



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, The Hague, 10 December 2024

Address of Mr. Serge Brammertz Prosecutor, International Residual Mechanism for Criminal Tribunals to the United Nations Security Council 10 December 2024

Mr. President, Excellencies,

Thank you for the opportunity to again brief you on my Office's activities and results.

Details about our work have been presented in my written progress report.

Today, I would like to mention some developments from the last six months and then look towards the future. The point I would like to highlight is that while most of the Mechanism's residual functions concern the cases concluded in the past, my Office is now focused on supporting Member States as they continue the accountability process.

Mr. President, Excellencies,

Pursuant to Article 24 of the Statute, there is a possibility for closed cases to be reopened at any time by convicted persons under the review procedure.

During the reporting period, my Office litigated such review proceedings in the *Ntakirutimana* case. Gerard Ntakirutimana was convicted for genocide and crimes against humanity and sentenced to twenty-five years of imprisonment. He then filed his Request for Review on 14 December 2023, nearly ten years after his early release from prison and nineteen years after his conviction, on the basis that a witness had recanted their evidence against him.

After the Appeals Chamber granted review on 21 May 2024, my Office undertook urgent investigations into the veracity of the alleged recantation by this witness. We uncovered credible and reliable evidence that the recantation was the result of interference with the witness, including financial incentives. This evidence was submitted to the Appeals Chamber.

We are satisfied that the Appeals Chamber accepted our arguments that the alleged recantation was not reliable and accordingly upheld Ntakirutimana's ICTR convictions. We will now work with national partners to identify whether any further steps should be taken in this matter.



There have now been two review proceedings in recent years concerning ICTR convictions, the first being in the *Ngirabatware* case. In both, witnesses have recanted their testimonies from prior trials. And in both, there has been strong evidence that these recantations were the result of financial incentives.

My Office will continue to safeguard the integrity of prior judgments by investigating alleged recantations to determine whether there has been improper interference with witnesses. Review proceedings cannot be a license for convicted persons to rewrite history and erase their crimes by fabricating evidence.

We also continued to litigate the three following matters that should be nearing completion.

Fulgence Kayishema still remains in South Africa, where he is contesting his transfer to the Mechanism's custody in Arusha and ultimately to Rwanda for trial. He has further announced his intention to seek revocation of the transfer of his case to Rwanda. Concluding this matter depends on South Africa fulfilling its international obligations to hand Kayishema over to the Mechanism.

Conversely, Felicien Kabuga remains detained by the Mechanism in The Hague. My Office is of the opinion that returning him to Rwanda, his country of birth and nationality, would allow this matter to be concluded.

Finally, it can be expected that the transfer of the case against Vojislav Seselj to Serbia will be completed in the near future, so that he can be brought to trial there. This is consistent with the Council's direction that Member States should assume the responsibility for contempt proceedings.

Mr. President, Excellencies,

I would also like to take this opportunity to highlight that in the last six months, my Office reached an important milestone in our efforts to support the search for missing persons from the conflicts in the former Yugoslavia. Of the estimated 42,000 missing persons, 30,000 have been found and identified. Unfortunately, that also means that 12,000 families still do not know the fates and whereabouts of their loved ones.

As I previously reported, in October 2018 my Office and the ICRC entered into an agreement and joint project to strengthen our cooperation in the search for missing persons. This important agreement enabled the ICRC to access our evidence collection to obtain information clarifying the fate and whereabouts of the missing.

I am pleased to report that, as foreseen in late 2018, my Office finished its last searches for missing persons' names as requested by the ICRC, bringing our contribution to the joint project to timely completion. In the past six years, we searched for information in our evidence collection concerning over 12,000 missing persons. Overall, we shared approximately 500,000 pages of evidence as well as a large volume of photographs and audiovisual material with the ICRC.

We will otherwise continue to support the ICRC's efforts to find missing persons by responding to additional requests for assistance. We are also providing extensive investigative assistance and operational support to national authorities searching for missing persons.



As is universally agreed, the search for missing persons is a humanitarian imperative and fundamental to reconciliation. My Office played a crucial role in the past, including by locating and exhuming mass graves in Srebrenica and elsewhere. This joint OTP-ICRC project was very much a continuation of those efforts. It should serve as a model for how investigators and prosecutors, even after their cases are done, can leverage the evidence they gathered to provide ongoing support for the search for missing persons.

Mr. President, Excellencies,

While the work of the ICTR and ICTY is nearing an end, the accountability process is not. Rather, as the Council envisioned, the responsibility for achieving more justice now is fully in the hands of Member States. That is why my Office's primary activity continues to be providing assistance to our national partners investigating and prosecuting serious international crimes committed in Rwanda and the former Yugoslavia.

And it is clear that still today, Member States need our help as much as ever before. In 2024, my Office will have received more than 400 requests for assistance, among the most we have ever received in a year. These requests came from fourteen Member States, including Rwanda and the countries of the former Yugoslavia.

Not only are we receiving a high number of requests, but these requests are increasingly complex. Member States are looking to us for our investigative, analytical and legal expertise to assist them with resolving challenges in their cases. Empowering Member States to secure justice is an essential part of the Completion Strategy.

There are three recent examples that help to illustrate how we are assisting Member States to achieve their goals.

Rwandan prosecutors requested my Office to provide substantial direct assistance with an important ongoing investigation. Working in close cooperation, together we prepared a sophisticated investigation plan that analyzed existing evidence, identified issues where more evidence was required and developed a series of targeted interviews to move forward the case.

Through this intense collaboration over several months, Rwandan investigators were able to successfully complete this investigation. They obtained highly relevant evidence confirming the participation of the suspect in serious crimes, including the murder of more than one thousand Tutsi refugees. It is expected that an indictment will be filed in the near future.

We are also working on important files to locate fugitives who have escaped accountability for thirty years.

Similarly, Montenegro requested to significantly strengthen cooperation with my Office to support their investigations and prosecutions of war crimes. This work highlights the variety of ways my Office is assisting Member States.

One part of our cooperation has been assisting our Montenegrin partners with a sensitive investigation into serious crimes, including sexual violence, committed in Bosnia and Herzegovina. Through the joint task force we established late last year, my Office has provided extensive investigative support, such as



identifying potential new witnesses and evidence, facilitating cooperation with other countries and advising on how to overcome challenges.

Another part of our cooperation has been supporting the drafting of an indictment in a second case. In particular, my Office assisted the Montenegrin prosecutor in developing legal arguments to charge crimes against humanity under Montenegrin law, which is important to both reflect the severity of the crimes and progressively develop criminal law in Montenegro.

Finally, while our primary partners are prosecutors in Rwanda and the countries of the former Yugoslavia, we are also working with other Member States who are investigating and prosecuting these crimes. That includes nearly a third of the current members of the Security Council.

Our cooperation with the French *Parquet National Antiterroriste* has significantly developed following a trilateral meeting earlier this year in Kigali. Just a few weeks ago, my Office provided critical evidence to our French partners in the midst of an important trial, which helped to ensure a conviction.

Likewise, my Office is working intensively with the Counter Terrorism Command of the Metropolitan Police in the United Kingdom, the Human Rights Violator Law Division of U.S. Immigration and Customs Enforcement and the Division *Entraide judiciaire, Terrorisme, Droit pénal international* of the Swiss Federal Police. With all of these partners, we are actively assisting ongoing investigations by providing evidence and advice on a range of topics.

So both quantitatively and qualitatively, it is clear that Member States need assistance from my Office to successfully investigate and prosecute crimes committed in Rwanda and the former Yugoslavia. This mandate, and our execution of it, is a tangible demonstration of how the United Nations is helping national authorities to secure justice for the victims and survivors and fight against impunity.

Mr. President, Excellencies,

To assist the Council in its deliberations concerning the Mechanism, I undertook a series of missions and consultations in the last six months to gather more information about Member States' needs now and in the future. In September, I visited Bosnia and Herzegovina, Croatia, Montenegro and Serbia for high-level meetings. In November, I visited Rwanda. My team also engaged with operational contact points to better understand the caseload in different countries.

It is true that three decades have passed since the Genocide in Rwanda and the conflicts in Bosnia and Herzegovina and Croatia. And significant results have been achieved in that time, first at the ICTR and ICTY, and then in national courts.

Yet Member States' perspective is that the work is not done, and more justice still needs to be achieved.

In Rwanda, there are more than one thousand fugitive *génocidaires* who need to be accounted for. In the former Yugoslavia, several thousand suspects still need to be investigated and, where warranted, prosecuted, including five hundred suspects whose cases need to be transferred from Bosnia and Herzegovina to other countries in the region.



Likewise, third-party States continue to enforce “no safe haven” policies and ensure that suspected war criminals and *génocidaires* are extradited or prosecuted. Criminals have fled to the four corners of the globe, and so many Member States are playing an important role in the accountability process.

Time is passing. But that is a reason to work harder and increase the pace of investigations, rather than to wind them down. All of our partners report that they continue to have large caseloads to process and are working as quickly as possible.

And so they are asking my Office to increase the assistance it provides and strengthen our cooperation with their prosecutors. At their request, we are also working with them to address strategic challenges, including helping national authorities to detect and identify fugitives and improve international cooperation.

The coming period will be critical for further accountability. Member States anticipate that their work – and the corresponding need for support from my Office – will continue at the current high level.

Mr. President, Excellencies,

As a final remark, I welcome the Security Council’s active deliberations on the future of the Mechanism, which was always intended to be a temporary institution.

My Office is working closely with the Chambers, Registry, Office of Legal Affairs and other stakeholders to develop options for the transfer of functions, as the Council requested in resolution 2740. It is also well-understood that significant reductions in Mechanism staffing and resources are expected.

At the same time, the closure of the Mechanism is just one part of the Completion Strategy adopted by the Council. The other part – which is even more relevant today – is that Member States will continue the justice process in their national courts.

As our workload indicators tangibly demonstrate, we are providing essential support to Member States that is having significant impact. This is a positive sign, and confirmation that the justice process is on the right path. This progress should be safeguarded and supported.

And it is our common responsibility to the victims and survivors, who still look to the United Nations to support the justice process.

So we look forward to actively engage with the Council on solutions to ensure that Member States can continue receiving the assistance they need.

My Office remains grateful for the continued support of this Council in all of our efforts.

Thank you for your attention.
