



UNITED NATIONS

International Residual Mechanism for Criminal Tribunals

The International Residual Mechanism for Criminal Tribunals ("Mechanism") was established on 22 December 2010 by the United Nations Security Council to continue the jurisdiction, rights, obligations and essential functions of the International Criminal Tribunal for Rwanda ("ICTR") and the International Criminal Tribunal for the former Yugoslavia ("ICTY") which closed in 2015 and 2017, respectively.

STATEMENT

PROSECUTOR

(Exclusively for the use of the media. Not an official document)

Arusha, 11 December 2019

Address of Mr. Serge Brammertz Prosecutor, International Residual Mechanism for Criminal Tribunals to the United Nations Security Council New York, 11 December 2019

Mr. President, Excellencies,

Thank you for this opportunity to address you about the activities of the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals.

My written report provides details about our activities and results during the reporting period in relation to our three priorities. Today, I would like to highlight a few important issues.

Mr. President, Excellencies,

Events during the reporting period demonstrated that our residual functions remain important and necessary.

In The Hague, my Office remains committed to meeting all court-imposed deadlines and effectively presenting our arguments in the Stanišić and Simatović re-trial and the Mladić appeal.

At the Arusha branch, my Office took significant steps to carry out our mandate from this Council to ensure the continued protection of witnesses and prosecute contempt of court offences under the Mechanism Statute.

In September, the Appeals Chamber rejected the request for review submitted by Augustin Ndirabatware, and affirmed the Appeal Judgement against him. A few weeks later, a Single Judge likewise confirmed our indictment against Ndirabatware, charging him with two counts of contempt of court and one count of incitement to commit contempt of court.

Augustin Ndirabatware is a former Rwandan government minister who was convicted in 2014 for inciting, instigating and aiding and abetting genocide, and sentenced to thirty years imprisonment.

In 2016 he asked the Appeals Chamber to reverse his convictions on the basis of an alleged new fact.

Specifically, he submitted that four witnesses who testified against him at trial had recanted their testimonies.

International Residual Mechanism for Criminal Tribunals

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In the course of investigating this matter, my Office uncovered extensive evidence of a broad criminal scheme involving many individuals over three years, aimed at influencing those four witnesses to recant their prior testimonies. With this evidence, we successfully defended Ngirabatware's conviction for genocide, and have now indicted six individuals for contempt of court, including Ngirabatware himself.

These results are a clear demonstration to all witnesses who testified before the ICTR, ICTY or Mechanism that they continue to enjoy the Mechanism's protection.

For the fair administration of justice, it is necessary that the Mechanism provide the opportunity to convicted persons to seek review of their convictions when legitimate new facts arise.

At the same time, my Office will firmly stand against any attempt to undermine the judgments of the ICTR, ICTY and Mechanism through the commission of further crimes. Such contempt of court, as in this case, constitutes a form of genocide denial that must be opposed, for the sake of peace, reconciliation and the truth.

Mr. President, Excellencies,

As I previously reported to you, my Office has been taking a number of important measures to strengthen our activities to locate and arrest the remaining eight fugitives indicted by the ICTR. This is one of my Office's most important residual functions. Over the last two years, our reforms and renewed efforts have generated important actionable leads.

Unfortunately, I must report today that we are not obtaining the cooperation we need from some Member States.

I deeply regret South Africa's long-standing failure to execute a Mechanism Arrest Warrant. Since my Office was officially notified in August 2018 that one of the fugitives had been located in South Africa, I have endeavored to work with South African authorities to secure the fugitive's arrest. At all times we have sought to handle this matter with discretion and respect for South Africa's sovereignty.

During discussions over the last year, South Africa provided changing reasons why it could not act. For each and every challenge that was posed, my Office sought to work with South Africa and find solutions to overcome them. To our disappointment, the situation remained the same, which obliged me to raise this matter during my last briefing.

After assurances in July that cooperation would be forthcoming, I was cautiously optimistic that the arrest would take place expeditiously. My Office was greatly surprised, then, to receive in September a formal response from South Africa informing us, for the first time after more than a year of discussions, that it could not cooperate because it lacked the necessary domestic legislation. We quickly responded by reaffirming South Africa's obligation to cooperate under Chapter VII and reiterating our request for the fugitive's prompt arrest.

After submitting our critical written report to the Security Council, South Africa last week informed us that it had finally submitted the Arrest Warrant to the competent judicial authorities for execution. While we welcome this procedural step after nearly one and a half years of inaction, the fact is that while we are speaking today, the fugitive remains at large.

At this late stage, neither the victims nor this Council can be satisfied with anything less than the fugitive's immediate arrest.



In other areas we are also facing challenges in obtaining cooperation.

My Office is generating valuable intelligence and leads: telephone numbers, places of residence, identification documents, travel details and more. We have submitted numerous urgent requests for assistance – particularly to countries in East and Southern Africa – to follow up on these leads.

However, many time-sensitive, important requests remain unanswered for more than a year.

Among other issues, we have credible information that some fugitives have been able to illegally and corruptly procure passports from a number of different countries. This has enabled them to freely cross borders and evade our efforts.

National authorities have not, though, provided us with access to the persons and information we need, or otherwise treated our requests with urgency.

The Security Council has repeatedly urged Member States to provide all necessary cooperation in the search for the fugitives. This message, sadly, is not being heard by some States. And when a member of the Council fails for sixteen months to arrest a fugitive wanted for genocide, it sends the wrong signal.

This year marked the 25th anniversary of the Rwandan Genocide. The victims have waited far too long to see these fugitives brought to justice. Our success depends on timely and effective cooperation from Member States.

Mr. President, Excellencies,

In relation to national prosecutions of crimes committed in Rwanda and the former Yugoslavia, my written report provides detailed insight into the current status and challenges.

It is clear that much more remains to be done to achieve more justice for more victims.

My Office continues to receive a large number of requests for assistance from national authorities. This is a tangible demonstration that domestic investigations and prosecutions are underway.

Unfortunately, however, glorification of convicted war criminals and denial of crimes – including genocide denial – continue to pose significant challenges to accountability and reconciliation.

While my Office is undertaking significant efforts to locate the eight remaining fugitives indicted by the ICTR, Rwandan authorities are searching for at least 500 additional fugitives suspected to have participated in the genocide. We remain committed to supporting the Prosecutor General of Rwanda and his office in these efforts, and our cooperation continues to develop in a positive direction.

Nonetheless, there are still concerted efforts to deny the Rwandan genocide, particularly among Rwanda diaspora communities. Some promote revisionist accounts that minimize the scale of the genocide. Others continue to deny that the crimes were committed with the intent to destroy the Tutsi group in whole or in part.

In relation to the former Yugoslavia, national authorities now have primary responsibility for achieving justice for war crimes. Thousands of cases still need to be processed by national courts, which will only be possible with significant improvements in regional judicial cooperation.



Our support to colleague prosecutors remains an important area of development.

At the request of the War Crimes Prosecutor of Serbia, last week my Office provided a five-day induction training for new deputy prosecutors and legal assistants, which was generously funded by the Netherlands.

Early next year my Office will similarly deliver an advance training program on prosecuting sexual violence for the Prosecutor's Office of Bosnia and Herzegovina, at their request.

Yet at the same time, my written reports have underscored for a number of years that the denial of crimes and glorification of convicted war criminals is pervasive throughout the former Yugoslavia. And the situation continues to get worse.

This climate has a demonstrably negative impact on national justice for war crimes. And it is impossible to speak about meaningful reconciliation when communities are growing further apart, not closer together.

To understand the problem, one need only look at the actions of some politicians. They do not seek votes by promising reconciliation or by building bridges to other communities. Instead, politicians believe that they win elections by denying atrocities and glorifying those responsible. Some promote revisionist histories, while others try to gain votes by commemorating, rather than condemning, war criminals.

In Rwanda and the former Yugoslavia, prosecutors, judges, civil society and others continue fighting to bring perpetrators of the most horrific crimes to justice, establish the rule of law and promote reconciliation. They need our help and support as much as ever before.

Mr. President, Excellencies,

In conclusion, my Office is firmly focused on completing our remaining functions efficiently and effectively. We fully support the evaluation currently being conducted by OIOS.

In the search for the fugitives, my Office needs this Council's support. Some Member States are not adhering to their obligations and providing needed cooperation. The Council can send a clear message and underscore to all Member States that the search for the fugitives is still vital today to international peace and security.

We also remain committed to providing our support to the continued implementation of the ICTR and ICTY Completion Strategies by national authorities, so that more justice can be achieved for more victims.

We are grateful for the continued support of this Council in all of our efforts. Thank you for your attention.
