



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

PRESIDENT

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The Hague, 08 June 2020

Address to the United Nations Security Council Judge Carmel Agius President, International Residual Mechanism for Criminal Tribunals 8 June 2020

Madame la Présidente,

Excellencies,

Ladies and Gentlemen,

The last time I addressed you in December 2019, the world was a very different place from the one we find ourselves in now. I sat across from you and delivered my report from one end of the horseshoe table in the Security Council chamber. The Mechanism was poised to conclude its ongoing judicial caseload by the end of this year, leaving only potential appellate work pending. Preparations were underway to shift our focus to longer-term residual functions, as originally envisaged by this august body.

Sadly, no corner of the globe has been spared from this terrible pandemic, and today, as I speak to you from a computer screen in The Hague, I must admit that I acutely feel the weight of the responsibilities entrusted to me by the Security Council. These include my responsibilities to the Mechanism's accused, detained, and convicted persons, either awaiting proceedings or serving sentences in Africa and Europe. My responsibilities to victims and witnesses, including those living in Rwanda and the countries of the former Yugoslavia. My responsibilities to the Mechanism's dedicated staff, who are nationals of 75 different countries. And my responsibilities to you, and the United Nations more broadly.

Madam President,

The projections presented last December did not factor in a global pandemic that would effectively bring the world to a standstill. Yet even under these circumstances, the Mechanism has remained operational and delivered results. Reporting duties related to the review of the Mechanism's mandate, as well as other periodic responsibilities, have been fulfilled. Disruptions have been mitigated to the extent possible, with Judges and staff working hard behind the scenes to ensure the utmost preparedness for when courtroom activity resumes. Above all, remarkable headway on fugitive-tracking efforts has been made.



The Security Council has before it several comprehensive documents prepared by the Mechanism for the review of the progress of our work. We are grateful for the opportunities provided to reflect on our achievements and identify areas for further improvement and efficiency.

In the past months, the Mechanism's main focus has been to ensure that its judicial functions carry on uninterrupted. To this end, we have made full use of the tools available in our legal framework and adapted internal procedures where appropriate. Further, while the pandemic has affected *in-court* proceedings, because much of our judicial activity is undertaken in writing, the cases have otherwise progressed with relatively few disruptions. Nevertheless, cases that were on track to conclude by the end of this year are now expected to conclude in the first part of the next.

In this respect, I can mention the *Stanišić & Simatović* trial in The Hague, in which COVID-19-related restrictions stalled courtroom activity half-way through the Defence case for Mr. Simatović. It is anticipated that hearings will be able to resume on 7 July 2020, and that all witnesses can be heard before the end of this year. The trial judgement is expected by April 2021.

Likewise, in the *Mladić* case the appeal hearing, which was originally scheduled for March but postponed to June due to Mr. Mladić's surgery, has recently been stayed until further notice due to the unavoidable impact of the pandemic. Meanwhile, work continues and the Appeals Chamber stands ready to hear the appeals in the *Mladić* case as soon as it is safe and feasible to do so. The appeal judgement is projected to be delivered nine months after the hearing of the appeals.

At the Arusha branch, the Single Judge postponed the commencement of trial in the multi-accused *Turinabo et al.* contempt case to the end of August. This was also due to travel and other restrictions preventing the movement of key persons who are on three different continents — including the accused and their counsel, as well as witnesses. Despite this, pre-trial litigation and trial preparations are ongoing and the trial judgement is expected in March 2021.

While these delays are regrettably beyond the Mechanism's control, please rest assured that all efforts are being made for these cases to be conducted and completed as expeditiously as possible.

Madam President,

Our workload must also be re-evaluated in light of a major breakthrough during the reporting period. I am referring to the arrest of fugitive Mr. Félicien Kabuga. With Mr. Kabuga and others having evaded capture for over 20 years, fugitive trials were – until now – more of a contingency plan than a primary part of our operations. Prosecutor Brammertz and his team have brought to fruition this long-awaited and core aspect of our mandate. They should be lauded for their efforts. Your country as well Madam President, *la France*, together with other Member States and partners, has contributed to this great accomplishment and deserves our praise. Similarly, all those who assisted the Mechanism in being able to confirm the death of another fugitive, Mr. Augustin Bizimana, must be thanked and congratulated.

I cannot help but wonder how many more fugitives could be brought to justice, if the cooperation and trust so evident from these achievements were to continue. Let us not stop here. Let us use this momentum to keep advancing the cause of international justice.

By contrast, the situation of the nine acquitted and released persons in Arusha presents a dimmer picture. As I have said before, and indeed as recognised by this Council in several resolutions, the



Mechanism cannot resolve this issue on its own. We rely on your goodwill and commitment. No doubt each reporting period that passes very quickly for us, drags on interminably for these nine men, one of whom has been languishing in uncertainty since 2004. Our joint failure to find a solution can only erode confidence in our system and undermine other successes. I would therefore once again urge your support to help end this untenable situation.

Madam President,

I would now like to touch upon early release; an area of particular interest to the Security Council, as reflected in resolution 2422 (2018), and which I believe to be very important. Last month, with a view to ensuring greater transparency, consultation, and coherence, I issued a revised Practice Direction on the procedure for applications for pardon, commutation of sentence or early release. I trust that these revisions will help to clarify the procedures involved and ensure a streamlined process, which also envisages the collection of more comprehensive information upon which to base a decision. Amongst the procedural refinements are substantive changes, reflecting the Mechanism's existing eligibility threshold for early release, and the President's inherent discretion to grant early release subject to conditions.

Speaking more broadly of the enforcement of sentences, in light of the COVID-19 pandemic I took proactive steps to request regular information from enforcement States regarding the measures taken in all prisons where our convicted persons are serving their sentences. In line with my order of 24 April 2020, I have been receiving updated information every two weeks. Likewise, I have requested information regarding the situation in the Mechanism's own detention facilities both in Arusha and The Hague. As the safety and well-being of our accused, detained and convicted persons is paramount, I will be following these matters extremely closely in the coming months. In the meantime, I take this opportunity to thank all enforcement States for their sterling cooperation in this and other respects.

COVID-19 is, unfortunately, not the only virus we face. As we collectively tackle the challenges posed by this unprecedented global crisis, we must not ignore the perils of endemic hatred, division, and denial. We must stand strong in the face of those who favour impunity over justice. The period under review reminds us of two ignominious pages in our collective history. Last year marked 25 years since the genocide against the Tutsi in Rwanda, and this year marks 25 years since the genocide in Srebrenica. Though we know that not every pathogen causes a pandemic, we see every day that these destructive forces are becoming more virulent, and that the purveyors of hate feel emboldened. We must combat their version of events and offer our solidarity and support to all those who have suffered, and continue to suffer. It is in this spirit that the Mechanism will join in next month's events commemorating 25 years since the genocide in Srebrenica. I very much hope that all Member States will mark this significant, and most sombre, occasion.

Madam President,

Although the Mechanism has been required to chart a different course than previously announced, I am proud to say that we have risen to the challenge. None of the progress reflected in the reports before you would have been possible without our devoted Judges and staff, and indeed all who contribute to the Mechanism's work on a daily basis. I thank and commend them for their commitment and outstanding efforts throughout, and particularly in recent months. It is during difficult times like these that one is reminded of the singular importance of the people in our lives: our family and loved ones, and also our colleagues.



Finally, Madam President, I wish to extend my gratitude to all Member States for their attention today and for their unfailing support and assistance to the Mechanism. I look forward to the next time we can safely meet in person.
