

**Security Council**

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**Letter dated 16 May 2024 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council**

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

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

*(Signed)* Graciela **Gatti Santana**  
President



**Annex I to the letter dated 16 May 2024 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council**

[Original: English and French]

**Assessment and progress report of the President of the International Residual Mechanism for Criminal Tribunals, Judge Graciela Gatti Santana, for the period from 16 November 2023 to 15 May 2024**

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1. The present report, the twenty-fourth in a series, is submitted pursuant to Security Council resolution [1966 \(2010\)](#), by which the Council established the International Residual Mechanism for Criminal Tribunals.<sup>1</sup> The reporting requirement set out in paragraph 16 of that resolution is contained in article 32 (2) of the statute of the Mechanism (resolution [1966 \(2010\)](#), annex I). The information contained in the report reflects the parameters set out in paragraphs 10 to 12 of Council resolution [2637 \(2022\)](#), including the views and recommendations of the Council's Informal Working Group on International Tribunals. The report covers the progress made by the Mechanism in the period from 16 November 2023 to 15 May 2024.

## I. Introduction

2. The Mechanism was established in 2010 to carry out a number of essential residual functions of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 and the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, which closed in 2015 and 2017, respectively. Its branch in Arusha, United Republic of Tanzania, commenced operations on 1 July 2012, assuming functions derived from the International Criminal Tribunal for Rwanda, while its branch in The Hague, Kingdom of the Netherlands, commenced operations on 1 July 2013, assuming functions derived from the International Tribunal for the Former Yugoslavia. Since 1 January 2018, the Mechanism has been a stand-alone institution.

3. While the Mechanism was set up 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, it only became truly "residual" in 2023 with the effective conclusion of its final trial and appeal proceedings in core crimes cases.

4. Pursuant to resolution [1966 \(2010\)](#), the Mechanism was tasked with running for an initial period of four years, and subsequently for periods of two years, following reviews of the progress of its work, unless the Security Council decides otherwise. During the reporting period, the Council conducted its fifth such review, in line with the statement by the President of the Council dated 4 March 2024 ([S/PRST/2024/1](#)). In connection with this process, the Office of Internal Oversight Services (OIOS) undertook an evaluation of the methods and work of the Mechanism, issuing its report on 29 February 2024 ([S/2024/199](#)). The Mechanism subsequently submitted its fifth review report to the Council on 15 April 2024, detailing the progress made during the two-year period from 16 April 2022 to the submission date.

5. The Mechanism notes that the fifth review report therefore covers five months out of the six-month period addressed by the present report. Given this temporal overlap, and where possible, the present report endeavours to avoid unnecessary duplication of information and concentrates on key events during the reporting period, as well as developments that have taken place since the fifth review report was submitted. Consequently, both reports should be read in conjunction. The Mechanism trusts that this will ensure that the most useful and relevant information is provided to members of the Security Council. Moreover, to further aid the review process, the

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<sup>1</sup> Unless otherwise specified, figures set out in the present report are accurate as at 15 May 2024.

Mechanism submitted its framework of operations for completing its functions to the Council's Informal Working Group on International Tribunals on 15 April.

6. The reporting period featured a number of noteworthy developments relating to the Mechanism's judicial activities. With respect to the final case concerning core crimes derived from the International Criminal Tribunal for Rwanda, *Prosecutor v. Félicien Kabuga (Kabuga case)*, on 29 February, the Trial Chamber denied Mr. Kabuga's request to order a State to accept him on provisional release over its objection. The Trial Chamber continues to monitor Mr. Kabuga's health and explore options for recovering legal aid funds expended in his defence while an appropriate State is identified for his provisional release.

7. In relation to contempt proceedings, on 29 February, the single judge referred the case of *Prosecutor v. Vojislav Šešelj et al. (Šešelj et al. case)* to Serbia for trial. Separately, on 29 April, a single judge issued an order in lieu of indictment in the case *In the Matter of François Ngirabatware (François Ngirabatware case)*, and the President has since assigned another single judge to the case, who will determine whether it should be referred to a national jurisdiction for trial. Unfortunately, in the contempt case against Petar Jojić and Vjerica Radeta (*Jojić and Radeta case*), Serbia continued in its refusal to arrest and transfer the accused.

8. Turning to the Mechanism's other key functions, the reporting period marked a historic milestone in the pursuit of justice for the 1994 genocide against the Tutsi in Rwanda. On 15 May, the Prosecutor announced that his Office had successfully accounted for every individual indicted by the International Criminal Tribunal for Rwanda. The final two fugitives, Charles Ryandikayo and Charles Sikubwabo, were confirmed by the Prosecutor to be deceased. This achievement means that there are now no core crimes fugitives at large indicted by the International Criminal Tribunal for Rwanda or the International Tribunal for the Former Yugoslavia. Further details are provided in annex II, in which the Prosecutor sets out his comprehensive assessment.

9. The Mechanism also made solid progress in its other residual functions, including supervising the enforcement of sentences, providing assistance to national jurisdictions and monitoring cases referred to national jurisdictions.

10. Regrettably, the Mechanism still encounters challenges related to the cooperation of Member States, in particular with regard to the above-mentioned *Jojić and Radeta* case, and the unresolved predicament of the acquitted and released persons who were relocated to the Niger in December 2021.

11. The Mechanism is encouraged by the strong progress made during the reporting period and is deeply grateful to those who staunchly support its work, including the 12 States that currently enforce sentences imposed by the ad hoc Tribunals or the Mechanism. It will continue to need robust support in this and other areas to ensure that its mandate can be optimally fulfilled.

## **II. Organization of the Mechanism**

### **A. Organs and principals**

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

13. Each organ is led by a full-time principal who exercises responsibility over both Mechanism branches. The President, Graciela Gatti Santana (Uruguay), is based in The Hague, while the Prosecutor, Serge Brammertz (Belgium), and the Registrar, Abubacarr M. Tambadou (Gambia), are based in Arusha. The current terms of the principals and judges run until 30 June 2024.

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

## **B. Branches**

15. The Mechanism comprises two branches, one in The Hague, Kingdom of the Netherlands, and one in Arusha, United Republic of Tanzania, but functions as a single, unified institution. The cooperation with the Kingdom of the Netherlands and the United Republic of Tanzania remains excellent, and the Mechanism is grateful to both host States for their continued support and engagement in accordance with the respective headquarters agreements.

16. In The Hague, the Mechanism remains actively engaged with the host State in relation to the potential relocation to alternative premises. As previously reported, the Mechanism anticipates that such premises will be available from 2028. In order to achieve budgetary efficiencies, following the significant downsizing of staff in The Hague, efforts to consolidate the space used in the existing premises continue and will result in reduced rental costs.

17. In Arusha, the Mechanism's Lakilaki premises are situated on land made available by the United Republic of Tanzania. The premises also provide public access to the Mechanism's well-resourced library on international law, in particular international humanitarian law and international criminal justice. During the reporting period, the Mechanism welcomed the co-location of three staff of the World Food Programme within the premises of the Mechanism, aimed at supporting their programmatic work in the northern United Republic of Tanzania.

18. Throughout the reporting period, the Kigali field office actively supported the Mechanism's mandate, collaborating closely with national authorities on witness support and protection and implementing judicial protection orders. In addition, the office assisted in coordinating the Mechanism principals' visit to Kigali for the thirtieth commemoration of the 1994 genocide against the Tutsi in Rwanda.

19. In order to reduce the Mechanism's organizational footprint and reflect its status as a truly residual entity, the Mechanism principals decided to close the Kigali field office on 31 August 2024, with its liquidation to be concluded on 30 September 2024. However, a small contingent of prosecution staff will continue to operate in Kigali, based at the United Nations Children's Fund premises.

20. In view of the pending closure of the Kigali field office, a joint working group between the Mechanism and the Government of Rwanda was established in March 2024 to develop a plan of action and agree on timelines for the transition and ultimate handover of the clinical services provided to victims and witnesses to a government or non-government entity. Prior to the transfer of services, the medical team of the Witness Support and Protection Unit will, inter alia, share its expertise with the personnel who will be responsible for continuing the provision of medical and psychosocial support to the victims and witnesses. In addition, lessons learned from the closure of the Sarajevo field office in 2023 will help to secure the provision of relevant assistance to the victims and witnesses during the transition period.

### III. President and Chambers

#### A. President

21. Throughout the reporting period, the President of the Mechanism continued to lead the institution in furtherance of the three main priorities of her current mandate, namely: (a) to present the Security Council with a framework of operations for completing the functions of the Mechanism during its new residual phase; (b) to promote effective leadership and good governance in the performance of mandated functions and residual activities; and (c) to continue to consolidate the legacy of the ad hoc Tribunals and the Mechanism and work closely with all main stakeholders.

22. The President's first priority was realized when she shared a draft framework of operations for completing the functions of the Mechanism with the Informal Working Group on International Tribunals in December 2023, ahead of the Security Council's fifth review process, and subsequently provided a revised version of the framework in April 2024, reflecting inputs received from members of the Informal Working Group along with other changes. It is important to note that the framework is a dynamic document, and the President will persist in leading efforts to adjust and refine it as needed (see sect. IV below, on future planning).

23. With regard to the second priority, the President continued to encourage close collaboration among the principals and senior management to promote good governance and transparent, efficient and responsible leadership. In addition, collaborative efforts between the President and the Registrar were undertaken to streamline operations and minimize redundancies in areas in which both principals are involved, such as supervising the enforcement of sentences and managing external relations.

24. With regard to the third priority, the President attaches great importance to ensuring maximum accessibility to the Mechanism's public judicial records, including through the Mechanism's website, public databases and library. Moreover, the President is dedicated to advancing, where feasible, the Mechanism's facilitation of the establishment of information centres in line with Security Council resolution [1966 \(2010\)](#). Disseminating information in these ways not only raises public awareness of the important work of the ad hoc Tribunals and the Mechanism, but also serves as a pivotal tool in countering genocide denial and associated divisive phenomena.

25. The President continued to work closely with the other principals to advance these priorities, while also focusing on further enhancing systemic thinking and a unified vision of the Mechanism's future in line with a previous recommendation by OIOS ([S/2022/148](#), paras. 43–47; and [S/2020/236](#), para. 66). This was recognized by OIOS when it formally closed the relevant recommendation in April 2024. The President convened three meetings of the Mechanism Coordination Council during the reporting period, as well as more informal meetings and communications with the other principals. The Coordination Council is composed of the President, the Prosecutor and the Registrar, and provides a valuable forum for in-depth discussions on cross-cutting institutional issues.

26. While generally based in The Hague, the President worked from the Arusha branch in November 2023 and February 2024. This provided an opportunity to personally engage with management and staff at that branch and foster greater inter-branch collaboration. The President, together with the other two principals, also convened a town hall meeting for all staff in February 2024. Furthermore, she regularly engaged with representatives of the Staff Union to stay apprised of staff concerns.

27. Turning to her representational role and external engagement, in December 2023, the President presented the Mechanism's twenty-third progress report to the Security Council (S/2023/881). On that occasion, she also briefed the Informal Working Group on International Tribunals, held bilateral meetings with numerous representatives of Member States and met with high-level Secretariat officials.

28. In addition, during her mission to New York in December 2023, the President, together with the Prosecutor, participated in an event marking the seventy-fifth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide and the International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and of the Prevention of This Crime, which was convened by Alice Wairimu Nderitu, the Special Adviser to the Secretary-General on the Prevention of Genocide.

29. In January 2024, the President travelled to Strasbourg, France, to meet with senior officials of the Council of Europe, where she discussed issues including strengthening the rule of law, fighting hate speech, securing State cooperation in a range of matters and conditions of imprisonment for persons convicted by the ad hoc Tribunals or the Mechanism.

30. On 28 and 29 February, the President hosted the second judicial colloquium of the Mechanism in Arusha. The Mechanism had previously planned to hold a colloquium in 2020 but was prevented from doing so by the coronavirus disease (COVID-19) pandemic. The second judicial colloquium, entitled "The new face of atrocity crime proceedings: internationalisation of standards, regional dialogues on procedural and cooperation matters, and use of new technologies", brought together approximately 100 international and regional experts for a series of panel discussions. The participants, including eminent jurists from countries of the East African Community, as well as judges of the Mechanism and other legal practitioners and academics in the field of international criminal justice, engaged in fruitful exchanges on a range of cutting-edge issues of relevance to international criminal proceedings and transnational cooperation. This high-level event was funded through a generous contribution by the late Benjamin B. Ferencz, former Prosecutor at the Nuremberg Military Tribunals, and his son, Donald Ferencz.

## **B. Judges**

31. During the reporting period, the Mechanism welcomed Judge René José Andriatianarivelo (Madagascar) onto its judicial roster. Judge Andriatianarivelo was appointed by the Secretary-General, effective 20 February 2024, to replace Judge Mahandrisoa Edmond Randrianirina (Madagascar), who had resigned from the roster of judges effective 4 October 2023. The Mechanism is pleased to again have a full complement of 25 judges, who, in accordance with article 8 (3) of the statute, primarily perform their tasks remotely. Eight of the judges of the Mechanism are women.

32. The current judicial roster of the Mechanism comprises (in order of precedence): Judge Graciela Gatti Santana, President (Uruguay), Judge Jean-Claude Antonetti (France), Judge Joseph E. Chiondo Masanche (United Republic of Tanzania), Judge William Hussein Sekule (United Republic of Tanzania), Judge Lee G. Muthoga (Kenya), Judge Carmel Agius (Malta), Judge Alphons Orié (Kingdom of the Netherlands), Judge Burton Hall (Bahamas), Judge Florence Rita Arrey (Cameroon), Judge Vagn Prüsse Joensen (Denmark), Judge Liu Daqun (China), Judge Prisca Matimba Nyambe (Zambia), Judge Aminatta Lois Runeni N'gum (Zimbabwe/Gambia), Judge Seon Ki Park (Republic of Korea), Judge José Ricardo de Prada Solaesa (Spain), Judge Ivo Nelson de Caires Batista Rosa (Portugal), Judge

Seymour Panton (Jamaica), Judge Yusuf Aksar (Türkiye), Judge Mustapha El Baaj (Morocco), Judge Claudia Hoefler (Germany), Judge Iain Bonomy (United Kingdom of Great Britain and Northern Ireland), Judge Fatimata Sanou Touré (Burkina Faso), Judge Margaret M. deGuzman (United States of America), Judge Lydia Mugambe (Uganda) and Judge René José Andriatianarivelo (Madagascar).

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

34. On 26 and 27 February, the President convened the Mechanism's fourth in-person plenary of judges, which was held at the Arusha branch. During the plenary session, the judges decided to amend the Rules of Procedure and Evidence by deleting rule 155, which related to a declassification procedure that was without prejudice to the declassification of documents under other regulatory provisions, and which the judges considered could have led to substantial expenditures and delays in future work. The judges also discussed a proposal to amend rules 84, 97 and 125 of the Rules that would, if adopted, address situations arising in relation to an accused's fitness to stand trial. However, owing to the complexity of the matter, a decision was deferred until a later time and a pro bono working group of judges was set up after the plenary to further analyse the proposals and their implications.

35. Separately, the Mechanism takes the opportunity to highlight an important judgment rendered by the European Court of Human Rights on 23 April 2024 concerning the full diplomatic immunity of a former judge of the Mechanism, Aydin Sefa Akay.<sup>2</sup> The Mechanism recalls by way of background that, on 5 October 2016, the President of the Mechanism, Judge Theodor Meron, first drew the attention of the Security Council to Judge Akay's arrest for alleged conduct connected to acts directed against the constitutional order of Türkiye (then Turkey) (see [S/2016/841](#)). Judge Akay was, at the time of his arrest, carrying out his functions for the Mechanism, having been assigned on 25 July 2016 to a bench of the Appeals Chamber for a review request. On 17 November 2016, the President informed the Security Council that the Office of Legal Affairs of the United Nations Secretariat, acting on behalf of the Secretary-General, had formally asserted diplomatic immunity with respect to Judge Akay and requested his release from detention and the cessation of all legal proceedings against him (see [S/2016/975](#), annex I, para. 13). At the ensuing Security Council debate, the President explained that international judges are afforded privileges and immunities in order to protect the independent discharge of their judicial functions, which is a cornerstone of the rule of law (see [S/PV.7829](#)). Notwithstanding, on 9 March 2017, the President formally notified the Council of the failure of Türkiye to comply with its obligation to cooperate with the Mechanism under article 28 of the statute and with a judicial order to cease all legal proceedings against and ensure the release of Judge Akay (see [S/2017/204](#)).

36. In the interim, and prior to his eventual trial for allegedly being a member of an armed terrorist organization and subsequent conviction, Judge Akay filed an application before the European Court of Human Rights alleging violations of his rights. In its judgment issued in April 2024, the Court affirmed that the independence of international judges and courts is a *conditio sine qua non* for the proper administration of justice, that there is a direct link between this independence and the

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<sup>2</sup> *Aydin Sefa Akay v. Türkiye*, Application No. 59/17, Judgment, 23 April 2024. In accordance with article 43 of the European Convention on Human Rights, any party to the case may, in exceptional cases, request that the case be referred to the Grand Chamber within three months from the date of the judgment.



immunities afforded to international judges and that Judge Akay enjoyed full diplomatic immunity for the duration of his term of office when engaged in the business of the Mechanism, including when working remotely in accordance with the Mechanism's legal framework and in his State of nationality.<sup>3</sup> In the light of the remote working posture of the judges as foreseen in article 8 (3) of the statute, the Mechanism considers the judgment to be a positive contribution towards safeguarding the independence of an international judiciary.

### C. Judicial activities

37. During the reporting period, the President and judges issued a total of 84 decisions and orders. Of these, 72 (or approximately 9 in 10) related to the Mechanism's continuous judicial functions – including matters pertaining to the protection of victims and witnesses, assistance to national jurisdictions, the enforcement of sentences and the investigation of allegations of contempt, as well as the management of the work of Chambers – rather than to the adjudication of the core crimes incorporated in the statute.

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

39. 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 Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda and the Mechanism. During the reporting period, the Chambers Legal Support Section continued in 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.

#### 1. Proceedings related to core crimes

40. With respect to the core crimes incorporated in the statute of the Mechanism, the judges, whose individual legal backgrounds are roughly evenly split between civil and common law, worked primarily on one trial and one request for review from final judgment during the reporting period.

##### (a) Trial proceedings

41. The trial proceedings in the *Kabuga* case remain indefinitely stayed, following the Trial Chamber's order of 8 September 2023. During the reporting period, the Trial Chamber focused on matters relating to monitoring Mr. Kabuga's health, consideration of his possible release and exploration of the recovery of legal aid funds expended in connection with his defence, in the light of the Registrar's conditional determination in October 2023 that he is not indigent. The Trial Chamber held two status conferences, on 13 December 2023 and 26 March 2024, to discuss these issues and enquire into Mr. Kabuga's current conditions of detention.

42. Concerning Mr. Kabuga's health, on 26 February 2024, the Trial Chamber received a further joint expert monitoring report, in which the experts maintained their view that Mr. Kabuga is unfit to stand trial and unlikely to regain fitness to stand

<sup>3</sup> Ibid., paras. 113, 121, 122, 125 and 142.

trial. The experts also noted that Mr. Kabuga is receiving care and treatment of a high quality, which is appropriate to his high level of need. The Trial Chamber also continues to receive monthly reports from the medical officer of the United Nations Detention Unit.

43. 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 is a willing and appropriate destination for Mr. Kabuga's provisional release. In issuing this order, the Trial Chamber noted that it would not presently consider the submission since Mr. Kabuga's provisional release to Rwanda is not currently a live issue before the Trial Chamber and the Government of Rwanda is not a party to these proceedings. The Trial Chamber noted that Rwanda would be heard at the appropriate time, if and when the matter properly arises. On 29 February, the Trial Chamber issued a confidential decision, in which it denied Mr. Kabuga's request to order a State to accept him onto its territory as a provisionally released accused pursuant to article 28 of the statute.

44. With respect to the recovery of legal aid funds following the Registrar's determination that Mr. Kabuga is not indigent, 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 will, 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. The Registrar filed submissions on 11 April and 17 April, in which he shared preliminary information and indicated his intention to file additional information in response to the Trial Chamber's order.

45. The Trial Chamber, composed of Judges Bonomy, presiding, El Baaj and deGuzman, continues to work remotely and its judges are being remunerated only on a limited basis each month. Status conferences are conducted in person by the presiding judge, with the other members of the bench participating by videoconference link.

(b) *Review proceedings*

46. Under article 24 of the statute, a convicted person has the right to request a review of a final judgment issued by the ad hoc Tribunals or the Mechanism. 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. Review is an extraordinary remedy and, while it has seldom been granted, a convicted person's ability and right to seek review remains an essential fair trial right guarantee and adjudicating such applications is a continuous function.

47. The Appeals Chamber, composed of Judges Gatti Santana, presiding, Antonetti, Hall, Arrey and N'gum, is currently seized of a request for review filed confidentially on 14 December 2023 by Gérard Ntakirutimana against his convictions for genocide and crimes against humanity entered by the International Criminal Tribunal for Rwanda, on the basis of three proposed new facts, which, if proven, may reflect a miscarriage of justice. This request arises in part out of extensive litigation conducted before the Mechanism between December 2013 and July 2018 in relation to whether a key witness provided false testimony against Mr. Ntakirutimana, culminating in the Appeals Chamber's decision of 4 July 2018 authorizing limited remuneration for

counsel to assist in the preparation of a request for review. In view of the timing and voluminous nature of the present request and supporting material, on 12 January 2024, the prosecution was granted a 30-day extension to file its response. On 6 March, Mr. Ntakirutimana was granted a 20-day extension to file his reply, to account for the size of the response and its annexes and the fact that it was not filed in his counsel's main working language. Briefing concluded in the matter on 28 March 2024, and a decision is anticipated by the end of 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.

48. Given the high threshold, requests for review are rarely granted. To date, 11 requests for review have been filed before the Mechanism. Nine have been dismissed, and only one has been granted. In the history of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, only two other requests for review have been granted, out of a total of approximately 25 requests.

(c) *Proceedings related to fugitives*

49. As previously reported, on 24 May 2023, Fulgence Kayishema, who was indicted by the International Criminal Tribunal for Rwanda in 2001 and whose case was referred for trial in Rwanda in February 2012, was arrested in South Africa. To date, he continues to be subject to domestic criminal proceedings there, which have recently been further delayed. Once these proceedings have concluded, 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.

50. In relation to another fugitive of the International Criminal Tribunal for Rwanda, on 19 March 2024, following a motion by the prosecution, a single judge terminated the proceedings against Aloys Ndimbati before the Mechanism on account of his death. Mr. Ndimbati had been charged by the International Criminal Tribunal for Rwanda with genocide, complicity in genocide, direct and public incitement to commit genocide, as well as extermination, murder, rape and persecution as crimes against humanity committed in Rwanda between April and July 1994. Prior to the termination of the case, he was one of the fugitives whose cases had been transferred to Rwanda in the event of arrest.

## 2. Continuous judicial activities

51. Even after all cases related to core crimes have been disposed of, the Mechanism remains responsible for fulfilling several other discrete, yet crucial and continuous, judicial functions.

(a) *Judicial activity of the President*

52. The President's continuous judicial responsibilities relate mainly to the supervision of the enforcement of sentences and judicial review of administrative decisions. The President is also mandated to assign judges to cases.

53. During the reporting period, the President issued a total of 45 decisions and orders. These included 17 decisions and orders relating to enforcement matters, as well as 23 orders relating to the assignment of judges. Of the latter, 14 orders pertained to rule 86 of the Rules of Procedure and Evidence.

54. In connection with the enforcement of sentences, the President issued five decisions on applications for early release,<sup>4</sup> as well as one decision on the implementation of a conditional release agreement.<sup>5</sup> In addition, the President issued one decision with regard to the transfer of a convicted person from an enforcement State,<sup>6</sup> and two confidential orders designating the State in which convicted persons are to serve the remainder of their sentences. The President is currently seized of eight pending applications for early release or commutation of sentence and, during the reporting period, issued one decision and three orders or invitations related to their adjudication. The President also issued two decisions and two orders in relation to the situation of the acquitted and released persons relocated to the Niger. Lastly, in her role as presiding judge of the Appeals Chamber, she issued an order and three decisions in ongoing proceedings.<sup>7</sup>

(b) *Judicial activities of single judges/benches*

55. Other continuous judicial functions concern the adjudication of applications for information on or the rescission, variation or augmentation of protective measures, as provided for in rule 86 of the Rules of Procedure and Evidence; requests for the assistance of the Mechanism in obtaining testimony of a person under the Mechanism's authority, in line with rule 87 of the Rules; issues pertaining to the *non bis in idem* principle, as enshrined in article 7 of the statute and rule 16 of the Rules; submissions seeking the reclassification of judicial filings for reasons of transparency or, conversely, reasons of security; and financial assistance and relocation of acquitted and released persons. The list is not exhaustive, and experience shows that unexpected issues requiring the Mechanism's focus can emerge at any time.

56. On average, the Chambers adjudicate 20 to 30 applications pursuant to rule 86 a year. During the reporting period, 14 orders and decisions were issued concerning applications for information on or the rescission, variation or augmentation of protective measures. All were issued by single judges. The Mechanism thereby discharged its residual functions in relation to both the protection of victims and witnesses, in line with article 20 of the statute, and responding to requests for assistance from national authorities, as set out in article 28 (3) of the statute.

57. The continued protection of victims and witnesses and the effective administration of justice require judicial oversight to sanction any violation of orders of the ad hoc Tribunals or the Mechanism. The Mechanism was again seized of a number of matters pertaining to allegations of contempt during the reporting period,

<sup>4</sup> *Prosecutor v. Ratko Mladić*, Case No. MICT-13-56-ES, Decision on the Application for Release of Ratko Mladić, 10 May 2024 (public redacted version); *Prosecutor v. Stojan Župljanin*, Case No. MICT-13-53-ES.1, Decision on the Application for Early Release of Stojan Župljanin, 18 January 2024 (public redacted version); *Prosecutor v. Radivoje Miletić*, Case No. MICT-15-85-ES.5, Decision on the Application for Early Release of Radivoje Miletić, 18 January 2024; *Prosecutor v. Bruno Stojić*, Case No. MICT-17-112-ES.3, Decision on the Application for Early Release of Bruno Stojić, 17 January 2024 (public redacted version); and *Prosecutor v. Miroslav Bralo*, Case No. MICT-14-78-ES, Decision on the Application for Early Release of Miroslav Bralo, 28 December 2023 (public redacted version).

<sup>5</sup> *Prosecutor v. Sreten Lukić*, Case No. MICT-14-67-ES.4, Decision Related to Sreten Lukić's Request Pursuant to Paragraph 3(K) of the Conditional Early Release Agreement, 30 November 2023.

<sup>6</sup> *Prosecutor v. Milan Lukić*, Case No. MICT-13-52-ES.1, Decision on Milan Lukić's Request for Transfer, 13 March 2024.

<sup>7</sup> *Prosecutor v. Anselme Nzabonimpa et al*, Case No. MICT-18-116-AR90.1, Decision on Request for Reclassification of Filings and Extension of Time to File a Response, 9 May 2024; *Prosecutor v. Gérard Ntakirutimana*, Case No. MICT-12-17-R, Decision on Gérard Ntakirutimana's Request for an Extension of Time to File Reply, 6 March 2024; *Prosecutor v. Gérard Ntakirutimana*, Case No. MICT-12-17-R, Decision on Request for an Extension of Time, 12 January 2024; and *Prosecutor v. Gérard Ntakirutimana*, Case No. MICT-12-17-R, Order Designating a Pre-Review Judge, 12 January 2024.

in accordance with article 1 (4) (a) of the statute. There are no active matters concerning possible false testimony as provided for by article 1 (4) (b) of the statute. Pursuant to the statute, before proceeding to try any person alleged to be responsible for contempt or false testimony, the Mechanism must consider referring the case to the authorities of a State, taking into account the interests of justice and expediency.

58. The Mechanism deeply regrets that, once more, there have been no developments in the *Jojić and Radeta* case. Despite its obligations to arrest and surrender the accused persons, and the multiple referrals of the situation to the Security Council by the Mechanism, Serbia has persisted in its refusal to execute arrest warrants and orders for the transfer of the accused.

59. In the *Šešelj et al.* case, on 11 August 2023, a single judge confirmed an indictment submitted by the prosecution against Vojislav 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. 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 in view of article 6 (2) of the statute. On 29 February 2024, having considered the submissions by Serbia, the prosecution and the accused, the single judge ordered the case to be referred to Serbia for trial.

60. In relation to a possible contempt matter that came to light during the trial in the case of *Prosecutor v. Anselme Nzabonimpa et al.*, on 25 October 2021, a single judge directed the Registrar to appoint an *amicus curiae* to both investigate the matter and file a report 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 filed a supplement on 13 June 2023, as requested by the single judge. On 2 April 2024, following extensive briefing, the single judge issued a decision on the use of certain material that was provided by Peter Robinson in another case pursuant to rule 76, which has a bearing on his decision as to whether or not to proceed to trial. Following a request by the *amicus curiae*, on 24 April 2024, the single judge certified the decision for appeal and the President subsequently assigned a bench of the Appeals Chamber to consider the appeal. The matter is currently in briefing. If a decision is taken to proceed to trial, a single judge will first need to consider whether it is appropriate to refer the case to a national jurisdiction.

61. In relation to the *François Ngirabatware* case, 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 confidential matter. The report was filed on 6 April 2023. On 29 April 2024, the single judge decided not to institute proceedings against two of the individuals. However, the single judge decided to initiate proceedings against Mr. Ngirabatware for interference with the administration of justice based on allegations that he falsified documents that were submitted to the Mechanism. The single judge decided to issue an order in lieu of indictment, which was issued the same day, and referred the matter to the President to assign a single judge to conduct the proceedings and determine whether the case

should be referred to the authorities of a State. On 8 May 2024, the President assigned another single judge to conduct the case and to consider matters related to the referral of the case to a national jurisdiction. On 13 May 2024, the single judge issued an order for submissions to the parties in relation to the issue of the referral of the case.

#### **IV. Future planning**

62. Over the course of the reporting period, the Mechanism intensified its planning for the future of its operations.

63. In December 2023, the President presented to the Security Council's Informal Working Group on International Tribunals the framework of operations for completing the functions of the Mechanism in draft format. The members of the Informal Working Group subsequently shared their comments on the document, which were implemented by the Mechanism, as appropriate (see para. 22). Moreover, the President has consulted the Mechanism's jurisdiction States, as well as its host States, 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 based on comprehensive information received from the Mechanism.

64. The framework is a living document that requires constant updating and adapting. It takes a functions-based approach and specifies expected completion dates for each function, accompanied by diverse scenarios that anticipate future developments. These scenario-based plans encompass varied workload projections and corresponding resource allocations, empowering the Mechanism to adeptly respond to evolving circumstances.

65. With regard to the anticipated duration of the functions, it is important to reiterate that the duration of a function does not have to equate to the lifespan of the Mechanism. The Security Council has, in 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 statement of the President of the Security Council dated 4 March 2024.

66. The framework provides a comprehensive analysis of the general feasibility of transferring the Mechanism's functions. While concluding that it would in theory be possible to do so, the framework shines light on the political and practical obstacles and likely financial inefficiencies that such transfers would bring.

67. Irrespective of any transfers, the framework outlines that the Mechanism's workload will gradually decrease over time, which for planning purposes can be projected as involving three phases. Phase 1, the period focused on ad hoc judicial activity and the tracking of fugitives, was expected to be completed by 2026. Phase 2 is the period during which the Mechanism is projected to have a substantial workload in its long-term functions. This phase is currently projected to continue until at least 2032. Phase 3, from 2032 onwards, is likely to see a greatly reduced workload. The Mechanism is proud to report that, following the Prosecutor's announcement of the death of the last two remaining core crimes fugitives, phase 1 of its future planning has been completed, two years ahead of earlier projections.

68. Moreover, as flagged in the framework, the Mechanism remains committed to continuing to further downsize and become an even leaner institution. Particular efforts are made to streamline operations and outsource administrative operations whenever feasible, for example in areas such as finance, human resources, general services and security.

69. In addition, following discussions between the President and Registrar, a consensus was reached on implementing restructuring changes aimed at enhancing communication with States regarding sentence enforcement. While the new approach simply involves a shift in interlocutors, it is anticipated to significantly improve communication efficiency and streamline processes. In addition, as at 1 May 2024, the Registrar has combined the Judicial Records Unit with the Mechanism Archives and Records Section, thereby creating a dynamic and flexible merged unit, which is responsive to operational needs. Furthermore, with the closure of the Mechanism's External Relations Office at the end of June 2024, each organ will be utilizing its existing resources to perform external relations tasks, and procedures for efficient inter-organ collaboration in this regard are being developed. This also includes a heightened degree of coordination among the principals in relation to the representational functions of each, so as to ensure that the Mechanism's messaging is consistent.

## **V. Assistance to national jurisdictions**

70. 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, pursuant to article 28 (3) of the statute.

71. During the reporting period, the Mechanism continued to receive and process requests from national authorities for access to certified copies of judicial records of the Mechanism and the ad hoc Tribunals, as well as requests pursuant to rule 86 of the Rules of Procedure and Evidence. Rule 86 provides the legal basis for national jurisdictions to seek variation of protective measures granted to witnesses who testified in cases before the ad hoc Tribunals or the Mechanism to allow those witnesses to testify in the national proceedings and/or to use the testimonies and exhibits of protected witnesses in the national proceedings.

72. Except if otherwise specified in the original decision granting the protective measures, such measures remain in force until a subsequent judicial decision to rescind, vary or augment them is issued. Similarly, judicial records marked as confidential will remain inaccessible to national jurisdictions and the public until otherwise determined by a judicial decision. Hence, the handling of requests for assistance pursuant to these rules will continue to require judicial determinations by judges and ongoing support from the Judicial Records Unit and the Witness Support and Protection Unit at both branches for the foreseeable future.

73. The judicial activity arising from requests for assistance during the reporting period has been outlined above (see para. 55). Separately, the Registry processed 18 requests for assistance from national authorities or parties to domestic proceedings, predominantly in relation to proceedings concerning the conflicts in the former Yugoslavia, and provided 92 documents.

74. The assistance provided to national jurisdictions by the prosecution is detailed in annex II.

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

75. At the end of the reporting period, the Mechanism is no longer actively monitoring any case referred to national jurisdictions in line with article 6 (5) of the statute. This follows the death of Laurent Bucyibaruta, whose case had been referred

to France, on 6 December 2023.<sup>8</sup> 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.

76. Following the arrest on 24 May 2023 of Fulgence Kayishema, whose case has been referred for trial in Rwanda, the Mechanism appointed a Mechanism staff member to monitor this case within existing resources, given the advanced juncture in the Mechanism's lifespan and the in-depth knowledge and skills of its staff. The Mechanism's monitoring function will start as soon as Mr. Kayishema is transferred to Rwanda.

77. Furthermore, as outlined above (see para. 59), on 29 February 2024, a single judge ordered that the *Šešelj et al.* case be transferred to Serbia and instructed the Registry to take appropriate measures to implement an effective monitoring mechanism in accordance with article 6 (5) of the statute and rule 14 (A) (iv) of the Rules of Procedure and Evidence.<sup>9</sup> The Registry is in the process of arranging effective in-house monitoring for this case within the Mechanism's existing resources.

78. The Mechanism's monitoring responsibilities are expected to continue for the duration of these cases.

## VII. Enforcement of sentences

79. The Mechanism continues to supervise the enforcement of sentences handed down by the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda or the Mechanism itself.

80. Following the delivery of a final judgment, the President designates the State in which a convicted person is to serve his or her sentence in accordance with article 25 of the statute, rule 127 of the Rules of Procedure and Evidence and the relevant Practice Direction.<sup>10</sup> While there is no stipulated time limit, rule 127 (B) of the Rules provides that the transfer of the convicted person to an enforcement State shall be effected as soon as possible. The Registrar provides information to assist the President in designating an enforcement State, and the President can make any other relevant enquiries.

81. The President's supervisory powers with regard to the enforcement of sentences and related issues include dealing with complaints on conditions of imprisonment and requests for transfer, interacting with monitoring bodies tasked with inspecting conditions of imprisonment and, for the most part, adjudicating applications pertaining to early release, pardon or commutation of sentence. The last two represent a central activity for the President and her office. In the exercise of these functions, the President is supported by the Registry, which plays an essential role in securing the enforcement of the Mechanism's remaining sentences and overall administration thereof.

82. Lastly, the President has the power to grant pardon or commutation of sentence to persons convicted by the ad hoc Tribunals or the Mechanism. While article 26 of

<sup>8</sup> Since its establishment, the Mechanism has actively monitored five cases, three in Rwanda (Ladislav Ntaganzwa, Jean Uwinkindi and Bernard Munyagishari) and two in France (Laurent Bucyibaruta and Wenceslas Munyeshyaka).

<sup>9</sup> *Prosecutor v. Vojislav Šešelj et al.*, Case No. MICT-23-129-I, Decision on Referral of the Case to the Republic of Serbia, 29 February 2024.

<sup>10</sup> 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.



the statute, like the corresponding provisions in the statutes of the ad hoc Tribunals, does not specifically mention applications for early release of convicted persons, the Rules of Procedure and Evidence reflect the President's authority to receive and adjudicate such requests in accordance with the long-standing practice of the ad hoc Tribunals and the Mechanism.

83. As explained below (see para. 119), there are currently four convicted persons at the United Nations Detention Unit awaiting transfer to an enforcement State, two of whom remain following the completion of appeal proceedings and two who were returned to the Unit on a temporary basis in June and November 2023.

84. At the end of the reporting period, 41 convicted persons are serving their sentences in the territories of 12 Member States, under the supervision of the Mechanism. In relation to the International Criminal Tribunal for Rwanda, all 25 persons continue to serve their sentences in two different States: Benin (17) and Senegal (8). With respect to the International Tribunal for the Former Yugoslavia, 16 persons continue to serve their sentences under the supervision of the Mechanism in 10 different States: Austria (1); Belgium (1); Estonia (3); Finland (1); France (1); Germany (4); Norway (1); Poland (1); Sweden (1); and United Kingdom of Great Britain and Northern Ireland (2). One person was released upon completing his full sentence in May 2024, and another convicted person is expected to be released after serving his full sentence before the end of the year.

85. In addition, three convicted persons who were previously granted conditional early release by the Mechanism remain under its supervision until their sentences have been completed. Another convicted person completed his sentence on conditional early release during the reporting period. This brings the total number of convicted individuals under the supervision of the Mechanism to 48.

86. The conditions of imprisonment in the enforcement States must be compatible with international standards of detention.<sup>11</sup> 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. These organizations regularly monitor the conditions of imprisonment to ensure that international standards are being met, and any recommendations made are considered and addressed by the Mechanism, which also coordinates with relevant national authorities and/or the United Nations Development Programme. In addition, ICRC has conducted an independent thematic review of the Mechanism's "end-of-justice-cycle" to extract best practices, challenges and lessons learned in sentence enforcement. In March 2024, a summary of the report was presented to representatives of enforcement States in The Hague. The Mechanism is most grateful to ICRC and all those who contributed to the thematic review and is currently considering the findings and recommendations made therein. Finally, at the Arusha branch, the Registry continued to support the ageing convicted persons in Benin and Senegal, in the light of their specific vulnerabilities.

87. The Mechanism wishes to sincerely thank and commend each of the 12 enforcement States referenced above. They have once more demonstrated their genuine commitment to international criminal justice by carrying out the substantial responsibilities of sentence enforcement, and their outstanding support and cooperation ensure that the Mechanism can continue to fulfil this important aspect of its mandate.

88. The Mechanism seizes the opportunity to encourage additional Member States to step forward and provide similar assistance. This is particularly important as the

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<sup>11</sup> These include the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

Mechanism continues to face challenges in the area of enforcement of sentences. In recent times, a number of convicted persons have been returned to the United Nations Detention Unit by European enforcement States owing to limitations within domestic legislation or for other reasons internal to those States. This has led to a strain on the Mechanism's resources, as the Unit was never intended to house returned convicted persons in such a manner. While there were positive developments during the reporting period and designation orders have been issued in respect of certain individuals, the Mechanism still requires additional States to volunteer to share the burden of enforcing sentences of those convicted by the ad hoc Tribunals or the Mechanism.

89. In terms of the duration of this function, it is to be noted that 15 convicted persons are currently serving life sentences, while 16 will complete their sentences between 2030 and 2040, and a further 8 after 2040. Notwithstanding the Security Council's request for precise projections on 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 judicial body to supervise the enforcement of sentences after the Mechanism ceases to exist.

## **VIII. Cooperation of States**

90. The Mechanism recalls that States are required to cooperate with the Mechanism in the investigation and prosecution of persons covered under the statute, and to comply with orders and requests for assistance in relation to cases before the Mechanism, pursuant to article 28 of the statute. In addition, as detailed above, State cooperation is essential in the enforcement of sentences.

### **A. Relocated persons**

91. Despite the persistent efforts of the Mechanism to find a durable solution for the acquitted and released persons who were relocated from Arusha to the Niger in December 2021, the situation remains unresolved.

92. In a very recent development, the Mechanism was informed on 7 May 2024 that one of the persons, Anatole Nsengiyumva, had passed away in hospital from health complications. Mr. Nsengiyumva had been hospitalized the day before. The six remaining acquitted and released persons are still effectively confined to their residence in Niamey, following the issuance of an expulsion order on 28 December 2021 by the Nigerien authorities.

93. In addition, on 15 May 2024, a single judge dismissed a request filed by François-Xavier Nzuwonemeye for an order directing the Registrar to evacuate him from the Niger to the Kingdom of the Netherlands – invoking the headquarters agreement with The Hague branch – or the nearest State for emergency medical treatment. The single judge acknowledged that the medical report provided by Mr. Nzuwonemeye suggests a potential serious health condition. However, the single judge considered that, in view of precedent, the headquarters agreement did not provide a basis for transfer and that he did not have the legal authority to order the medical evacuation to the Kingdom of the Netherlands or a third State. The single judge urged Mr. Nzuwonemeye to explore with the Registry the possibility of diagnosis and treatment in Rwanda, a State obliged and with previously expressed willingness to accept him onto its territory, potentially with appropriate guarantees of safety, to alleviate any concerns that he may have.

94. Throughout the reporting period, the Registry maintained regular contact with ICRC in the Niger, as well as with the relocated persons, in order to be kept apprised of the situation on the ground. In addition, the Registry continued with its redefined diplomatic strategy, concentrating on communications with Member States: (a) which positively responded to the Mechanism's note verbale enquiring about Member States' willingness to welcome one or all of the relocated persons; (b) with which relocated persons specifically requested the Registry's intervention; and (c) with which the relocated persons have ongoing family reunification requests.

95. Following an order issued by a single judge of the Mechanism on 4 January 2024, the Registrar has now finalized the payment of a second lump sum subsistence grant of \$10,000 to each of the relocated persons. The single judge noted in the order that the payment of these subsistence funds does not amount to an annual entitlement, and that any future payments are contingent on an assessment of the situation of the relocated persons at the time of the request. Separately, in line with the President's order of 19 December 2022 instructing the Registrar to, inter alia, file regular reports on his efforts to find a solution in line with the Mechanism's duty of care towards the relocated persons, the Registrar filed three further bimonthly submissions during the reporting period, on 9 January, 8 March and 6 May 2024.

96. In addition to the Registrar's initiatives, the President continued to utilize every available opportunity to address this issue in her reports and during her bilateral meetings with Member States and other stakeholders, emphasizing the crucial role of Member States' engagement in effectively addressing this challenge.

97. Turning to the President's recent judicial activity in relation to this matter, on 16 April 2024, following a 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, the President issued an order in which she agreed in principle that a remote *sui generis* hearing could be convened to complement the aforementioned reporting regime. The President considered that such a hearing would benefit not only from the participation of counsel for the relocated persons, but also from the attendance of the Registrar, a representative of the Niger and a representative of Rwanda, and ordered submissions of the two relocated persons and the Registrar with regard to the modalities of any such hearing. The submissions were filed on 19 April and 3 May 2024, respectively, and are currently being considered by the President.

98. The Mechanism recalls Security Council resolution [2637 \(2022\)](#), in which the Council calls upon all States to cooperate and assist in this matter. The Mechanism also refers to the evaluation report of OIOS ([S/2024/199](#)), which acknowledged that 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. Mindful of this reality, the Mechanism again respectfully appeals to the Council to provide any additional support or guidance that it deems appropriate given the present circumstances.

## **B. Information-sharing and dissemination**

99. In accordance with paragraph 23 of Security Council resolution [2256 \(2015\)](#), the Mechanism has continued discussions on ways to enhance cooperation with the Government of Rwanda. Within this framework, the principals of the Mechanism engaged with Rwandan authorities concerning matters such as improving access to the Mechanism's archives and its overall work, including by making court documents and audiovisual recordings of Mechanism proceedings more readily accessible on the Mechanism's website. The Kigali field office continued to play an important role in

supporting the efforts to strengthen cooperation with Rwandan authorities and civil society.

100. Further to resolution 1966 (2010), in which the Security Council requested the Mechanism to cooperate with Rwanda and the former Yugoslavia to facilitate the establishment of information centres, the Mechanism pursued discussions regarding the potential establishment of an information centre on the International Tribunal for the Former Yugoslavia in Zagreb. The Mechanism remains dedicated to facilitating the creation of similar centres in collaboration with other stakeholders in the former Yugoslavia, and possibly Rwanda. The Mechanism believes that providing increased access to public judicial records from the ad hoc Tribunals and the Mechanism will significantly contribute to combating genocide denial, historical revisionism and the glorification of convicted war criminals.

101. The Mechanism, together with the European Union, continued its Information Programme for Affected Communities.<sup>12</sup> During the reporting period, 110 secondary school history teachers participated in four workshops organized by the Mechanism on using the archives of the International Tribunal for the Former Yugoslavia and the Mechanism. In addition, the Programme provided support to three regional events, including an international conference on transitional justice held in Belgrade in December 2023. These events gathered civil society representatives, victims and young people from the region of the former Yugoslavia and beyond.

102. The fifth cycle of the Programme's video lecture series, entitled "International law and facts established before the ICTY", was launched with a lecture by the President in November 2023 and concluded in March 2024. The series consisted of 14 lectures and brought together postgraduate students from 15 faculties across the former Yugoslavia. Lecturers included Mechanism officials from all organs, members of the Association of Defence Counsel practising before the International Courts and Tribunals, former staff members of the International Tribunal for the Former Yugoslavia and experts from other United Nations bodies. Separately, the Programme also contributed to six lectures on the legacy of the International Tribunal for the Former Yugoslavia, hosted by local groups or organizations and addressed to young people, journalists and researchers from the region.

103. Overall, the Mechanism Information Programme for Affected Communities continued to be well received, with its social media campaigns having reached close to 6 million people since January 2019. The Mechanism wishes to reiterate its sincere gratitude to the European Union and its member States for their ongoing and generous support.

## **IX. Registry support for Mechanism activities**

### **A. Judicial support services**

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

105. Following the end of the Mechanism's trial and appeal activities in relation to core crimes, the Judicial Records Unit at both branches continued to process, distribute and manage the judicial records of the ad hoc Tribunals and the Mechanism related to residual activities such as supervision of the enforcement of sentences, applications pursuant to rule 86 of the Rules of Procedure and Evidence, monitoring

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<sup>12</sup> For further information about the Mechanism Information Programme for Affected Communities, see [www.irmct.org/en/mip](http://www.irmct.org/en/mip).

of cases referred to national jurisdictions and remaining contempt proceedings. The Judicial Records Unit in both branches processed and disseminated 618 filings during the reporting period, including 162 Registry legal submissions, amounting to a total of 6,509 pages. This indicates that, despite the effective conclusion of the Mechanism's trial and appeal activities, the number of filings has not significantly decreased. In The Hague, the Judicial Records Unit supported status conferences in the *Kabuga* case on 13 December 2023 and 26 March 2024. The Registry will be required to continue to support status conferences in the *Kabuga* case every 120 days, pursuant to rule 69 of the Rules of Procedure and Evidence, for as long as Mr. Kabuga remains in the United Nations Detention Unit.

106. In relation to the *Šešelj et al.* case, in addition to the regular support in the creation, management and distribution of judicial records, the Judicial Records Unit was instrumental in facilitating the prompt service of judicial documents on the accused persons in Serbia.

107. In future, the Registry will be required to continue to provide relevant support for a number of judicial activities, such as possible new contempt or review proceedings or a potential revocation of cases referred to national jurisdictions.

108. During the reporting period, the Language Support Services at both branches collectively translated approximately 10,000 pages. Across the branches, the Language Support Services provided 18 conference interpreter days and produced approximately 90 pages of transcripts in English and French. The Language Support Services also completed the translation of two monitoring reports relating to cases referred to France and Rwanda pursuant to article 6 of the statute.

109. Additional progress was made in relation to the translation of judgments of the ad hoc Tribunals and the Mechanism. The availability of all judgments in languages that the convicted persons understand is critical to 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 review of their judgment.

110. In relation to the translation of judgments into French, the Language Support Services in The Hague completed the translation of one appeal judgment of the International Tribunal for the Former Yugoslavia. The translation from English into French of eight judgments – five of the International Tribunal for the Former Yugoslavia and three of the Mechanism – remains to be completed, with a number of translations in progress. Separately, the translation into Bosnian/Croatian/Serbian of the Mechanism's appeal judgment in *Prosecutor v. Jovica Stanišić and Franko Simatović*, the last judgment to be translated into this language, has been completed. The Language Support Services in Arusha completed the translation into Kinyarwanda of two appeal judgments of the International Criminal Tribunal for Rwanda. Fifteen appeal judgments of that Tribunal remain to be translated into Kinyarwanda. The translation of judgments into French and Kinyarwanda may be affected by the demands of ongoing work and available resources.

111. With regard to legal aid and matters pertaining to the defence and *amici curiae*, the Registry continued to provide financial and administrative assistance as needed. Such efforts involved an average of 63 defence and *amicus curiae* teams, comprising a total of approximately 90 team members. At this time in the Mechanism's lifespan, most defence teams are engaged in pro bono efforts in post-conviction proceedings. Relevant staff supporting this portfolio processed 42 defence and *amicus curiae* invoices, travel requests and expense reports during the reporting period. The list of those eligible for assignment to indigent suspects and accused before the Mechanism now includes 52 counsel, while the roster of prosecutors and investigators eligible for assignment as an *amicus curiae* increased to 60.

## **B. Victims and witnesses**

112. The Mechanism is responsible for the protection of witnesses who have testified in cases before the ad hoc Tribunals and the Mechanism, pursuant to article 20 of the statute. Approximately 3,200 witnesses currently benefit from judicial and/or extrajudicial protective measures. However, this does not include any physical protection by security personnel, except when facilitating witness participation in judicial proceedings.

113. Following the effective conclusion of all core crimes trials and appeals before the Mechanism, the likelihood of further witness testimonies being required is limited. Therefore, responsibilities in this area will be reduced. The remaining tasks are related mainly to monitoring and communicating with protected witnesses. This includes, as necessary, informing them of the release of convicted persons in cases in which they have testified; acting as a point of contact for witnesses seeking amendments to their protective measures or additional assistance; assessing and monitoring potential threats to ensure the continued effectiveness of protective measures for specific victims and witnesses; and maintaining cooperation with relevant States to which protected witnesses have been resettled. Expenses such as travel costs for witnesses, provisions for protection officers, daily subsistence allowances and safe houses in secure locations are also expected to decrease.

114. During the reporting period, the Witness Support and Protection Unit at both branches conducted threat assessments and coordinated responses to security-related needs in accordance with judicial protection orders and in cooperation with national authorities.

115. In addition, the medical clinic at the Kigali field office provided medical, nutritional and psychosocial services to more than 500 witnesses residing in Rwanda, including those living with HIV/AIDS as a result of crimes committed against them during the 1994 genocide against the Tutsi in Rwanda. The provision of these support services by the Mechanism will cease on 31 August 2024. Further information relating to the closure of the Kigali field office is provided above (see paras. 19 and 20).

116. In The Hague, the Witness Support and Protection Unit continued to liaise regularly with counterparts at local war crimes courts in the countries of the former Yugoslavia to ensure the ongoing protection and support of witnesses. It also shared expert knowledge with other United Nations entities in relation to witness protection and support. Previously established communication lines between the Mechanism and the relevant authorities of Bosnia and Herzegovina allowed for continuing cooperation with local government and non-government entities on issues of mutual interest, including witness protection.

117. The Witness Support and Protection Unit also continued to facilitate applications from national jurisdictions for the variation of protective measures pursuant to rule 86 of the Rules of Procedure and Evidence and implemented seven judicial orders involving 25 witnesses. In addition, at The Hague branch, the Unit provided detailed information to the President of the Mechanism in relation to two requests by convicted persons for early release that affected 458 witnesses.

## **C. Detention facilities**

118. During the reporting period, the United Nations Detention Unit in The Hague continued to provide custodial capacity to persons detained by the Mechanism awaiting provisional release or transfer to an enforcement State.

119. The United Nations Detention Unit housed five detainees during the reporting period. Four convicted persons – Radislav Krstić, Ratko Mladić, Jovica Stanišić and Stojan Župljanin – await transfer to a State for the enforcement of their sentences. In November 2023, Mr. Krstić was returned temporarily to the United Nations Detention Unit from Poland, where he had been serving his sentence.<sup>13</sup> In addition, Félicien Kabuga remains at the United Nations Detention Unit, pending the identification of a State for his provisional release.

120. The Mechanism persists in its prioritization of securing enforcement States for the remaining convicted persons, while the Registry is actively supporting the defence in the *Kabuga* case in identifying a State willing to accept Mr. Kabuga on provisional release. These concerted efforts will allow the United Nations Detention Unit to be closed in due course, which will further reduce the Mechanism’s operational footprint. Ad hoc arrangements are currently being explored, including with Dutch authorities, for any residual detention requirements of the Mechanism.

121. The United Nations Detention Unit is regularly inspected by ICRC to ensure that the Mechanism’s Rules of Detention<sup>14</sup> are properly applied and the facilities operate in accordance with international standards.

122. In accordance with 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 according to applicable standards, including health care, the Mechanism is particularly mindful of this duty of care. The Mechanism’s established legal and regulatory framework supports full compliance with this duty, including through the Mechanism’s Regulations on the Complaints Procedure for Detainees,<sup>15</sup> regular status conferences<sup>16</sup> and the above-mentioned independent inspections.

#### D. Archives and records

123. The Mechanism Archives and Records Section currently manages approximately 4,400 linear metres of physical records and 3 petabytes of digital records of the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda and the Mechanism. Effective management of the archives includes preservation and provision of access to both physical and digital records, while ensuring the protection of confidential information. This is critical to the performance of other Mechanism functions, such as the provision of assistance to national jurisdictions.

124. Regarding the preservation of digital records, despite the best efforts of the Mechanism Archives and Records Section, no solution has yet been found for the persistent technical issues that, compounded by the attrition of key staff in the Section, continued to impede the transfer of records into the Mechanism’s digital repository. Nevertheless, during the reporting period a total of 2.52 terabytes of digital

<sup>13</sup> *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.

<sup>14</sup> Rules Governing the Detention of Persons Awaiting Trial or Appeal Before the Mechanism or Otherwise Detained on the Authority of the Mechanism, 5 November 2018.

<sup>15</sup> International Residual Mechanism for Criminal Tribunals Regulations on the Complaints Procedure for Detainees, MICT/25, 5 December 2018. See also Rules of Detention, rules 91–97; International Residual Mechanism for Criminal Tribunals Regulations on the Disciplinary Procedure for Detainees, MICT/24, 5 December 2018, regulations 8 and 10; and International Residual Mechanism for Criminal Tribunals Regulations on the Supervision of Visits to and Communications with Detainees, MICT/23, 5 December 2018, regulation 23.

<sup>16</sup> See Rules of Procedure and Evidence, rule 69.

records comprising 1,358 files were ingested. Thus far, 13.9 per cent of the digital archives in the custody of the Section have been ingested.

125. During the reporting period, preservation of the physical archives focused on documents from the early years of the International Tribunal for the Former Yugoslavia that are on thermal paper and at risk of loss due to fading ink. Over 650 folders were reviewed and the thermal copies preserved. This work will continue to the extent that resources permit.

126. Regarding the work with audiovisual records, 8 per cent of analogue audiovisual recordings of the International Tribunal for the Former Yugoslavia are yet to be digitized, while 85 per cent of digitized recordings need to be quality checked and redacted. Correspondingly, 3,865 audiovisual records of the International Criminal Tribunal for Rwanda were digitized during the reporting period, and approximately 54 per cent of digitized recordings remain to be quality checked and redacted. In addition, a total of 1,780 physical audiovisual recordings across the branches were assessed to determine their preservation needs. In accordance with the most recent General Assembly resolution concerning the Mechanism's budget (resolution [78/249](#)), the Mechanism is seeking voluntary contributions to complete the digitization of its audiovisual archives.

127. More than 379,000 judicial records are currently available through the Unified Court Records database, which brings together all public judicial records of the ad hoc Tribunals and the Mechanism. During the reporting period, these public judicial records were accessed by 20,265 users. Separately, the Mechanism Archives and Records Section received and responded to 71 requests for access to records and provided briefings about the Mechanism archives to 222 visitors – 4 in The Hague and 218 in Arusha. The visitors included members of the public, students and academics, as well as staff from other United Nations offices, law firms, national judicial institutions and non-governmental organizations.

128. In March 2024, the Mechanism successfully launched a publicly accessible catalogue containing descriptions of the archives. The public catalogue provides, for the first time, information about the non-judicial archives held by the Mechanism and contains some 3,320 entries. Since its launch, it has been accessed by over 400 users from across the globe. Along with other long-term archiving work, cataloguing of the archives will be completed only after all the archives of the ad hoc Tribunals and the Mechanism have been transferred to the Mechanism Archives and Records Section.

129. Archives are, by definition, records deemed to be of permanent value.<sup>17</sup> Consequently, their management is an ongoing task that will need to continue for as long as the Mechanism exists, unless a decision is taken by the Security Council to transfer the Mechanism's archiving functions to another body.

## E. External relations

130. The Mechanism's External Relations Office continued to facilitate public access to court proceedings. The closure of the Office, which was expected to take place on 31 March 2024, was delayed for critical operational reasons and is now scheduled for 30 June 2024.

131. At both branches, visitors could view the status conferences in the *Kabuga* case, either in the public gallery in The Hague or via broadcast in Arusha. These proceedings were also streamed on the Mechanism's website. In addition, the External

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<sup>17</sup> 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".



Relations Office coordinated the release of the official audiovisual recordings from the *Kabuga* case to media outlets.

132. During the reporting period, the Arusha branch welcomed around 300 visitors from various international and regional universities, as well as senior judicial officials from the East African region. Furthermore, the External Relations Office assisted in hosting the finals of the ICRC moot court competition on 24 November 2023, and an information session for Mechanism staff by the United Nations Special Coordinator on Improving the United Nations Response to Sexual Exploitation and Abuse, Christian Saunders, on 23 February 2024. In addition, the Office provided support for the Mechanism's second judicial colloquium, held on 28 and 29 February 2024 in Arusha. In March and April 2024, the External Relations Office supported the visits of representatives of the Office of the United Nations Ombudsman and Mediation Services to both branches of the Mechanism, as well as the Kigali field office. The Arusha branch library continued to provide a range of services to internal and external users.

133. Over 1,000 visitors visited The Hague branch of the Mechanism during the reporting period, including representatives of the Centre for African Justice, Peace and Human Rights, The Hague Academy of International Law, the Centre for European Studies at Maastricht University and the United Nations Institute for Training and Research. The External Relations Office at The Hague branch also coordinated a high-level visit of French judges and senior court officials, organized by the National School for the Judiciary of France.

134. In the Kigali field office, the focus remained on raising awareness of the Mechanism's activities and promoting the legacy of the International Criminal Tribunal for Rwanda, including through improved media relations.

135. In addition, the External Relations Office assisted in organizing the Mechanism's campaign to mark the thirtieth commemoration of the 1994 genocide against the Tutsi in Rwanda and continued to ensure the Mechanism's presence on social media.

136. During the reporting period, the Mechanism website received over 400,000 page views.

## **F. Budget, staffing and administration**

137. By its resolution [78/249](#), the General Assembly appropriated to the special account for the Mechanism a total amount of \$65,459,100 gross (\$60,132,400 net) for 2024. The Mechanism implemented the decision of the Assembly<sup>18</sup> regarding a reduction of \$150,000 in non-post resources and continues to ensure the prompt and efficient completion of its remaining work. The Mechanism expects to fully support its continuous residual work in 2024 within the approved budgetary resources.

138. Details and a breakdown of the Mechanism's expenditures in 2024, presented in terms of funds committed, are set forth in enclosure I.

139. The Mechanism's 2024 budget focuses on the Mechanism's mandated continuous activities and also reflects its efforts to streamline cross-branch and cross-section collaboration to find more innovative and cost-efficient ways of working, as well as its outsourcing of various administrative services, including in finance, human resources, general services and security.

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<sup>18</sup> In resolution [78/249](#), the General Assembly endorsed the recommendations of the Advisory Committee on Administrative and Budgetary Questions to this effect ([A/78/621](#)).

140. The 2024 budget included the abolishment of 97 posts and a decrease of \$18 million, representing a reduction of 20 per cent compared with the 2023 appropriation. The budget was approved, with non-post resource requirements being further reduced on the recommendation of the Advisory Committee on Administrative and Budgetary Questions and the General Assembly. This resulted in a substantial decrease in post and non-post-resource levels across the Mechanism.

141. Very soon, the Mechanism will start preparing the proposed programme budget for 2025. As in previous years, the Mechanism will follow recommendations and suggestions given by the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee.

142. As at 1 May 2024, the Mechanism has 117 staff on continuous posts and a further 184 staff on general temporary assistance positions, for a total of 301 staff.<sup>19</sup> Details concerning the staffing of the Mechanism by division are reflected in enclosure II.

143. The Mechanism's continuous and general temporary assistance positions include nationals of 61 States: Algeria, Australia, Austria, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Bulgaria, Cameroon, Canada, China, Congo, Croatia, Democratic Republic of the Congo, Denmark, Egypt, Fiji, Finland, France, Gambia, Germany, Greece, Guatemala, Haiti, India, Indonesia, Iraq, Ireland, Italy, Jamaica, Japan, Kenya, Lebanon, Lesotho, Madagascar, Malaysia, Nepal, Netherlands (Kingdom of the), New Zealand, Niger, Nigeria, North Macedonia, Pakistan, Philippines, Poland, Republic of Korea, Russian Federation, Rwanda, Serbia, Slovakia, South Africa, Spain, Sudan, Sweden, Uganda, Ukraine, United Kingdom, United Republic of Tanzania, United States, Uruguay, Zambia and Zimbabwe.

144. The Mechanism remained committed to advancing the Secretary-General's gender parity objectives and worked diligently to enhance its efforts in accordance with the relevant administrative instruction, in particular in the context of recruitment processes. Female staff members comprised 54 per cent of staff at the Professional level averaged across the two branches. However, the average percentage of female staff remains lower when General and Field Services staff are also taken into account, with a total of 45 per cent overall. Despite the constraints imposed by its nature as a downsizing institution, further improving gender parity remains a critical priority for the Mechanism, wherever feasible.

145. Relatedly, the Mechanism's focal points for gender promoted greater awareness of gender equality and parity issues, standards of conduct, flexible working arrangements and family-friendly policies at the Mechanism, as in previous reporting periods. Increased focus is being placed on disseminating information among staff and non-staff personnel on avenues to address situations of gender-based concerns, including sexual harassment. In this context, the President, the Prosecutor and the Registrar maintain their unwavering commitment to upholding the United Nations policy of zero tolerance for sexual harassment and protection against retaliation. Through the dedicated efforts of the Human Resources Section and the Mechanism's focal points, the Mechanism reached a 98 per cent compliance rate for mandatory training in the area of gender awareness and prevention of sexual exploitation and abuse by United Nations personnel.

146. Although the post of Stress Counsellor was abolished at the end of 2023, the Mechanism is coordinating with the United Nations Office at Nairobi to provide

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<sup>19</sup> This number does not include staff in posts made available to the Office of Programme Planning, Budget and Accounts and in posts made available to the Office of Internal Oversight Services.

counselling services to Mechanism staff through the Office's Joint Medical Services to enhance the well-being of staff members.

147. 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 comprising both management and Staff Union representatives. The Mechanism strives for a transparent and fair downsizing process through the comparative review platform, while affected staff members are able to voice any concerns through internal mechanisms and the United Nations internal justice system.

148. As additional support to staff members subject to downsizing measures, efforts have been made to encourage other United Nations agencies and programmes to prioritize such Mechanism staff in their recruitment processes, where appropriate. This effort resulted in former staff members securing new employment opportunities with other entities.

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

149. The Mechanism recently completed its engagement with the OIOS Inspection and Evaluation Division on the evaluation of the Mechanism's methods and work, a biennial exercise mandated by the Security Council.<sup>20</sup> The Mechanism is grateful to the members of the evaluation team for their professional and collaborative work, as well as the important insights gained from their findings and recommendations in assisting the Mechanism to successfully fulfil its mandate in a timely and effective manner.

150. The OIOS evaluation focused on a qualitative assessment of the Mechanism's engagement with its main stakeholders in the discharge of its residual functions. The Mechanism was satisfied that the OIOS exercise independently verified that it had effectively rendered quality services to Member States in line with its mandated functions (see [S/2024/199](#)).

151. In this respect, OIOS 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 those jurisdictions with their national war crimes proceedings. OIOS confirmed that between January 2021 and August 2023 assistance from the Mechanism had supported more than 400 investigations and judicial proceedings in 15 countries, related to serious violations of international humanitarian law in Rwanda and the countries of the former Yugoslavia.

152. Furthermore, OIOS 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 Mechanism.

153. The overall positive result of the evaluation was augmented with OIOS making four recommendations: (a) clarify the respective roles and responsibilities of the principals of the Mechanism regarding the relocation of acquitted and released persons; (b) further strengthen how the Mechanism leverages partnerships with the

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<sup>20</sup> 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 Office of Internal Oversight Services with respect to the methods and work of the Mechanism. See also [S/PRST/2024/1](#).

United Nations system to find long-term solutions to the challenges that 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 (see [S/2024/199](#), paras. 42–46).

154. The Mechanism is fully committed to expeditiously implementing the OIOS recommendations and notes that it is well on the way to doing so in 2024.

155. In addition, the Mechanism is pleased that, in April 2024, OIOS confirmed that the two outstanding recommendations pending from previous evaluations had been satisfactorily addressed and formally closed.<sup>21</sup>

## **XI. Conclusion**

156. The reporting period has been highly significant for the Mechanism as, for the first time, the institution operated throughout as the fully residual body originally envisioned by the Security Council. Moreover, following the announcement by the Prosecutor on 15 May 2024, the Mechanism has now accounted for all fugitives indicted by the International Criminal Tribunal for Rwanda for crimes committed during the 1994 genocide against the Tutsi in Rwanda.

157. In addition to focusing on achieving results, the Mechanism's leadership has remained steadfast in its dedication to methodically plan for the future and wind down operations. This commitment was showcased through productive internal collaboration across the organs, aimed at innovatively streamlining activities, optimizing resources and reducing the institution's operational footprint. Moreover, the comprehensive framework of operations for completing the functions of the Mechanism, submitted to the Informal Working Group on International Tribunals in April 2024, stands as a tangible outcome of these efforts. The Mechanism is confident that the information contained therein, coupled with the recent positive evaluation by OIOS, will assist the Security Council in its assessment of the Mechanism's progress and future trajectory.

158. Despite the absence of active core crimes proceedings, the Mechanism continues to deliver justice as mandated by the Security Council in resolution [1966 \(2010\)](#). Indeed, in its new form, the Mechanism must still tackle a substantial workload, encompassing judicial tasks related to witness protection, sentence enforcement and potential contempt or review cases, as well as a range of non-judicial functions. Looking forward, the Mechanism is determined to keep working towards the optimal conclusion of each of these residual functions, until otherwise directed by the Security Council.

159. Furthermore, the Mechanism is mindful of its responsibility to safeguard the significant legacy of the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda and the Mechanism itself. This entails not only assisting national jurisdictions in continuing the important work initiated by the ad hoc Tribunals and the Mechanism, but also ensuring broad access to the rich archives and jurisprudence of all three institutions. Such endeavours play a vital role

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<sup>21</sup> The first outstanding recommendation was to develop scenario-based workforce plans to enhance responsiveness to a surge in workload, while the second outstanding recommendation concerned systematic thinking and a shared vision of institution-building. See [S/2018/206](#), para. 43; [S/2020/236](#), paras. 36–39 and 66; and [S/2022/148](#), paras. 12–16 and 43–47.

in preserving and disseminating invaluable historical and legal insights and assist in countering narratives of genocide denial and revisionism.

160. To empower the Mechanism to accomplish the significant duties entrusted to it by the Security Council and to navigate the challenges that it faces, ongoing cooperation and goodwill from Member States will remain indispensable. The Mechanism trusts that the international community will continue to support its mandate beyond the core crimes trials and appeals, in order to ensure that the entire cycle of justice may successfully be concluded.

## Enclosure I

### International Residual Mechanism for Criminal Tribunals: approved appropriations and commitments for 2024

Table 1

#### Approved appropriations for the period from 1 January to 30 April 2024 (net of staff assessment)

(United States dollars)

		Chambers	Office of the Prosecutor	Registry	<i>Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals</i>	Mechanism
Arusha	Post	–	3 173 000	7 065 700	–	10 238 700
	Non-post <sup>a</sup>	379 800	2 676 100	9 955 600	5 334 600	18 346 100
<b>Subtotal</b>		<b>379 800</b>	<b>5 849 100</b>	<b>17 021 300</b>	<b>5 334 600</b>	<b>28 584 800</b>
The Hague	Post	–	1 508 700	5 171 900	–	6 680 600
	Non-post	650 700	3 452 600	20 437 500	–	24 540 800
<b>Subtotal</b>		<b>650 700</b>	<b>4 961 300</b>	<b>25 609 400</b>	–	<b>31 221 400</b>
New York	Post	–	–	205 200	–	205 200
	Non-post	–	–	1 500	–	1 500
<b>Subtotal</b>		–	–	<b>206 700</b>	–	<b>206 700</b>
Office of Internal Oversight Services	Post	–	–	106 500	–	106 500
	Non-post	–	–	13 000	–	13 000
<b>Subtotal</b>		–	–	<b>119 500</b>	–	<b>119 500</b>
Overall	Post	–	4 681 700	12 549 300	–	17 231 000
	Non-post	1 030 500	6 128 700	30 407 600	5 334 600	42 901 400
<b>Total</b>		<b>1 030 500</b>	<b>10 810 400</b>	<b>42 956 900</b>	<b>5 334 600</b>	<b>60 132 400</b>

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

Table 2  
**Commitments (net of staff assessment) as at 1 May 2024 (from Umoja)**

(United States dollars)

		Chambers	Office of the Prosecutor	Registry	<i>Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals</i>	Mechanism
Arusha	Post	–	940 190	2 388 711	–	3 328 901
	Non-post	–	756 215	2 203 213	3 809 292	6 768 720
<b>Subtotal</b>		–	<b>1 696 405</b>	<b>4 591 924</b>	<b>3 809 292</b>	<b>10 097 621</b>
The Hague	Post	–	463 473	1 633 101	–	2 096 574
	Non-post	565 469	1 800 019	7 190 630	–	9 556 118
<b>Subtotal</b>		<b>565 469</b>	<b>2 263 492</b>	<b>8 823 731</b>	–	<b>11 652 692</b>
New York	Post	–	–	59 367	–	59 367
	Non-post	–	–	–	–	–
<b>Subtotal</b>		–	–	<b>59 367</b>	–	<b>59 367</b>
Office of Internal Oversight Services	Post	–	–	46 128	–	46 128
	Non-post	–	–	5 636	–	5 636
<b>Subtotal</b>		–	–	<b>51 764</b>	–	<b>51 764</b>
Overall	Post	–	1 403 663	4 127 307	–	5 530 970
	Non-post	565 469	2 556 234	9 399 479	3 809 292	16 330 474
<b>Total</b>		<b>565 469</b>	<b>3 959 897</b>	<b>13 526 786</b>	<b>3 809 292</b>	<b>21 861 444</b>

Table 3  
**Percentage of the annual budget committed as at 1 May 2024**

		<i>Chambers</i>	<i>Office of the Prosecutor</i>	<i>Registry</i>	<i>Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals</i>	<i>Mechanism</i>
Arusha	Post	–	29.6	33.8	–	32.5
	Non-post	–	28.3	22.1	71.4	36.9
<b>Subtotal</b>		<b>–</b>	<b>29.0</b>	<b>27.0</b>	<b>71.4</b>	<b>35.3</b>
The Hague	Post	–	30.7	31.6	–	31.4
	Non-post	86.9	52.1	35.2	–	38.9
<b>Subtotal</b>		<b>86.9</b>	<b>45.6</b>	<b>34.5</b>	<b>–</b>	<b>37.3</b>
New York	Post	–	–	28.9	–	28.9
	Non-post	–	–	0.0	–	0.0
<b>Subtotal</b>		<b>–</b>	<b>–</b>	<b>28.7</b>	<b>–</b>	<b>28.7</b>
Office of Internal Oversight Services	Post	–	–	43.3	–	43.3
	Non-post	–	–	43.4	–	43.4
<b>Subtotal</b>		<b>–</b>	<b>–</b>	<b>43.3</b>	<b>–</b>	<b>43.3</b>
Overall	Post	–	30.0	32.9	–	32.1
	Non-post	54.9	41.7	30.9	71.4	38.1
<b>Total</b>		<b>54.9</b>	<b>36.6</b>	<b>31.5</b>	<b>71.4</b>	<b>36.4</b>



## Enclosure II

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

Table 1  
Staff numbers by branch and organ

<i>Category</i>	<i>Arusha branch</i>	<i>The Hague branch</i>	<i>Chambers</i>	<i>Office of the Prosecutor</i>	<i>Registry</i>	<i>Mechanism overall</i>
All staff	125	176	31	78	192	301
Staff on continuous posts	74	44	8	28	82	118
Staff on general temporary assistance positions	51	132	23	50	110	183
International (Field Service, Professional and higher categories)	79	84	25	50	88	163
Local (General Service)	46	92	6	28	104	138

Table 2  
Geographical representation by regional group

	<i>Arusha branch</i>	<i>The Hague branch</i>	<i>Mechanism overall (percentage)</i>
Nationalities	28	50	61
All staff			301
African	97	18	115 (38.2)
Asia-Pacific	5	16	21 (7)
Eastern European	1	34	35 (11.6)
Latin American and Caribbean	–	6	6 (2)
Western European and other States	22	102	124 (41.2)
International (Field Service and Professional and higher categories)			163
African	51	6	57 (35)
Asia-Pacific	5	7	12 (7.4)
Eastern European	1	16	17 (10.4)
Latin American and Caribbean	–	3	3 (1.8)
Western European and other States	22	52	74 (45.4)
Local (General Service)			138
African	46	12	58 (42)
Asia-Pacific	–	9	9 (6.5)
Eastern European	–	18	18 (13.1)
Latin American and Caribbean	–	3	3 (2.2)
Western European and other States	–	50	50 (36.2)

(Footnotes on following page)

\* The data in the tables in the present enclosure represents the number of staff employed as at 1 May 2024.

(Footnotes to table 2)

**Group of African States:** Algeria, Cameroon, Congo, Democratic Republic of the Congo, Egypt, Gambia, Kenya, Lesotho, Madagascar, Niger, Nigeria, Rwanda, South Africa, Sudan, Uganda, United Republic of Tanzania, Zambia, Zimbabwe.

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

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

**Group of Latin American and Caribbean States:** Bolivia (Plurinational State of), Guatemala, Haiti, Jamaica, Uruguay.

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

Table 3  
**Gender representation**

	<i>Arusha branch</i>		<i>The Hague branch</i>	<i>Mechanism</i>
	<i>Arusha (percentage)</i>	<i>Kigali field office (percentage)</i>	<i>The Hague (percentage)</i>	<i>Overall (percentage)</i>
Professional staff (all levels)	44	6	84	134
Male	27 (61)	4 (67)	33 (39)	64 (47.8)
Female	17 (39)	2 (33)	51 (61)	70 (52.2)
Professional staff (P-4 and above)	17	1	26	44
Male	12 (71)	1 (100)	11 (42)	24 (55)
Female	5 (29)	–	15 (58)	20 (45)
Field Service staff (all levels)	25	4	–	29
Male	14 (56)	2 (50)	–	16 (55)
Female	11 (44)	2 (50)	–	13 (45)
General Service staff (all levels)	33	13	92	138
Male	21 (64)	10 (77)	52 (57)	83 (60)
Female	12 (36)	3 (23)	40 (43)	55 (40)
All staff	102	23	176	301
Male	62 (61)	16 (70)	85 (48)	163 (54)
Female	40 (39)	7 (30)	91 (52)	138 (46)

Table 4  
**Staff by organ**

	<i>Arusha branch</i>	<i>The Hague branch</i>	<i>Mechanism overall</i>
Chambers (including the Office of the President)	8	23	31
Office of the Prosecutor	34	44	78
Registry	83	109	192
Immediate Office of the Registrar	10	9	19
Mechanism Archives and Records Section	4	5	9
Witness Support and Protection Unit	10	3	13
Judicial Records Unit	1	4	5
Language Support Services	7	18	25
External Relations Office	2	1	3
Division of Administration	29	47	76
Security and Safety Section	20	19	39
United Nations Detention Unit	0	3	3

**Annex II to the letter dated 16 May 2024 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council**

[Original: English and French]

**Progress report of Serge Brammertz, Prosecutor of the International Residual Mechanism for Criminal Tribunals, provided to the Security Council under paragraph 16 of Security Council resolution 1966 (2010)**

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## Overview

1. The Prosecutor submits the present twenty-fourth progress report pursuant to Security Council resolution 1966 (2010), covering developments from 16 November 2023 to 15 May 2024.

2. In the previous reporting period, the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals completed one of its most important residual functions, namely the expeditious prosecution of core crimes trials and appeals. During the present reporting period, the Office completed a second strategic priority, namely locating and accounting for the remaining fugitives indicted by the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994. On 15 May 2024, the Office's fugitive tracking team announced that it had confirmed the deaths of Ryandikayo and Charles Sikubwabo. These were the final fugitives from the International Criminal Tribunal for Rwanda remaining at large. The Office is pleased that all fugitives from the International Criminal Tribunal for Rwanda 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 have been accounted for, and that this critical residual function has now been brought to a successful conclusion. At the same time, it should be emphasized that there are still more than 1,000 fugitive *génocidaires*. At the request of the Prosecutor General of Rwanda, the Office will assist national partners to locate and bring such fugitives to justice.

3. During the reporting period, the Office of the Prosecutor continued to advance its other two strategic priorities: assisting national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda; and effectively litigating mandated residual matters.

4. Regarding national prosecutions of war crimes committed in Rwanda, during the reporting period the Office of the Prosecutor provided assistance to 27 national cases. The commemoration of the thirtieth anniversary of the 1994 genocide against the Tutsi in Rwanda is a reminder that there are still more than 1,000 accused who have not yet been prosecuted for their alleged crimes. Cooperation between the Office, the Prosecutor General of Rwanda and other national prosecutors to address this accountability gap continues to strengthen and increase. During the reporting period, the Office, at the request of the Prosecutor General of Rwanda, handed over evidence and prepared investigative dossiers, while also providing direct support to ongoing investigations. More justice for crimes committed during the 1994 genocide against the Tutsi in Rwanda is still urgently needed. In furtherance of article 28 (3) of the statute and the completion strategy of the International Criminal Tribunal for Rwanda, the Office will continue to provide needed support for the accountability process.

5. Regarding national prosecutions of war crimes committed in the former Yugoslavia, during the reporting period the Office of the Prosecutor provided assistance to 67 national cases, in support of the further implementation of the completion strategy of the International Criminal Tribunal for the Former Yugoslavia. With the completion of the final Tribunal case in 2023, further accountability for the crimes now depends fully on national judiciaries in the countries of the former Yugoslavia. During the reporting period, the Office continued to respond to a wide range of requests for assistance from national prosecutors. In addition to searching its

evidence collection, the Office is responding to requests for direct case assistance, which entails providing legal, investigative and prosecutorial support for ongoing cases. The Office is also on request reviewing its evidence and preparing investigative dossiers concerning notable accountability gaps for national prosecutors to utilize. Lastly, the Office continued its efforts to improve regional judicial cooperation in war crimes cases. All these efforts, pursuant to article 28 (3) of the statute, are highly valued by national prosecutors in the region and produce meaningful results in the justice process.

6. In managing its work, the Office of the Prosecutor continued to be guided by the Security Council's views and requests as set forth in, inter alia, paragraphs 18 to 20 of resolution [2256 \(2015\)](#) and paragraphs 7 and 8 of resolution [2422 \(2018\)](#). The Office continued to manage its work appropriately and efficiently during the reporting period.

## I. Fugitives

7. During the reporting period, the Office of the Prosecutor closed the final two remaining fugitive files, thereby completing this residual function.

8. From 2020 to the present, the Office of the Prosecutor accounted for the whereabouts of all eight outstanding fugitives from the International Criminal Tribunal for Rwanda. The Office arrested two fugitives, Félicien Kabuga in Paris in May 2020, and Fulgence Kayishema in Paarl, South Africa, in May 2023. The Office also confirmed the deaths of another six fugitives: Augustin Bizimana, Protais Mpiranya, Phénéas Munyarugarama, Aloys Ndimbati, Charles Ryandikayo and Charles Sikubwabo.

9. These results follow from the improved methodologies and practices instituted by the Prosecutor following his appointment. These include the use of advanced investigative techniques, such as financial, telecommunications and social media information, and intensive diplomatic engagement to build operational cooperation. The appointment of a new leader of the tracking team and the redeployment of the Chief of Staff to serve as co-leader were also of decisive importance. The fugitive tracking team confronted many significant challenges, including difficulties securing cooperation, sophisticated methods used by the fugitives to conceal their identities and locations and the passage of time. To overcome these challenges, the team undertook analysis-driven investigations exploiting multi-source evidence with both traditional and leading-edge methodologies.

10. On 15 May 2024, the fugitive tracking team announced that it had confirmed the death of Charles Sikubwabo. Sikubwabo, who was indicted in November 1995, was charged with genocide, complicity in genocide, conspiracy to commit genocide, murder as a crime against humanity, extermination as a crime against humanity and other inhumane acts as a crime against humanity. Together with International Criminal Tribunal for Rwanda convicts Elizaphan Ntakirutimana and Gérard Ntakirutimana, Sikubwabo was alleged to have led attacks on 16 April 1994 against Tutsi refugees at the Mugonero complex in Kibuye prefecture, which comprised a church, hospital and other buildings. As a result, hundreds of refugees were murdered and a large number wounded. For the next several months, Sikubwabo then led searches for survivors and attacks against them when they were found. Sikubwabo was also alleged to have participated in massacres at the Catholic church and the Home St. Jean complex in the town of Kibuye, the stadium in Kibuye, the church in Mubuga and locations throughout the Bisesero area, which resulted in the murder of thousands of Tutsis. These crimes were adjudicated by the Tribunal in the cases

against Clement Kayishema, Ignace Bagilishema, Vincent Rutaganira, Mika Muhimana and Obed Ruzindana.

11. In July 1994, Sikubwabo and his family fled Rwanda for Zaire, now the Democratic Republic of the Congo, where they resided in Kashusha camp. In November 1996, as a result of combat activities between forces of the Rwandan army and ethnic Hutu militias along the Rwanda-Democratic Republic of the Congo border, Sikubwabo and his family fled westwards. Sikubwabo was separated from his wife and small children, who ultimately returned to Rwanda, while Sikubwabo travelled to the Congo and the Central African Republic before ultimately arriving in Chad in around late 1997. Following a comprehensive investigation, the Office of the Prosecutor was able to conclude that Sikubwabo passed away in N'djamena in 1998 and was subsequently buried there. The funeral was attended by a small number of individuals, and Sikubwabo was interred in an unmarked grave at a local public cemetery. The cemetery was then damaged owing to extensive flooding later that year and in subsequent years.

12. Also on 15 May 2024, the fugitive tracking team announced that it had confirmed the death of Charles Ryandikayo. Ryandikayo was first indicted by the International Criminal Tribunal for Rwanda in November 1995, together with many others, for crimes committed in Kibuye prefecture. He was charged with seven counts of genocide, complicity in genocide, conspiracy to commit genocide, murder as a crime against humanity, extermination as a crime against humanity, rape as a crime against humanity and persecution as a crime against humanity. Together with Tribunal convicts Clement Kayishema, Mika Muhimana, Vincent Rutaganira and the accused Charles Sikubwabo, Ryandikayo was alleged to have committed crimes against Tutsis in Gishyita commune from as early as 7 April 1994, including at the Mubuga dispensary, the Murangara church and the Mubuga church. Ryandikayo was also alleged to have instigated and participated in massacres at locations throughout the Bisesero area, which resulted in the murder of thousands of Tutsis.

13. In July 1994, Ryandikayo fled Rwanda for Zaire, now the Democratic Republic of the Congo. In November 1996, he was residing in Kashusha camp but, as a result of combat activities in the area, he fled westwards, as did many other ethnic Hutu Rwandan men. Ryandikayo was already suffering health issues prior to his departure from Rwanda in July 1994, which were exacerbated during the arduous journey that he made. He fled to a camp in the Congo, where he was recruited to serve in the ethnic Hutu armed militia that later became the Forces démocratiques de libération du Rwanda. He then travelled to Kinshasa for this purpose. Following a challenging investigation, the Office of the Prosecutor was able to conclude that Ryandikayo passed away in 1998, most likely owing to illness, sometime after arriving in Kinshasa.

14. The Security Council entrusted the Office of the Prosecutor with the critical mandate to account for all remaining fugitives indicted by the International Criminal Tribunal for Rwanda. By achieving that mandate, the United Nations demonstrated that impunity for serious international crimes will not be tolerated. The Office remains grateful to the Council, the United Nations and the international community for their long-standing support for this critical work.

15. However, while all fugitives from the International Criminal Tribunal for Rwanda have now been accounted for, it is critical to note that there are still more than 1,000 fugitive *génocidaires* who are sought by national authorities. Locating them will be a challenge, as it was for the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia. At the request of national partners, including the Prosecutor General of Rwanda, the Office of the Prosecutor will continue to provide essential assistance in their efforts to bring these

individuals to justice. This work cannot stop until all perpetrators of international crimes during the 1994 genocide against the Tutsi in Rwanda have been brought to justice.

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

16. National prosecutions remain essential to achieving greater justice for the victims of war crimes, crimes against humanity and genocide committed in the former Yugoslavia and Rwanda. The effective prosecution of these crimes is fundamental to building and sustaining the rule of law, establishing the truth of what occurred and promoting reconciliation in the affected countries. Third-party States are also undertaking prosecutions against suspects who are present in their territory for crimes committed in Rwanda and the former Yugoslavia.

17. The Office of the Prosecutor is mandated to assist and support national prosecutions of these crimes, in accordance with the completion strategies of the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia, resolution 1966 (2010) and the Mechanism statute. During the reporting period, the Office continued to receive a high volume of requests for assistance from national judiciaries and international organizations. These requests for assistance address three related areas where support from the Office is needed: first, requests for access to evidence and information; second, requests for substantive legal, investigative and prosecutorial direct case assistance, including through the preparation and transfer of investigation dossiers; and third, requests for assistance in resolving strategic and/or cross-cutting issues affecting the accountability process, including the challenges presented by fugitives and international cooperation.

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

### **A. Provision of evidence and expertise to national prosecutors**

19. Pursuant to article 28 (3) of the statute, the Office of the Prosecutor is mandated to respond to requests from national authorities for assistance in relation to justice for international crimes committed in Rwanda and the former Yugoslavia. During the reporting period, in implementing this mandate, the Office provided assistance to a total of 94 case files.

20. National authorities desire, require and request such assistance because the Office of the Prosecutor possesses extensive evidence and invaluable expertise that can greatly benefit national justice efforts. The Yugoslavia-related evidence collection comprises more than 9 million pages of documents, tens of thousands of hours of audio and video records and thousands of artefacts, most of which was not introduced into evidence in any proceeding before the International Criminal Tribunal for the Former Yugoslavia and thus is available only from the Office. The Rwanda-related



evidence collection comprises more than 1 million pages of documents. These large evidence collections are partly available remotely. In addition, Office staff members have unique insight into the crimes and the cases that can assist national prosecutors in preparing and proving their indictments.

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

22. During the reporting period, the Office of the Prosecutor consulted intensively with national prosecutors in Rwanda and the former Yugoslavia to discuss their needs and the provision of assistance from the Office for national criminal cases.

23. In relation to Rwanda, the Office of the Prosecutor, the National Public Prosecution Authority of Rwanda and the national counter-terrorism prosecutor's office (Parquet national antiterroriste) of France convened a trilateral meeting to discuss their respective efforts to achieve more accountability for crimes committed during the 1994 genocide against the Tutsi in Rwanda. It was agreed that, moving forward, it will be essential for prosecutors from the three offices 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, in particular by sharing its knowledge and expertise. Prosecutors from all three offices held further technical discussions on identified priority cases, which will be an opportunity to realize enhanced cooperation in practice. In addition, as previously reported, the National Public Prosecution Authority of Rwanda and the Office agreed to identify a list of the highest priority cases, and during the reporting period worked closely together to advance the goal of significantly increasing the number of accused brought to trial. This cooperation involves assisting the Authority to track and locate priority accused, review the evidence supporting the charges, plan and conduct investigations as required and engage with other national authorities to extradite the accused or transfer the relevant case file.

24. During the reporting period, pursuant to its cooperation with the National Public Prosecution Authority of Rwanda and other national prosecution services, the Office of the Prosecutor received 29 requests for assistance concerning crimes committed in Rwanda from seven Member States. Nine requests were from France, eight from Rwanda, four from Norway, three from the United States of America, two from the United Kingdom of Great Britain and Northern Ireland, two from Canada and one from Belgium. In total, the Office handed over 1,332 documents comprising approximately 60,000 pages of evidence and 62 audiovisual records. In addition, the Office identified 192 witnesses and confirmed the whereabouts of 48 witnesses to support national authorities.

25. With respect to requests for access to evidence, the Office of the Prosecutor received nine requests from six Member States. In total, the Office handed over 154 documents comprising approximately 5,000 pages of evidence.

26. With respect to requests for direct care assistance concerning Rwanda, during the reporting period, the Office of the Prosecutor provided legal, evidentiary and strategic assistance with respect to 20 requests for direct care assistance from six Member States. This entailed presenting to the National Public Prosecution Authority of Rwanda investigative leads regarding three individuals suspected of genocide and other international crimes who were identified in the course of the Office's fugitive tracking investigations, and providing intelligence and evidence concerning the whereabouts of five fugitives currently being sought by the Authority. In addition, the Office transferred one investigative dossier and one information report to national

prosecutors. This work also entailed 49 operational meetings with national counterparts and two training and mentoring sessions for the Authority.

27. In relation to the former Yugoslavia, the Office of the Prosecutor continued to engage with national prosecutors from Bosnia and Herzegovina, Montenegro and Serbia regarding their efforts to investigate and prosecute the more than 1,000 war crimes suspects whose cases are still to be processed. In February, the Office hosted the Montenegrin task force for two days of intensive discussions concerning ongoing investigations in Montenegro based on the investigative dossier previously handed over by the Office. In April, the Office visited Sarajevo for operational discussions with the Prosecutor's Office of Bosnia and Herzegovina concerning ongoing investigations in priority cases. In March and April, the Office visited Belgrade for discussions with the Serbian War Crimes Prosecutor's Office concerning ongoing investigations and prosecutions. In May, the Office visited the Prosecutor's Office of Bosnia and Herzegovina and several cantonal prosecution services to discuss further cooperation.

28. During the reporting period, the Office of the Prosecutor received 167 requests for assistance concerning crimes committed in the former Yugoslavia from seven Member States. A total of 141 requests for assistance were submitted by authorities in Bosnia and Herzegovina, 10 by the United States, 7 by Montenegro, 5 by Serbia and 2 by the Kingdom of the Netherlands.

29. With respect to requests for access to evidence, the Office of the Prosecutor received 150 requests from six Member States. In total, the Office handed over more than 4,300 documents comprising more than 160,000 pages of evidence and 49 audiovisual records and shared additional information with national authorities. In addition, the Office filed three submissions related to witness protective measures and/or access to evidence in support of national authorities.

30. With respect to requests for direct case assistance concerning the former Yugoslavia, during the reporting period, the Office of the Prosecutor provided legal, evidentiary and strategic assistance with respect to 19 requests for direct case assistance from four Member States. This work entailed eight memorandums and analytical reports and 14 operational meetings, as well as the transfer of 262 documents comprising 7,115 pages of material and 42 audiovisual files. Upon the request of Member States, the Office used its good offices to secure the cooperation of witnesses for their national proceedings.

31. The significant growth in requests for assistance received by the Office of the Prosecutor was not matched in recent years by concomitant increases in related resources. As a result, a backlog of requests for assistance older than six months developed. That backlog has been reduced from 280 in 2021 to 46 as at 15 May 2024. To avoid critical risk to the success of national investigations and prosecutions, as well as the search for missing persons, it is vital for the Office to receive support for its reasonable resource requests to carry out its mandate under article 28 (3) of the statute.

## **B. National justice for crimes committed in Rwanda**

### **1. Rwanda Tribunal completion strategy**

32. The completion of the International Criminal Tribunal for Rwanda and Mechanism trials is not an end to the justice process for the victims of the 1994 genocide against the Tutsi in Rwanda. All those who participated in the genocide must be held accountable.

33. National authorities now have primary responsibility for the continued implementation of the completion strategy of the International Criminal Tribunal for Rwanda. Courts in countries around the world continue to process cases of international crimes committed during the Rwandan genocide. Consistent with the principle of complementarity and national ownership of post-conflict accountability, prosecutions by the Rwandan justice sector in accordance with international due process and fair trial standards are in principle the most advantageous accountability mechanism.

34. The prior success of the International Criminal Tribunal for Rwanda and Rwandan domestic efforts may give the misleading impression that justice for crimes committed during the 1994 genocide against the Tutsi has largely been achieved. In reality, there are many cases yet to be processed, and many Rwandan victims are still waiting for justice. The Office of the Prosecutor strongly supports the continued efforts by the Prosecutor General of Rwanda to ensure that all those responsible for the genocide are held accountable. The Office also works with law enforcement and prosecutorial authorities in third-party countries around the world to detect, and extradite or prosecute, suspected *génocidaires*.

## **2. Fugitives**

35. The Prosecutor General of Rwanda is currently searching for more than 1,000 fugitives. In the course of its activities to track the remaining fugitives under its jurisdiction and provide assistance to national authorities, the Office of the Prosecutor has been identifying additional persons who may be reasonably suspected to be responsible for participating in the 1994 genocide against the Tutsi in Rwanda. Similarly, law enforcement and prosecutorial authorities, as well as civil society, *inter alia*, also continue to identify such persons, in particular in Europe.

36. That so many suspected perpetrators of genocide have fled to third countries where they enjoy seeming impunity should be of significant concern. Victims and survivors of the genocide cannot understand how those who wronged them now live in new homes in new countries. 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 1994 genocide against the Tutsi in Rwanda and/or with the Forces démocratiques de libération du Rwanda.

37. At the request of the Prosecutor General of Rwanda, the Office of the Prosecutor is providing vital 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.

38. It is essential that those who bear individual criminal responsibility for crimes committed during the 1994 genocide against the Tutsi in Rwanda are investigated, located and prosecuted. Thirty years after the genocide, significant steps towards justice have been achieved, but more remains to be done. The Office of the Prosecutor stands ready to provide support and assistance to Rwandan authorities, as well as other national justice sectors. The Office calls upon all Member States to ensure that all possible efforts are undertaken to continue the implementation of the completion strategy of the International Criminal Tribunal for Rwanda and support more justice for more victims of the Rwandan genocide.

## **3. Cases referred to France**

39. Laurent Bucyibaruta, the prefect of Gikongoro, was indicted by the International Criminal Tribunal for Rwanda in June 2005 on six counts of genocide, direct and public incitement to commit genocide, complicity in genocide, extermination as a

crime against humanity, murder as a crime against humanity and rape as a crime against humanity. The indictment was referred by the Tribunal to France for trial on 20 November 2007, as Bucyibaruta had already been located in France. The investigation by French authorities was completed in 2018.

40. The trial proceedings commenced on 9 May 2022. On 12 July 2022, Bucyibaruta was convicted of complicity in genocide and crimes against humanity and sentenced to 20 years' imprisonment. He passed away on 6 December 2023, while his appeal against his conviction was pending. This brings to a close the two indictments referred to France for trial.

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

41. Following his arrest on 24 May 2023, Fulgence Kayishema will be brought to trial in Rwanda, as his case was referred to Rwanda by the International Criminal Tribunal for Rwanda on 22 February 2012. The operative arrest warrant provides that Kayishema shall be initially transferred to the custody of the Mechanism in Arusha, whereafter he will be transferred to Rwanda.

42. The Office of the Prosecutor regrets that Kayishema remains in custody in South Africa and there is not yet a timeline for his transfer to the Mechanism consistent with the operative arrest warrant. Relevant legal proceedings are under way in South Africa, but have been repeatedly delayed. Hearings were conducted before the High Court in Cape Town in 2023, then postponed to March 2024. The case has now been further postponed until August 2024. The Office strongly encourages South Africa to promptly carry out its international legal obligations under the statute and transfer Kayishema to the custody of the Mechanism so that he can then be transferred to Rwanda for trial. The victims have already waited 30 years for justice, and it is incumbent on the South African authorities to ensure that they do not have to wait longer.

### **C. National justice for crimes committed in the former Yugoslavia**

#### **1. Yugoslavia Tribunal completion strategy**

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

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

#### **2. Regional judicial cooperation**

45. Judicial cooperation among the countries of the former Yugoslavia is essential to ensure that those responsible for war crimes are held accountable. Many suspects are not present in the territory where they are alleged to have committed the crimes,

and extradition is blocked. Cooperation to transfer investigations and indictments is thus essential to achieve justice. As reported in the Prosecutor's thirteenth progress report (S/2018/1033, annex II), regional judicial cooperation in war crimes matters among the countries of the former Yugoslavia has been at its lowest level in recent years.

46. With regional prosecutors and authorities, the Office of the Prosecutor has been working intensively over the past several years to reverse this trend. As noted in the Prosecutor's twenty-first progress report (S/2022/866, annex II), these efforts continue to generate notable improvements in regional cooperation in war crimes cases among Bosnia and Herzegovina, Montenegro and Serbia. However, cooperation remains challenging with Croatia, owing to political interference in the justice process and a policy to not provide judicial cooperation in war crimes cases.

47. In its previous reports, the Office of the Prosecutor noted the need for countries of the former Yugoslavia to register criminal convictions entered by the International Criminal Tribunal for the Former Yugoslavia and the Mechanism into domestic criminal records. This is a matter that is important for the rule of law, reconciliation and stability in the former Yugoslavia. The Office welcomes the confirmation by Serbia that all Tribunal judgments related to Serbian nationals have now been registered in their domestic criminal records. As previously reported, Croatia has registered many Tribunal judgments in its domestic criminal records. While no judgments from the Tribunal or the Mechanism have been recorded domestically in Bosnia and Herzegovina, the Office hopes to report in the next period that the process has been completed.

48. More remains to be done to strengthen regional judicial cooperation in war crimes cases. Hundreds of cases, including complex cases against senior- and mid-level accused, are yet to be transferred from Bosnia and Herzegovina for prosecution elsewhere, predominately in Croatia and Serbia. The Office of the Prosecutor has begun to engage with Croatian and Serbian authorities to facilitate and expedite this process. In the cases already transferred through regional judicial cooperation, there is a notable trend of victims and witnesses failing to appear to testify in courts in neighbouring countries. While this trend is understandably attributable to the frailty of many witnesses owing to old age and illness, it also reflects a measure of distrust in regional accountability efforts. Prosecutors, judges and other justice authorities all have a vital responsibility to move forward and facilitate the process, build witnesses' understanding of the transfer process and improve their confidence in the proceedings in order to ensure justice for the victims. The number of cases transferred and witnesses appearing in trials will demonstrate whether they are meeting this responsibility.

49. Cooperation between Croatia and Serbia is another critical area where the absence of cooperation is near total. The Office of the Prosecutor has previously noted the standstill in long-standing bilateral negotiations between Croatia and Serbia to establish agreement on a framework for war crimes cases, including in the Prosecutor's fourteenth progress report (S/2019/417, annex II). The status quo only ensures effective impunity and is untenable. It is deeply regrettable that, rather than cooperate, prosecutors in both countries initiate in absentia proceedings against accused whose whereabouts are well known. The Office reiterates its willingness to assist in finding a solution so that the transfer of cases between these two countries can finally begin.

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

### 3. Bosnia and Herzegovina

51. The Office of the Prosecutor continued its close cooperation with the Prosecutor's Office of Bosnia and Herzegovina, including through assistance on concrete cases, strategic support and activities for the transfer of lessons learned.

52. During the reporting period, the Prosecutor's Office of Bosnia and Herzegovina filed 9 indictments against 41 suspects, while 18 cases against 326 persons were terminated or closed owing to insufficient evidence. In addition, the Prosecutor's Office of Bosnia and Herzegovina transferred one case against one suspect to a foreign country, while two cases against two suspects were transferred to entity-level prosecution services. The remaining backlog at the Prosecutor's Office comprises 249 cases against 2,621 persons. Of these, 124 cases against 771 persons are under investigation, and the remaining cases are in the pre-investigative phase.

53. The Office of the Prosecutor is committed to continuing to support the work of the Prosecutor's Office of Bosnia and Herzegovina, in particular in the mutual goal of successfully implementing the National War Crimes Strategy. The Office of the Prosecutor is already providing direct case assistance to the Prosecutor's Office of Bosnia and Herzegovina, as well as responding to large numbers of requests for assistance. The Office of the Prosecutor continues to develop this collaboration and cooperation in three key areas.

54. First, there is a significant backlog of more than 116 investigations in Bosnia and Herzegovina that concern 345 suspects known to reside outside the country, primarily in Serbia and Croatia. In addition, there are 46 confirmed indictments in Bosnia and Herzegovina that concern 52 accused known to reside outside the country, again primarily in Serbia and Croatia. This constitutes a total of approximately 400 individuals suspected of or indicted for war crimes yet to be extradited to Bosnia and Herzegovina or prosecuted in their country of current residence. The Office of the Prosecutor is working to facilitate the transfer of the proceedings, in particular key cases and case files involving senior- and mid-level officials, to the jurisdictions where the suspects or accused reside for further processing. The Office hopes to report on concrete progress in this area in the next reporting period.

55. Second, the Office of the Prosecutor continues to collaborate with the Prosecutor's Office of Bosnia and Herzegovina to advance its ongoing investigations and prosecutions. In 2023, the Chief Prosecutor of Bosnia and Herzegovina identified 24 priority cases, with the goal of completing investigations and issuing prosecutorial decisions before the end of 2024. During the reporting period, the Office of the Prosecutor directly assisted the Prosecutor's Office of Bosnia and Herzegovina with a number of these priority investigations and has provided legal and analytical memorandums, evidentiary materials, including 128 documents totalling 3,357 pages and 24 audiovisual files, and strategic advice. In total, the Prosecutor's Office of Bosnia and Herzegovina issued 10 indictments. The remaining 11 investigations continue to be worked on as a priority in 2024. In March 2024, the Chief Prosecutor added an additional nine cases to the list of priority cases for 2024. In April, representatives of the Office of the Prosecutor had meetings with line prosecutors responsible for the 2024 priority cases and made plans for providing support on those cases.

56. Third, there are still significant impunity gaps that remain to be addressed by the Prosecutor's Office of Bosnia and Herzegovina. As previously reported, in response to a request from the Prosecutor's Office of Bosnia and Herzegovina, the Office of the Prosecutor is preparing an investigative dossier for one notable crime base for which further prosecutions are urgently needed. The work of the Office of

the Prosecutor on the dossier is under way, and intensive collaboration with Bosnian prosecutors on this matter in the coming period is expected.

57. Overall, and taking into account the completion strategy of the International Criminal Tribunal for the Former Yugoslavia, the next few years will be critical to delivering more justice for war crimes in Bosnia and Herzegovina. There remains a significant backlog of cases to investigate and prosecute, and it is clear that the remaining cases are likely to be among the most challenging. Completing this work, even under ideal circumstances, will take many years, and the passage of time only heightens the urgency of working more expeditiously. The Office of the Prosecutor and the Prosecutor's Office of Bosnia and Herzegovina will also continue to strengthen their cooperation.

#### **4. Croatia**

58. During the reporting period, the Office of the Prosecutor continued to engage with the State Attorney's Office and the Ministry of Justice. On 22 and 23 April 2024, representatives of the Office of the Prosecutor conducted meetings with the Ministry of Justice and the State Attorney's Office in Zagreb.

59. Over the past decade, cooperation by Croatia with national judiciaries in the region on war crimes cases has significantly worsened, and the efforts of the Croatian justice sector have concentrated on in absentia prosecutions of ethnic Serbs. As a result, Croatian victims are not receiving meaningful justice, while Croatian perpetrators continue to enjoy impunity.

60. In previous reports dating back a number of years, the Office of the Prosecutor has highlighted the large backlog of pending requests for assistance submitted to Croatian authorities. This backlog developed as a result of the Croatian policy of not providing cooperation to other countries in the region with respect to war crimes cases concerning suspects who are Croatian nationals. This situation appeared to have finally been resolved in 2023. In his twenty-second progress report (S/2023/357, annex II), the Prosecutor positively noted that the Ministry of Justice of Croatia had committed to process all pending requests for assistance from Bosnia and Herzegovina.

61. However, one year later, prosecutorial authorities at all levels in Bosnia and Herzegovina have informed the Office of the Prosecutor that the backlog of pending requests for assistance submitted to Croatian authorities has not decreased but has in fact risen to almost 90 requests as of the end of the current reporting period. Prosecutors from Bosnia and Herzegovina have also confirmed that this situation is obstructing the processing of investigations and trials. Croatian authorities have acknowledged this information and did not indicate whether they were taking any steps to resolve the issue, consistent with prior commitments.

62. The failure by Croatia to provide the requested assistance impedes regional judicial cooperation and has the effect of promoting impunity for crimes committed by Croatian nationals in Bosnia and Herzegovina. The majority of these outstanding requests relate to direct perpetrators who murdered, abducted, raped, detained and committed other crimes. It is difficult to understand why Croatia is failing to provide assistance and contribute to securing justice for the victims of these crimes.

63. If Croatia eventually addresses the large backlog of pending requests from Bosnia and Herzegovina, this will only be the first step in the justice process. The approximately 100 related cases will need to be transferred to Croatia for trial, as Croatia will not extradite these suspects to Bosnia and Herzegovina. This is a significant volume of cases for any national prosecution service, which will require extensive work, resources and time to process. The State Attorney's Office of Croatia

confirmed that it does not have the capacity to deal with these cases. The Office of the Prosecutor raised this matter with the Ministry of Justice as requiring serious attention. The Office of the Prosecutor urges Croatian authorities to develop appropriate plans to streamline the transfer of these cases, prioritize them and ensure that sufficient resources in the Croatian justice sector are assigned to them.

64. For a decade, war crimes justice for victims of crimes committed by Croatian nationals residing in Croatia has largely come to a standstill. The time lost cannot now be regained. In the interests of the victims, it is incumbent on the Croatian authorities to dramatically improve the situation and ensure that the approximately 100 cases are expeditiously investigated and prosecuted.

65. Relatedly, the Office of the Prosecutor has been monitoring three category II cases that were transferred to Croatia from Bosnia and Herzegovina almost five years ago. Those cases, which are supported by a wealth of evidence from the International Criminal Tribunal for the Former Yugoslavia, remain in the investigation phase. The Office of the Prosecutor urges the State Attorney's Office of Croatia to ensure that prosecutorial decisions are made expeditiously, and reiterates its past offers to assist.

66. Overall, and taking into account the completion strategy of the International Criminal Tribunal for the Former Yugoslavia, war crimes accountability in Croatia is far from being on the right track. The Office of the Prosecutor calls upon the Government of Croatia to serve as the model that it should be, live up to its international obligations and secure justice for the many victims who are still desperately waiting to see accountability for those who perpetrated crimes against them.

## **5. Montenegro**

67. The Office of the Prosecutor has continued its engagement with Montenegrin authorities, and in February 2024 had meetings with the Minister of Justice and members of the Special State Prosecutor's Office.

68. At the request of Montenegrin authorities, the Office of the Prosecutor has over the past few years developed its assistance to Montenegro in relation to justice for war crimes committed in the conflicts in the former Yugoslavia. While to date insufficient justice for war crimes has been achieved in Montenegro and challenges remain, promising efforts are being made to implement the country's commitment to achieving accountability for war crimes.

69. The Special State Prosecutor's Office currently has six war crimes cases in the pre-investigative phase. Three relate to crimes committed in Bosnia and Herzegovina, and three relate to war crimes committed in Croatia. There is currently one case in the investigative phase. One case against one accused is currently at trial.

70. During this reporting period, the Office of the Prosecutor continued to provide extensive support to the Special State Prosecutor's Office in relation to the two investigative dossiers that the Office of the Prosecutor had previously transferred. The joint task force comprising Montenegrin war crimes prosecutors and investigators and the Office of the Prosecutor has been formed and commenced its operations with its first technical meeting on 14 and 15 February 2024. Productive discussions were held, and concrete steps were taken to move these investigations forward. The first file that the Office of the Prosecutor transferred is in the pre-investigative phase and is progressing. As regards the second file, the Special State Prosecutor's Office formally opened an investigation and detained the suspect in question. The Office of the Prosecutor welcomes the Special State Prosecutor's allocation of additional staff to handle these and other war crimes cases, and encourages Montenegrin authorities to ensure that the Special State Prosecutor's



Office and the Montenegrin judiciary have the means to carry out their responsibilities effectively and expeditiously. The Office of the Prosecutor will continue to provide the necessary assistance to the Special State Prosecutor's Office and looks forward to positive results.

71. Important reforms in domestic law to support war crimes justice are needed to ensure the successful prosecution of war crimes cases in Montenegro. The Office of the Prosecutor hopes to report in the next period that legislative reforms allowing for the introduction of evidence from the International Criminal Tribunal for the Former Yugoslavia and the Mechanism in Montenegrin proceedings have been adopted by Parliament. As previously reported, legislative amendments to facilitate the effective prosecution of conflict-related sexual violence cases are also urgently needed, and proposed amendments are presently under consideration. The Office will continue to provide requested support to ensure progress in these and other important areas.

72. While war crimes justice in Montenegro is only beginning, Montenegrin authorities have accepted that far more needs to be done, and have made clear commitments towards achieving more accountability for war crimes. Positive steps have already been taken, and cooperation between the Office of the Prosecutor and Special State Prosecutor's Office is at a very high level. The Office of the Prosecutor hopes to be able to report in the future that war crimes justice in Montenegro is achieving concrete results.

## **6. Serbia**

73. The Office of the Prosecutor continued its engagement and cooperation with Serbian authorities. Office representatives visited Belgrade on 24 and 25 April 2024 and held open discussions with the Minister of Justice, the Minister of European Integration and the Chief War Crimes Prosecutor of Serbia.

74. Nearly eight years ago, in his ninth progress report (S/2016/975, annex II), the Prosecutor reported that war crimes justice in Serbia was at a crossroads. In February 2016, the National War Crimes Strategy was adopted, which committed Serbian authorities to improve accountability for war crimes and identified steps to be taken to achieve that goal. It was anticipated that more prosecutions would commence, in particular against senior- and mid-level officials, and that trials would be conducted expeditiously, effectively and in accordance with international law.

75. Although some positive steps have been taken in the intervening period, progress has been limited, and more determined efforts in Serbia are needed to meaningfully advance justice for war crimes.

76. Notwithstanding the adoption of the prosecutorial strategy, as well as the allocation of additional human resources to the Serbian War Crimes Prosecutor's Office as reported in the Prosecutor's thirteenth progress report (S/2018/1033, annex II), the processing of war crimes cases since 2016 has not yet yielded expected results. A review of the prioritization of cases and allocation of resources, and an increase in the pace of proceedings, are urgently needed. Over the past eight years, the number of prosecutions initiated has been low, with indictments issued predominantly against low-level direct perpetrators. Moreover, significant investigative resources have been devoted to cases involving unavailable suspects, even though a significant number of suspects, including senior- and mid-level officials, are available in Serbia for investigation and prosecution. More vigorous efforts are needed to ensure that more complex cases against available suspects are prosecuted at a higher rate and higher quality.

77. Protracted proceedings are exacerbating delays in the processing of war crimes cases in Serbia. The Office of the Prosecutor notes with concern the slow pace of the

ongoing proceedings in its two category II cases transferred to Serbia from Bosnia and Herzegovina. Very few witnesses have been heard even after a number of years and, based on current sitting schedules, there is no realistic prospect that these trials will be concluded within a reasonable time frame. This challenge is magnified by the fact that one of the accused is of advanced age. The Office encourages Serbian authorities to improve the efficiency of their proceedings, including by increasing the frequency of court hearings, and to enhance conditions for the participation and protection of witnesses to achieve greater results in the processing of war crimes cases. Victims and survivors have legitimate expectations for justice to be delivered without undue delay.

78. At the same time, suspected war criminals continue to find safe haven in Serbia. As regularly reported in previous reports of the Office of the Prosecutor of the International Criminal Tribunal for the former Yugoslavia and the Office of the Prosecutor of the Mechanism, beginning with the completion strategy report of the Tribunal dated 19 November 2014 ([S/2014/827](#), annex II), the enforcement of Novak Djukić's conviction entered by the Court of Bosnia and Herzegovina is still unresolved. In another category II case, as previously reported (see [S/2021/955](#), annex II), Mirko Vručinić, who in 2020 absconded before the completion of his trial in Bosnia and Herzegovina, continues to enjoy impunity in Serbia. Likewise, Milomir Savčić, who was standing trial in Bosnia and Herzegovina for his alleged involvement in the Srebrenica genocide, fled to Serbia, where he remains free. Serbian authorities' inaction in the face of this state of affairs and, on occasion, decisions to grant citizenship to known suspects, call into question the commitment of Serbia to war crimes justice, the rule of law and regional judicial cooperation.

79. During the reporting period, the Serbian War Crimes Prosecutor's Office issued three new indictments against four accused, all in cases that were transferred from Bosnia and Herzegovina. As of the end of the reporting period, the Serbian War Crimes Prosecutor's Office has 30 open investigations against 84 suspects and 18 ongoing war crimes trials involving 38 accused. Three first instance judgments, including in one in absentia case, were issued during the reporting period. One of these judgments concerns a case that has been ongoing for 14 years.

80. The Office of the Prosecutor continues to actively work with the Serbian War Crimes Prosecutor's Office to expedite and improve the processing of complex war crimes cases in Serbia. In relation to the files previously handed over by the Office of the Prosecutor, the Serbian War Crimes Prosecutor's Office has formally opened investigations in relation to two suspects. The Office of the Prosecutor hopes to report that the ongoing investigation of a third suspect will be concluded in the next reporting period. As regards the previously transferred file concerning Milenko Živanović, a former commander of the Drina Corps of the Bosnian Serb Army and the highest-ranking person in Serbia to be charged with war crimes, the trial continues. While steps are being taken to move these investigations and prosecutions forward, challenges remain. The Office of the Prosecutor will continue to support the Serbian War Crimes Prosecutor's Office to overcome these obstacles and ensure the successful resolution of these important cases.

81. While results have been limited in the past eight years, the Serbian War Crimes Prosecutor's Office has demonstrated its ability to initiate proceedings against senior- and mid-level officials and establish effective cooperation with regional partners, in particular with Bosnia and Herzegovina. It is critical that Serbian authorities build on these positive steps to address the substantial backlog of cases, in particular complex cases involving high- and mid-level officials residing in Serbia. In addition, there are more than 100 cases that will need to be transferred from Bosnia and Herzegovina to Serbia for prosecution. The Office of the Prosecutor encourages Serbian authorities to review and optimize the efficiency and effectiveness of relevant practices and

procedures. Substantial accountability gaps remain. The victims, the public and other stakeholders rightly hope to see concrete advancements demonstrating a will to realize the commitments made in the National War Crimes Strategy. The Office of the Prosecutor hopes to report on tangible results and more meaningful progress over the next reporting periods.

## **D. Denial and glorification**

### **1. Rwanda**

82. In 2006, the Appeals Chamber of the International Criminal Tribunal for Rwanda held that the facts of the genocide committed in Rwanda were established beyond any dispute and thus constituted facts of common knowledge. In particular, the Appeals Chamber concluded that it was a universally known fact that, from 6 April 1994 to 17 July 1994, there was a genocide in Rwanda against the Tutsi ethnic group. Establishing that and other facts relating to the Rwandan genocide was one of the Tribunal's most important contributions to re-establishing peace and security in Rwanda and promoting reconciliation between the affected communities.

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

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

### **2. Former Yugoslavia**

85. The Office of the Prosecutor has regularly reported that the denial of crimes and the non-acceptance of facts established in the judgments of the International Criminal Tribunal for the Former Yugoslavia are widespread throughout the region of the former Yugoslavia. Convicted war criminals are often glorified as heroes. Students in different countries, including within Bosnia and Herzegovina itself, are taught widely different and irreconcilable versions of the recent past. Anniversaries of crimes committed during the conflict, which should be used as opportunities for remembrance and reconciliation, are often co-opted to promote denial, revisionism and the glorification of war criminals. Throughout the region, convicted war criminals regularly appear in the media, at round tables and at other public events as experts and featured speakers. The Office has expressed its grave concern in this regard and has called for urgent attention to those issues. Acceptance of the truth of the recent past is the foundation for reconciliation and healing between communities in the former Yugoslavia.

86. Negative developments continued unabated during the reporting period. In Croatia, the President again decorated several suspected war criminals, including individuals identified as perpetrators in International Criminal Tribunal for the Former Yugoslavia judgments. Croatian authorities have still not investigated these

suspects, and such public decorations by the Head of State can only be expected to have a chilling effect on the justice process. In the Republika Srpska, the President continued to deny the Srebrenica genocide. In Serbia, several government officials publicly and forcefully denied the Srebrenica genocide and glorified convicted war criminals. Such statements emanating from the highest authorities embolden others, including convicted and suspected war criminals, to persist with their denials of war crimes, revisionism and glorification. As examples of this permission structure, during this reporting period, Vladimir Lazarević continued to deny judicially established crimes committed in Kosovo for which he was convicted. Similarly, Tomislav Kovač and Svetozar Andrić, the former indicted in Bosnia and Herzegovina and the latter a known suspect, took part in the promotion of a wartime unit that was responsible for the murder of more than 1,000 men during the Srebrenica genocide. Meanwhile, cities throughout Serbia remain covered with murals of Ratko Mladić; more than 300 have now been counted, most of them in Belgrade.

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

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

## **E. Missing persons**

89. The search for persons still missing from the conflicts in the former Yugoslavia continues to be consistently identified as one of the most important outstanding issues. Significant results have been achieved, with approximately 30,000 missing persons found and identified. Unfortunately, the families of more than 12,000 missing persons still do not know the fates and whereabouts of their loved ones. The search for and exhumation of remains from mass graves and the subsequent identification of the remains need to be accelerated. Further progress on these issues is a humanitarian imperative and fundamental to reconciliation in the former Yugoslavia. Missing persons from all sides of the conflicts must be located, identified and returned to their families.

90. During the reporting period, the Office of the Prosecutor and the International Committee of the Red Cross (ICRC) continued their cooperation pursuant to the memorandum of understanding signed in October 2018. This important agreement enables ICRC to access the evidence collection of the Office to obtain information that may assist for purely humanitarian purposes in clarifying the fate and whereabouts of persons who are still missing. The Office and ICRC are also working jointly, in accordance with their respective mandates, to analyse information, identify new leads and provide case files to domestic missing persons authorities for action. From 16 November 2023 to 15 May 2024, the Office responded to 99 requests for assistance from ICRC and handed over 1,100 documents comprising nearly 48,000 pages, as well as four audiovisual records. The Office also continued to provide extensive investigative assistance and operational support to national authorities searching for missing persons.

91. Support provided by the Office of the Prosecutor contributed to the overall process of clarifying the fate and whereabouts of missing persons. During the reporting period, information from the Office assisted in locating four grave sites, where at least seven individuals were exhumed. The DNA identification process is ongoing. The information from the Office also assisted in clarifying the fate and whereabouts of an additional 16 missing persons. Overall, in the five and a half years since initiating its cooperation with ICRC in October 2018, the Office has searched for information in its evidence collection concerning approximately 11,300 missing persons.

## **F. Capacity-building**

92. The Office of the Prosecutor continued its efforts, within its existing limited resources, to build capacity in national judiciaries prosecuting war crimes. The focus of the Office is on the Great Lakes region and the former Yugoslavia. Strengthening national capacities supports the principle of complementarity and national ownership of post-conflict accountability. During the reporting period, the Office conducted training on conflict-related sexual violence for prosecutors and investigating judges from the Central African Republic, Côte d'Ivoire, the Democratic Republic of Congo, Mali, the Niger and Senegal. The Office also conducted training on the prosecution of conflict-related sexual violence crimes for prosecutors from Mozambique. These were financed by the rule of law programme of the Konrad Adenauer Stiftung.

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

## **III. Other residual functions**

94. During the reporting period, the prosecution responded to a voluminous request for review in the *Ntakirutimana* case, which required significant resources and efforts. It is notable that the convict who is seeking review has already completed his sentence. The Prosecution also continues to participate in the limited proceedings that remain ongoing concerning Félicien Kabuga's provisional release.

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

96. National counterparts have informed the Office of the Prosecutor that, in many situations, rule 86 motions have been denied and national prosecutors have not been granted access to the evidence of protected witnesses. In some situations, the case was delayed, but national prosecutors were able to find alternative witnesses to assist in their investigations and prosecutions. In other situations, however, the national

investigation was ultimately suspended or charges for some crimes were dropped because there was insufficient evidence without the evidence of the protected witness.

97. The Office of the Prosecutor continues to believe that the protection of witnesses and the provision of assistance to national jurisdictions are complementary functions, in particular as national authorities already have primary responsibility in practice for safeguarding protected witnesses of the International Criminal Tribunal for Rwanda, the International Criminal Tribunal for the former Yugoslavia or the Mechanism. The Office also recognizes that national prosecutors cannot meet their responsibilities and victims' desire for justice without full support from the Mechanism. The Office will continue to engage internally to ensure that the Mechanism finds solutions to ensure access to Mechanism evidence and promote more justice for victims and survivors.

## IV. Management

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

99. The Office of the Prosecutor has reduced its resources and staff consistent with the completion of the final case transferred from the International Criminal Tribunal for Rwanda, *Kabuga*, and the completion of fugitive tracking. By 30 June 2024, the Office will have downsized one P-5, three P-4, six P-3 and four P-2 positions, as well as two Field Service, five General Service (Other level) and four General Service (Local level) positions. This followed additional reductions in 2023 following the delivery of the *Stanišić and Simatović* appeal judgement.

100. As the Office of the Prosecutor continues to maintain "lean" staffing, it is regularly confronting workloads that exceed its resources, placing a heavy burden on staff. As the Office cannot defer mandated activities, in particular when national partners are relying upon it to support the expeditious completion of their investigations and prosecutions, Office staff members have been required to take on additional responsibilities and work extensive hours. The Office is grateful for the continued dedication and commitment of its staff. Nonetheless, the Office underscores that full approval of its limited budget requests is necessary to ensure the achievement of its mandated functions.

## V. Conclusion

101. During the reporting period, the Office of the Prosecutor completed a second residual function by accounting for the whereabouts of all fugitives indicted by the International Criminal Tribunal for Rwanda. The Office is pleased to have brought this work to a successful conclusion, and is grateful for the Security Council's long-standing attention to this issue. However, while all fugitives from the Tribunal have now been accounted for, it is critical to note that there are still more than 1,000 fugitive *génocidaires* who are sought by national authorities. Locating them will be a challenge, as it was for the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia. At the request of national partners, including the Prosecutor General of Rwanda, the Office will continue to

provide essential assistance to their efforts to bring these individuals to justice. This work cannot stop until all perpetrators of crimes during the 1994 genocide against the Tutsi in Rwanda have been brought to justice.

102. The Prosecutor General of Rwanda and national war crimes prosecutors in the former Yugoslavia continue to emphasize that assistance from the Office of the Prosecutor is vital and necessary for them to investigate and prosecute more cases in national courts. Rwandan authorities are still seeking to bring to justice more than 1,000 fugitive *génocidaires*, while prosecutors in the former Yugoslavia still have more than 1,000 suspected war criminals to investigate and prosecute. By responding to requests for assistance and providing a wide range of legal, investigative, prosecutorial and strategic support, the Office enables Member States to achieve more justice for the crimes committed, implement their national priorities and strengthen the rule of law.

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

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