote the use of archives and to enhance the capacity to search and use them, particularly within affected communities. As indicated above, the Registry

⁶⁶ For more information, see <https://irm-apw.adlibhosting.com/home>.

⁶⁷ See [ST/SGB/2007/5](#), [ST/SGB/2007/6](#) and [ST/SGB/2012/3](#).

⁶⁸ See [ST/SGB/2007/5](#), sect. 1 (a), in which “archives” are defined as “records to be permanently preserved for their administrative, fiscal, legal, historical or informational value”.

will continue to streamline and ensure further efficient records management by merging the Mechanism Archives and Records Section and the Judicial Records Unit in the first half of 2024.

J. Budget and staffing

266. During the reporting period, the Mechanism progressively downsized and operated under reduced annual budgets in 2022 and 2023. By December 2024, the Mechanism will have reduced its staffing resources by almost 50 per cent and downsized a total of 239 posts and positions since December 2022.

267. The 2024 budget proposed by the Mechanism represents a reduction of 20 per cent, including the abolition of 97 posts and a decrease of \$18 million, compared to the 2023 appropriation. The budget was approved by the General Assembly, and non-post resource requirements were further reduced on the recommendation of the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee. The 2024 budget reflects the completion of ad hoc judicial activity in core crimes cases and the streamlining and implementation of efficiency measures. This resulted in a substantial decrease in post and non-post resource levels across the Mechanism. The Mechanism's downsizing is uniquely guided by its operational requirements and in accordance with a governing framework and methodology that is periodically assessed and revised by the Mechanism's Joint Negotiating Committee, an advisory body to the Registrar comprised of representative of both management and the staff union. The OIOS Internal Audit Division has stated that the downsizing process was satisfactorily conducted with adequate oversight of the process (see sect. VIII.B below for more details).

268. The table below gives an overview of the evolution of the Mechanism's budgets from 2020 to 2024.

Evolution of the budget of the Mechanism, 2020–2024

(Thousands of United States dollars)

	2020	2021	2022	2023	2024
Total	96 924.50	97 519.90	89 690.20	81 945.30	65 459.10

269. As at 15 April 2024, the Mechanism employs 117 staff on continuous posts and an additional 184 staff who provide general temporary assistance to meet ad hoc needs, including judicial work. The general temporary assistance positions are short term and their number fluctuates according to the workload. The Mechanism's staff originate from 61 States. The Mechanism has exceeded the Secretary-General's gender parity goals, with women comprising more than 50 per cent of staff at the professional level, and efforts continue to be undertaken to ensure full gender parity across all staff categories, at both the Arusha branch and The Hague branch.

270. During the reporting period, the Registrar carried out several initiatives to promote a positive work and learning environment for Mechanism staff. A comprehensive flexible working arrangement policy is in place at the Mechanism, which aligns with the wider United Nations Secretariat policy. Staff may also benefit from study leave and a study grant, which allow them to invest time in personal and professional development. The study grant is a one-time financial subsidy of \$700 per staff member. The Mechanism also provided staff the opportunity to join United Nations-approved language courses funded by the Mechanism, to strengthen their French and Spanish language skills.

271. Additional support was offered to staff through the active engagement of the Mechanism's various focal points (on gender, sexual exploitation and abuse, diversity and inclusion, disability and accessibility, and conduct and discipline issues). Each focal point has been allocated eight hours per month to support this important work. In addition, staff, including managers, were again encouraged to undertake unconscious bias training, to ensure fair recruitments and performance management. In 2023, the Mechanism conducted mandatory workshops on diversity, equity and inclusion for all staff.

272. The Registrar also facilitated the presence of a stress counsellor, who was based at the Arusha branch and visited The Hague branch and the field office in Kigali to allow for in-person appointments with staff members. The stress counsellor also organized regular webinars on psychosocial and mental health topics. In addition, the Registrar supported visits from representatives of the Office of Staff Legal Assistance and the Office of the United Nations Ombudsman and Mediation Services to the Mechanism as additional avenues for staff to receive support and raise concerns. Representatives of the Office of Staff Legal Assistance visited the Arusha branch in March 2023. In March 2024, representatives of the Office of the United Nations Ombudsman and Mediation Services visited the Arusha branch and the Kigali field office and delivered workshops on civility, communication and community. In April 2024, the United Nations Ombudsman and Assistant Secretary-General, Shireen Dodson, visited The Hague branch. Separately, in February 2024, the Special Coordinator on Improving the United Nations Response to Sexual Exploitation and Abuse, Christian Saunders, visited the Arusha branch and took part in an online information session for all Mechanism staff.

273. The Mechanism notes that, unfortunately, the significant downsizing that took place recently has led to the de facto dissolution of the executive committee of the staff union. While the future status of the staff union is still uncertain, this is a concerning development for a downsizing institution where the airing and resolution of staff concerns is critical for upholding staff morale and performance. In this regard, the Mechanism will rely even more on the valuable work undertaken by its focal points, as well as on forums such as town hall meetings with the principals and other information sessions.

K. Administration

274. The Registry's Division of Administration provides services in support of the Mechanism's operations.

275. In line with the principals' implementation of the Security Council's vision of a lean and efficient organization, the Division of Administration continued to consolidate and streamline its staffing component of the Mechanism, increasingly outsourcing its support services to United Nations service centres and commercial providers.

276. Having relied on the support of United Nations service centres since 2015 for services such as the administration of payroll, trust fund accounting and the preparation of the financial statements, in 2023 the Mechanism outsourced the administering of staff entitlements and benefits to the United Nations Office at Nairobi. It is expected that an agreement on the outsourcing of procurement services will be completed by the end of April 2024.

277. The Mechanism had already maximized the commercial support services available for facility operations by using commercial providers for operations and maintenance. With the cessation of in-court judicial activity, further staff reductions in the Registry's Safety and Security Section will become possible. The Mechanism has commenced a process to engage commercial security services to supplement the

capacity of United Nations uniformed security officers with private security guards by the end of August 2024.

278. The Mechanism welcomed the co-location of a small number of World Food Programme staff with the Mechanism staff at its Arusha branch premises on a cost-recovery basis. With the ongoing downsizing of Mechanism staff, the Mechanism welcomes other compatible United Nations entities making use of its facility where it would benefit their programme. The Hague branch has been hosting the Residual Special Court for Sierra Leone for the past 10 years, also on a cost-recovery basis, and hosted the residual Special Tribunal for Lebanon until the end of 2023.

L. External relations activities

279. The closure of the External Relations Office, which was expected to take place on 31 March 2024, was delayed owing to critical operational reasons, and the final closure is now scheduled for 30 June 2024. A number of the functions currently performed by the External Relations Office will be absorbed by the Office of the Registrar and other functions will be shared between the Mechanism's three organs.

280. During the reporting period, the Registry, through the External Relations Office, engaged in a number of activities to support the Mechanism's mandate. These included informing the public about the Mechanism's work, responding to media enquiries and facilitating access by stakeholders during key judicial hearings and other judicial activities.

281. In addition, the External Relations Office developed and implemented activities in relation to various stakeholders, primarily aimed at communities in countries of the former Yugoslavia and in Rwanda. In this context, the Office carried out a number of social media campaigns aimed at the affected communities.

282. In relation to the former Yugoslavia, the work of the Mechanism Information Programme for Affected Communities, which is funded by the European Union, again proved to be most impactful.⁶⁹ More than 270 secondary school teachers participated in 13 workshops organized by the Mechanism on how to use the archives of the International Tribunal for the Former Yugoslavia and the Mechanism. Over the past year, engagement with history teachers focused on promoting the publication "Guide for History Teachers: How to Use Archival Material of the ICTY and Mechanism in Teaching the History of the 1990s Conflicts", which was launched in May 2023 in cooperation with the European Association of History Educators and representatives of teachers' associations from across countries of the former Yugoslavia. The Programme also implemented the fourth and fifth cycles of its video lecture series, entitled "International law and facts established before the ICTY", with postgraduate students from 15 faculties across the region participating.

283. The implementation of the external relations strategy for the reporting period resulted in increased visibility of the Mechanism through social media campaigns, including the annual commemoration of international days recognized by the United Nations.

⁶⁹ See Council of Europe Commissioner for Human Rights, *Dealing with the Past for a Better Future: Achieving justice, peace, and social cohesion in the region of the former Yugoslavia*, Issue Paper, (Council of Europe, 2023), p. 79. Available at <https://rm.coe.int/issue-paper-on-transitional-justice-dealing-with-the-past-for-a-better/1680ad5eb5>. For further information about the Mechanism Information Programme for Affected Communities, see www.irmct.org/en/mip.

VII. Relocation of acquitted and released persons

284. The Mechanism continued to extend significant efforts towards finding a durable solution to the situation of the acquitted and released persons relocated to the Niger. The persons were relocated on 6 December 2021, following the signing of a relocation agreement between the United Nations and the Niger on 15 November 2021; on 28 December 2021, they were the subject of an order expelling them from the Niger “for diplomatic reasons”.

285. Unfortunately, the Mechanism’s persistent endeavours to resolve the situation have thus far been unsuccessful. More than two years later, the relocated persons remain in the Niger under de facto house arrest without any identification documents. One of the persons passed away on 9 June 2023.⁷⁰ Since then, the circumstances of the other seven persons have worsened, following the coup d’état that took place in the Niger in July 2023, causing great political and other instability and preventing meaningful communication with the Nigerien authorities. This protracted situation continues to adversely affect the rights of the relocated persons in a most serious manner, while also impacting the Mechanism’s workload and budgetary expenditure.

286. During the reporting period, the Registrar continued to lead the Mechanism’s efforts regarding this matter. The Registry mobilized substantial human and financial resources to identify suitable relocation States and, in collaboration with ICRC, to ensure respect for the relocated persons’ human rights. To this end, the Registrar maintained regular contact with United Nations representatives in the Niger, as well as ICRC; served as the Mechanism’s main point of contact for the relocated persons and their counsel with regard to the situation on the ground; and engaged in proactive diplomatic efforts with a view to identifying and advancing possible options for the persons’ relocation elsewhere. In 2023, the Registrar refined his strategy regarding diplomatic efforts by concentrating on communications with Member States that may be willing to accept the relocated persons on their territory, as well as States for which the relocated persons had requested the Registry’s intervention and those with which the relocated persons have ongoing family reunification requests.

287. In addition to the Registrar’s activities, the President continued to raise awareness and call for support in relation to the situation of the relocated persons through her own complementary efforts. In her reports to the Security Council and the General Assembly and during bilateral meetings with Member States and other stakeholders, for example, the President reiterated that the Mechanism would rely on the cooperation of States to resolve the challenge. Separately, as outlined above, the President also dealt with the situation in her judicial capacity. In this respect, she assigned single judges to consider motions filed by the relocated persons, presided over appeals relating to decisions issued on such motions, instituted a reporting regime and was seized with various other motions (see sect. III.B.2).

288. In line with the President’s order of 19 December 2022, the Registrar filed seven bimonthly reports on his efforts to find a solution in line with the Mechanism’s duty of care to the relocated persons. The Registrar also implemented an order issued by a single judge during the reporting period, thereby providing \$10,000 to each of the relocated persons following the end of their first year in the Niger and the exhaustion of the initial installation grant that had been provided pursuant to the relocation agreement. The Registrar is currently implementing a further order by the single judge to provide an additional \$10,000 to each of the relocated persons.

⁷⁰ Residual Mechanism, *In the Matter of François-Xavier Nzuwonemeye et al.*, Case No. MICT-22-124, Registrar’s Filing in Relation to the Death of Mr. Tharcisse Muvunyi, 13 June 2023.

289. The judicial activity triggered by the situation of the relocated persons indeed demanded extensive time, effort and attention from the judges and legal staff involved. In addition, the Registry processed 260 judicial filings and 278 translations on the matter of the relocated persons during the reporting period, bringing the number of total filings to 478 and total translations to 428. This protracted matter continues to impact numerous sections of the Mechanism, taking resources away from the Mechanism's mandated activities.

290. The Mechanism reiterates that it cannot resolve this situation alone and must rely on the good faith and cooperation of Member States. As acknowledged by OIOS in its recent evaluation report, challenges to the conclusion of the Mechanism's duty of care towards acquitted and released persons are expected to continue unless there are improvements in Member States' cooperation.⁷¹ The Mechanism respectfully repeats its call for any support or guidance from the Security Council that is deemed appropriate under the current circumstances.

VIII. Evaluation and audits

291. The Mechanism values the role that the oversight bodies play in assisting the principals and management in providing an independent and critical review of its programmes and efforts to implement its mandate. During the reporting period, the Mechanism's practices continued to be scrutinized, with the Inspection and Evaluation Division of OIOS completing its biennial evaluation of the methods and work of the Mechanism in preparation for the current mandate review, and the Internal Audit Division of OIOS performing a number of audits of specific sections or topics. Separately, the Board of Auditors conducted its regular annual audits of the Mechanism's financial statements.

A. Evaluation by the Office of Internal Oversight Services

292. The Mechanism recently completed its engagement with the Inspection and Evaluation Division of OIOS on the fifth evaluation of the Mechanism's methods and work, a biennial exercise mandated by the Security Council.⁷² The Mechanism is grateful to the OIOS team for its professional and collaborative work, as well as the important insights gained from its findings and recommendations in assisting the Mechanism with successfully fulfilling its mandate in a timely and effective manner.

293. The OIOS evaluation focused on assessing the relevance, effectiveness and coherence of the outcomes achieved as a result of the Mechanism discharging its residual functions in cooperation with Member States. The Mechanism is satisfied that the OIOS exercise independently verified that it had effectively rendered quality services to Member States in line with its mandated functions.⁷³

294. In this respect, the OIOS report concluded that the Mechanism was responsive to the needs of Member States and successfully adapted and provided a range of services to Rwanda and the countries of the former Yugoslavia to support these jurisdictions with their national war crimes proceedings. OIOS confirmed that, between January 2021 and August 2023, the Mechanism had supported more than 400

⁷¹ S/2024/199, para. 35.

⁷² See resolution 2637 (2022), para. 16, in which the Security Council recalls that reviews carried out pursuant to paragraph 17 of resolution 1966 (2010) shall include evaluation reports sought from the OIOS with respect to the methods and work of the Mechanism. See also S/PRST/2024/1.

⁷³ See S/2024/199.

investigations and judicial proceedings in 15 countries related to serious violations of international humanitarian law in Rwanda and the countries of the former Yugoslavia.

295. Further, the report found that the Mechanism had effectively leveraged cooperation with Member States and international organizations to fulfil its responsibilities in tracking fugitives, supervising the enforcement of sentences and facilitating access to information from the archives of the ad hoc Tribunals and the Mechanism.

296. The overall positive result of the OIOS evaluation was augmented by four recommendations for the Mechanism: (a) clarify the respective roles and responsibilities of the President and Registrar of the Mechanism regarding the relocation of acquitted and released persons; (b) further strengthen how the Mechanism leverages partnerships with the United Nations system to find long-term solutions to the challenges it faces regarding cooperation with Member States; (c) apply lessons learned and best practices from the closure of the Sarajevo field office, including to the upcoming closure of the Kigali field office; and (d) take steps to adopt a further client orientation, including improving statistics on assistance activities and soliciting feedback from requestors of assistance and recipients of capacity-building.⁷⁴

297. The Mechanism has already commenced implementing these recommendations in line with the working-level action plan it presented to OIOS alongside its formal management response.⁷⁵ In particular, it is well on the way to fully implementing the first recommendation. The President and Registrar have in this respect taken steps to discuss, further clarify and document their respective roles and responsibilities in relation to the relocation of acquitted and released persons. The Mechanism is committed to fully implementing each of the recommendations according to the time frames it presented to OIOS and looks forward to sharing its progress in future reports.

298. Lastly, in relation to the two recommendations that were outstanding from previous evaluation exercises, the Mechanism is pleased to announce that these recommendations have been closed. The first outstanding recommendation was to develop scenario-based workforce plans to enhance responsiveness to a surge in workload,⁷⁶ while the second outstanding recommendation was to ensure systematic thinking and a shared vision of institution-building.⁷⁷ Following submission by the Mechanism of relevant documentation, on 5 April 2024, OIOS confirmed that these recommendations had been formally closed. The Mechanism is satisfied that its extensive efforts to fulfil the recommendations in recent years have been recognized.

B. Audits

299. During the reporting period, the OIOS Internal Audit Division issued two audit reports. In the first report, entitled “Audit of management of judicial records and court support activities at the International Residual Mechanism for Criminal Tribunals”, dated 18 July 2022, the Division found that the Mechanism had harmonized practices and implemented identical information technology solutions between the two branches; that a lean Judicial Records Unit structure was maintained at both branches; and that arrangements for coordination of activities were adequate. The Division also found that there were still unresolved issues on the management of judicial records of the International Criminal Tribunal for Rwanda; that redacted audiovisual recordings of the ad hoc Tribunals’ proceedings had yet to be uploaded for public

⁷⁴ Ibid., paras. 42–46.

⁷⁵ The Mechanism’s response is in [S/2024/199](#), annex I.

⁷⁶ See [S/2018/206](#), para. 43; [S/2020/236](#), paras. 36–39; and [S/2022/148](#), paras. 12–16.

⁷⁷ See [S/2020/236](#), para. 66; [S/2022/148](#), paras. 43–47.

access; that a revised Practice Direction on the procedure for filings before the Mechanism had yet to be finalized; and that a Practice Direction or other policy guidance was needed to formalize guidance on requests for assistance processed by the Registry. The Division issued four important recommendations in relation to: (a) developing plans with timelines regarding the disposition of former judicial records of the International Criminal Tribunal for Rwanda; (b) developing guidelines detailing the procedures and chain of custody for uploading redacted transcripts and audio and visual recordings; (c) completing the set-up of the application for managing audio and visual records at the Arusha branch and providing related user training; and (d) formalizing the procedures for addressing requests for assistance from national authorities. With regard to the second recommendation, four standard operating procedures have been completed and submitted to OIOS for closure. The other recommendations are in advanced stages of implementation.

300. The second audit report issued by OIOS during the reporting period was entitled “Audit of downsizing at the International Residual Mechanism for Criminal Tribunals” and dated 26 April 2023. The report found that: “the downsizing process was satisfactorily conducted but there is room for further improvement”; adequate oversight of the process was provided by the joint management/staff union review board; gender parity requirements were considered in the downsizing process; information-sharing with staff and staff representatives was adequate; and training and assistance for staff to identify career opportunities were provided. Based on additional findings, the report issued two important recommendations in relation to: (a) ensuring that the Mechanism’s Joint Negotiating Committee meets as required to discuss the impact and realities of downsizing and assess the need to address the Mechanism’s downsizing policy; and (b) ensuring that performance documents are completed for all staff as required, and, when appropriate, that adequate justification is provided when staff receive a rating of “exceeds performance expectation”. The recommendations remain under implementation, with the Joint Negotiating Committee meeting more frequently and managers receiving regular reminders in relation to the completion of performance documents, including on the need to provide justification when awarding a staff member an “exceeds performance expectation” rating.

301. It should be noted that the OIOS Resident Auditor, whose post was vacant for more than a year during the reporting period, commenced duty on 1 April 2024 and will be based in The Hague, servicing both branches of the Mechanism.

302. Lastly, in addition to the above audits by OIOS, the Mechanism engaged with the Board of Auditors during the reporting period in relation to the Board’s regular annual audits of the Mechanism’s financial statements.

IX. Conclusion

303. The Mechanism is pleased to present the Security Council with the present report, which amply demonstrates the progress made by the Mechanism during the last biennium. It is confident that the report, together with the aforementioned framework of operations to complete functions and the recent evaluation by OIOS, will allow the Security Council to reach informed decisions regarding the future of the Mechanism’s mandate.

304. As detailed above, the Mechanism has accomplished remarkable results since the fourth review report was submitted on 14 April 2022. Active proceedings in the final core crimes cases have come to an end, four more fugitives of the International Criminal Tribunal for Rwanda have been accounted for and the Mechanism has entered its truly residual phase, thus becoming the type of institution the Security Council envisioned when the Mechanism was created. Moreover, in terms of future

planning, phase one of the Mechanism's operations will now be concluding in 2024, two years ahead of earlier projections, exemplifying the Mechanism's determination and the fast-paced, dynamic evolution of its activities. The Mechanism reflects on these achievements with pride and satisfaction.

305. The decades since the establishment of the ad hoc Tribunals have shown that the cycle of international criminal justice is long and complex. Now, more than ever before, it is clear that the process involves far more than trials and appeals, and the Mechanism is mindful that there is significant work yet to be done. Thanks to its dedicated future planning efforts, the Mechanism is ideally placed to advance its numerous functions to their ultimate conclusion. Whether the Mechanism itself will be responsible for completing all aspects of its mandate, or whether certain activities will instead be transferred to other institutions or jurisdictions, is for the Security Council to decide.

306. The Mechanism recognizes that, in the meantime, good governance, the optimization of resources and the further streamlining of procedures will be crucial to guide the completion of ongoing judicial activities and other mandated functions and ensure they are conducted in the most fair, efficient and effective manner. These objectives cannot be met without the strong and collaborative leadership of the Mechanism's principals and the ongoing resilience and commitment of its outstanding staff, who continue to weather the pressures of downsizing and budgetary constraints. The Mechanism takes this opportunity to pay tribute to all its staff members, as well as its judges, whose hard work has enabled it to make such strides during the past biennium.

307. Bolstered by these developments, and by the positive evaluation of its methods and work by OIOS, the Mechanism is committed to remaining client-oriented, bearing in mind its nature as an independent court of law. It will endeavour to further leverage its cooperation with Member States and strengthen ties with other stakeholders. As acknowledged by OIOS, State cooperation in particular is paramount to the ability of the Mechanism to discharge its functions and overcome existing challenges, including those related to the enforcement of sentences and the relocation of acquitted and released persons.

308. The Mechanism looks forward to discussing these and other issues with the Security Council and its Informal Working Group on International Tribunals over the coming period, and to the new resolution that the Council will adopt in June 2024 with respect to the Mechanism's mandate. The Mechanism will carefully examine all recommendations stemming from the current review process and ensure that these are fully reflected in its goals and working methods moving forward.

309. In closing, the Mechanism extends its heartfelt gratitude to all States and stakeholders that continue to staunchly support its mission and the broader goals of international criminal justice. In today's global context, such reliability is even more critical. Only with meaningful assistance will the Mechanism be able to see through to the end the justice cycle that the international community initiated through the historic creation of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda.

Enclosure I

Judgments, decisions and orders issued by the International Residual Mechanism for Criminal Tribunals as at 15 April 2024

I. President

A. Orders of the President assigning a single judge or bench

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024 (as at 15 April)	Total
Arusha	10	9	43	30	42	28	16	19	15	12	21	20	6	271
The Hague	–	16	27	31	54	45	42	32	23	21	23	8	4	326
Total	10	25	70	61	96	73	58	51	38	33	44	28	10	597

B. Decisions and orders of the President on enforcement

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024 (as at 15 April)	Total
Arusha	2	1	5	1	5	10	32	7	15	24	8	7	2	119
The Hague	–	2	13	18	16	14	14	15	17	21	24	23	8	185
Total	2	3	18	19	21	24	46	22	32	45	32	30	10	304

C. Decisions and orders of the President related to cases referred to national jurisdictions

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024 (as at 15 April)	Total
Arusha	2	2	4	4	4	6	–	–	–	–	–	–	1	23
The Hague	–	–	–	–	–	–	–	–	–	–	–	–	–	0
Total	2	2	4	4	4	6	–	–	–	–	–	–	1	23

D. Decisions and orders of the President (other)

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024 (as at 15 April)	Total
Arusha	2	5	2	0	3	2	8	32	11	8	9	8	2	92
The Hague	–	–	1	1	7	10	27	6	9	2	3	–	–	66
Total	2	5	3	1	10	12	35	38	20	10	12	8	2	158

II. Appeals Chamber

A. Appeal or review judgments

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024 (as at 15 April)	Total
Arusha	–	–	1	–	–	–	–	1	–	–	1	–	–	3
The Hague	–	–	–	–	–	–	1	1	–	1	–	1	–	4
Total	–	–	1	–	–	–	1	2	–	1	1	1	–	7

B. Decisions and orders of the Appeals Chamber related to review proceedings

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024 (as at 15 April)	Total
Arusha	1	–	1	4	11	30	28	38	–	–	1	1	3	118
The Hague	–	–	–	3	1	–	1	–	1	–	–	–	–	6
Total	1	–	1	7	12	30	29	38	1	–	1	1	3	124

C. Decisions and orders of the Appeals Chamber (other)

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024 (as at 15 April)	Total
Arusha	2	11	9	9	10	2	8	13	–	6	16	4	–	90
The Hague	–	–	8	5	48	46	83	24	35	19	17	15	–	300
Total	2	11	17	14	58	48	91	37	35	25	33	19	–	390

III. Trial Chambers and single judges

A. Trial or contempt judgments

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024 (as at 15 April)	Total
Arusha	–	–	–	–	–	–	–	–	–	1	–	–	–	1
The Hague	–	–	–	–	–	–	–	–	–	1	–	–	–	1
Total	–	–	–	–	–	–	–	–	–	2	–	–	–	2

B. Decisions and orders of the Trial Chambers related to trial proceedings

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024 (as at 15 April)	Total
Arusha	–	–	–	–	–	–	–	–	13	42	63	44	5	167
The Hague	–	–	–	5	31	114	108	93	59	19	–	–	–	429
Total	–	–	–	5	31	114	108	93	72	61	63	44	5	596

C. Decisions and orders of the Trial Chambers related to cases referred to national jurisdictions

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024 (as at 15 April)	Total
Arusha	–	–	–	12	–	–	–	5	–	–	–	–	–	17
The Hague	–	–	–	–	–	–	–	–	–	–	–	–	–	–
Total	–	–	–	12	–	–	–	5	–	–	–	–	–	17

D. Decisions and orders issued by a three-judge panel

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024 (as at 15 April)	Total
Arusha	–	–	–	–	–	–	–	–	–	–	–	–	–	–
The Hague	–	–	–	–	–	–	–	1	1	–	–	–	–	2
Total	–	–	–	–	–	–	–	1	1	–	–	–	–	2

E. Decisions and orders of single judges related to witness protection measures

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024 (as at 15 April)	Total
Arusha	5	3	27	18	27	6	2	12	6	5	10	2	3	126
The Hague	–	22	32	41	54	54	33	31	25	51	25	13	6	387
Total	5	25	59	59	81	60	35	43	31	56	35	15	9	513

F. Decisions and orders of single judges related to the commencement of proceedings on contempt of court and false testimony

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024 (as at 15 April)	Total
Arusha	–	1	2	–	21	7	31	105	101	61	11	13	2	355
The Hague	–	1	3	–	5	2	13	24	11	20	4	13	2	98
Total	–	2	5	–	26	9	44	129	112	81	15	26	4	453

G. Decisions and orders of single judges (other)

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024 (as at 15 April)	Total
Arusha	1	5	7	17	47	21	10	4	6	4	16	12	3	153
The Hague	–	1	8	10	19	9	23	7	3	4	3	6	1	94
Total	1	6	15	27	66	30	33	11	9	8	19	18	4	247

IV. Total**A. Total judgments: 9****B. Total decisions and orders**

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024 (as at 15 April)	Total
Arusha	25	37	100	95	170	112	135	235	167	162	155	111	27	1 531
The Hague	–	42	92	114	235	294	344	233	184	157	99	78	21	1 893
Total	25	79	192	209	405	406	479	468	351	319	254	189	48	3 424

Enclosure II

Public legal and regulatory instruments and policies promulgated by the Mechanism, as at 15 April 2024

A. Rules of procedure and evidence

- Amendment to the Rules of Procedure and Evidence (MICT/1/Amend.8), 28 February 2024
- Rules of Procedure and Evidence (MICT/1/Rev.8), 26 February 2024
- Practice Direction on the Procedure for the Implementation of Rule 110 (B) of the Rules of Procedure and Evidence (MICT/15/Rev.1), 4 January 2019
- Practice Direction on Procedure for the Proposal, Consideration, and Publication of Amendments to the Rules of Procedure and Evidence of the Mechanism (MICT/16/Rev.2), 24 May 2018

B. Judges

- Code of Professional Conduct for the Judges of the Mechanism (MICT/14/Rev.1), 9 April 2018

C. Judicial activities

- Practice Direction on Judicial Records (MICT/42), 25 May 2023
- Practice Direction on the Use of the Electronic Court Management System (MICT/21/Rev.1), 20 February 2019
- Practice Direction on Lengths of Briefs and Motions (MICT/11/Rev.1), 20 February 2019
- Practice Direction on Requirements and Procedures for Appeals (MICT/10/Rev.1), 20 February 2019
- Practice Direction on Formal Requirements for Requests for Review of Administrative Decisions (MICT/9/Rev.1), 20 February 2019

D. Enforcement of sentences

- Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence, or Early Release of Persons Convicted by the ICTR, the ICTY, or the Mechanism (MICT/3/Rev.3), 15 May 2020
- 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

E. Victims and witnesses

- Practice Direction on the Provision of Support and Protection Services to Victims and Witnesses (MICT/40), 26 November 2019

- Practice Direction on Procedure for the Variation of Protective Measures Pursuant to Rule 86 (H) of the Mechanism’s Rules of Procedure and Evidence for Access to Confidential ICTY, ICTR and Mechanism Material (MICT/8), 23 April 2013

F. Archives and records

- Access Policy for the Records Held by the International Residual Mechanism for Criminal Tribunals (MICT/17/Rev.1), 4 January 2019

G. Office of the Prosecutor

- Prosecutor’s Regulation No. 2 (2013): Requests for Assistance by National Authorities or International Organisations to the Prosecutor (MICT/13), 29 November 2013
- Prosecutor’s Regulation No. 1 (2013): Standards of Professional Conduct of Prosecution Counsel (MICT/12), 29 November 2013

H. Defence

- Hourly rates applicable to Defence and Amicus Curiae teams as of January 2024, 1 January 2024
- Remuneration Policies for Persons Representing Indigent Accused, Revised Amounts as of January 2024, 1 January 2024
- Code of Professional Conduct for Defence Counsel Appearing before the Mechanism and Other Defence Team Members (MICT/6/Rev.1), 14 May 2021
- Remuneration Policy for Persons Representing Indigent Convicted Persons in Post-Conviction Proceedings, upon Issuance of a Judicial Order Granting Assignment of Counsel at the Expense of the International Residual Mechanism for Criminal Tribunals, 12 April 2021
- Policy for the Appointment and Remuneration of Amici Curiae Investigators and Prosecutors in Proceedings before the International Residual Mechanism for Criminal Tribunals, 12 April 2021
- Remuneration Policy for Persons Representing Indigent Suspects and Accused in Contempt and False Testimony Proceedings before the International Residual Mechanism for Criminal Tribunals, 2 June 2020
- Remuneration Policy for Persons Representing Indigent Accused in Pre-Trial Proceedings before the International Residual Mechanism for Criminal Tribunals, 4 January 2019
- Remuneration Policy for Persons Representing Indigent Accused in Trial Proceedings before the International Residual Mechanism for Criminal Tribunals, 4 January 2019
- Remuneration Policy for Persons Representing Indigent Accused in Appeals Proceedings before the International Residual Mechanism for Criminal Tribunals, 4 January 2019
- Remuneration Policy for Persons Assisting Indigent Self-Represented Accused before the International Residual Mechanism for Criminal Tribunals, 4 January 2019

- Guidelines for Determining the Extent to Which an Applicant for Legal Aid is Able to Remunerate Counsel, 4 January 2019
- Guidelines on the Submission of Hourly Invoices and Remunerable Activities for Assistants to Self-Represented Accused, 25 May 2016
- Guidelines on the Submission of Hourly Invoices and Remunerable Activities, 10 November 2015
- Directive on the Assignment of Defence Counsel (MICT/5), 14 November 2012

I. Translation and interpretation

- Code of Ethics for Interpreters and Translators Employed by the International Residual Mechanism for Criminal Tribunals (MICT/20/Rev.1), 4 January 2019
- Policy on Interpretation (MICT/18/Rev.1), 4 January 2019
- Policy on Translation for the Conduct of Judicial Activity of the International Residual Mechanism for Criminal Tribunals (MICT/22), 5 April 2018
- Guidelines for Requesting and Working with Interpretation Services (MICT/19), 2 November 2017

J. Detention

- Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Mechanism or Otherwise Detained on the Authority of the Mechanism, adopted on 5 November 2018, entered into force on 5 December 2018
 - Regulations on the Complaints Procedure for Detainees (MICT/25), 5 December 2018
 - Regulations on the Disciplinary Procedure for Detainees (MICT/24), 5 December 2018
 - Regulations on the Supervision of Visits to and Communications with Detainees (MICT/23), 5 December 2018
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