



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

PRESIDENT

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

Address to the United Nations Security Council Judge Graciela Gatti Santana President, International Residual Mechanism for Criminal Tribunals 10 December 2025

Thank you, Mr. President,

Allow me to congratulate you on your assumption of the Presidency of the Security Council. I also wish to convey my sincere appreciation for the support provided by the Council to the International Residual Mechanism for Criminal Tribunals, and to recognize Slovenia and the other outgoing members – Algeria, Guyana, the Republic of Korea, and Sierra Leone – for their valuable contributions to our work.

**Mr. President,
Excellencies,
Ladies and Gentlemen,**

Today is Human Rights Day. The occasion reminds us why the Tribunals for Rwanda and the former Yugoslavia were established: to restore human dignity in the wake of mass atrocities. These Tribunals, followed by the Mechanism, did this by holding those most responsible to account for their crimes through judicial processes adhering to the highest standards of justice.

This commitment remains at the foundation of our work, which is now focused on the responsible conclusion of the justice cycle. Today, the Mechanism's mandate still carries real responsibilities to real people – obligations entrusted to us by the Council to ensure justice that is fair, effective, and durable. These include judicial oversight of protective measures granted to approximately 3,200 victims and witnesses and ensuring due process and effective implementation of sentences for the 40 convicted persons incarcerated under the Mechanism's authority. In addition, the Mechanism assists domestic authorities with national prosecutions and preserves and shares the legacy of the Tribunals' work through the management of their archives and its own.

I am honoured to present the Mechanism's twenty-seventh progress report, which outlines the institution's significant achievements in relation to all of this work over the last six months.

As detailed in the report, the core of the Mechanism's residual work continues unabated. The Judges of the Mechanism issued nearly 80 decisions and orders during the reporting period, with approximately 9 out of every 10 pertaining to the Mechanism's continuous judicial functions. Among them, I issued 26 decisions and orders relating to enforcement matters, including decisions granting release on humanitarian grounds and release based on a convincing demonstration of rehabilitation. With care and



diligence, the Mechanism ensures that international standards of imprisonment are fully respected. We are grateful for the independent inspection bodies that continue to verify this.

Other judicial activity of note includes a decision issued on 7 November, when a Single Judge referred the last active contempt matter before the Mechanism to the United States. The *amicus curiae* prosecutor has appealed this decision. Our history shows that the Mechanism takes the integrity of its proceedings and the safety of its witnesses extremely seriously. However, where the interests of justice and expediency so dictate, the Judges have avoided costly in-court proceedings and have deferred contempt jurisdiction. The Mechanism has referred the three most recent contempt matters to States and, in its 13-year history, has conducted only one contempt trial. This stands in stark contrast to the nearly 25 contempt proceedings conducted by its predecessors over a 20-year period.

Other ad hoc judicial matters are also advancing. In the case against Mr. Fulgence Kayishema, which was referred to Rwanda in 2012, the Trial Chamber on 29 October issued a decision on his request to revoke the referral, dismissing three of the four grounds. The Trial Chamber can now adjudicate the final ground, having recently received relevant submissions from the Government of South Africa, where Mr. Kayishema remains incarcerated and subject to domestic proceedings.

On 21 November, a Single Judge determined that, after 31 December 2026, the Mechanism will no longer have a legal or judicial obligation to provide further financial assistance to the acquitted and released persons who were relocated to Niger four years ago. The Single Judge found that these individuals had not shown that they cannot safely return to Rwanda – their country of origin – should that become necessary, particularly given the possibility of safety guarantees and regular reporting from the Rwandan authorities. This decision could be the subject of an appeal.

Finally, the Trial Chamber seised of the case against Mr. Félicien Kabuga has determined that he is not fit to fly to Rwanda, the one country that has offered to accept him for release following the indefinite stay of his trial. The Trial Chamber has asked the European States to which Mr. Kabuga has sought release to reconsider accepting him on their territories. The Prosecution has appealed the decision.

Turning to the remaining activities of the Mechanism, the focus today is plainly on their future. The Secretary-General has shared with the Council advance copies of the reports requested through resolution 2740 of 2024 on the possible transfer of the Mechanism's archives, assistance to national jurisdictions on prosecutions, and the activities related to supervising the enforcement of sentences. I extend my profound appreciation to the Secretary-General, the Legal Counsel, and their respective offices for the comprehensive and insightful evaluation of these complex matters.

Allow me to highlight the most salient features of these reports.

First, the reports propose that the technical functions of the Prosecution's assistance to national jurisdictions and managing the archives can be transferred to the United Nations Secretariat. The Mechanism supports this assessment. While these functions are vital for closing the impunity gap and maintaining a reliable historical resource for research, education, and countering revisionism and denial, they need not be embedded in a court. Their transfer will materially decrease the Mechanism's activities and its resource requirements.

The Secretary-General has also recommended that, under the appropriate circumstances, the day-to-day supervision of conditions of imprisonment can be transferred to States. The Mechanism also supports this position and will facilitate such transfer should the Council implement the



recommendation. However, two convicted persons remain at the United Nations Detention Unit in The Hague. Until they can be transferred to States to serve their respective sentences, day-to-day supervision of conditions of imprisonment for these individuals will remain a responsibility of the Mechanism and at a substantial cost to the international community.

By contrast, the Secretary-General has indicated that the power to order the transfer of prisoners, designate enforcement States, and decide on applications for pardon, commutation of sentence, or early release involves core judicial functions that should stay at the international level and retain the involvement of the President, the roster of Mechanism judges and limited but essential support staff. The Secretary-General has emphasized that retaining independent international judicial authority over these matters, which is not cost-intensive, ensures the most fair and uniform treatment of prisoners regardless of where imprisonment takes place. The report cautions that transferring, for example, pardon, commutation of sentence and early release authority to States presents credible risks of arbitrary, disparate and unequal treatment of prisoners. This is because States have varying early release and sentence remission practices, which are neither aligned with the Mechanism's practice nor necessarily developed to address international criminality. The Mechanism supports this assessment.

Mr. President,

As the Secretary-General has noted, the continuation at the international level of core judicial functions related to sentence supervision should also be assessed together with other continuous judicial functions not covered in the reports.

I therefore urge the Council to carefully consider retaining at the international level judicial oversight of protection orders for victims and witnesses and judicial activities that guarantee due process rights for persons who remain under the Mechanism's jurisdiction. This litigation – some of it occurring rarely – is not resource intensive in view of our reliance on remote Judges and minimal staff. Furthermore, such activity will reduce in the coming years. The costs associated with these critical judicial functions are accordingly low. Conversely, hastily terminating them risks disparate and arbitrary application of the law and irreparable damage to the legacy of the Tribunals. I highlight the importance of judicial oversight of witness protection as just one example.

Article 20 of the Mechanism's Statute, enacted by this Council, allows Judges to order protective measures for victims and witnesses. These measures are for the benefit of the witness – not the party to the proceeding who calls the witness – and currently apply to about 3,200 Prosecution, Defence, and Chambers witnesses. Judges must determine whether varying protective measures and sharing confidential information with, for example, national prosecutors is appropriate in view of the Mechanism's parallel duty under Article 28(3) to assist national prosecutions.

This judicial process involves an impartial balancing of a witness's personal circumstances against an applicant's interest in the protected information. Some witnesses fear that disclosure of their identity or past testimony will endanger their safety, while others who experienced severe trauma worry that participation in domestic proceedings could retraumatize them and significantly destabilize their recovery. Judges have discretion to deny requested variations when consent is not given by the witness. However, where applicants show, for example, that a miscarriage of justice would occur without the variation, protective measures have been varied even without witness consent.

Such an assessment ensures that protective measures remain effective but are varied under the appropriate circumstances, particularly where it is essential to the pursuit of justice. This impartial



judicial process cannot be seen as a barrier to national prosecutions, and, indeed, recent trends show that most requests to vary protective measures to assist domestic accountability processes have been granted in whole or in part.

Moreover, the cost of the function is minimal when considering its importance to the commitment it upholds. Witnesses bravely confronted those powerful enough to orchestrate and commit mass atrocities or provided evidence that placed them at risk with those in power at the time of their testimonies. They did so with assurances that they could rely on Judges to protect their anonymity. Continuing this guarantee is key not only to the legacy of our work but to the credibility of judicial guarantees of protection to tomorrow's witnesses testifying in any international criminal proceeding.

Mr. President,

While the Council will decide on the future of the Mechanism's mandate, we are not passively waiting for guidance. The twenty-seventh progress report demonstrates that the Mechanism continues to reimagine and innovate the way it works to ensure alignment with the Council's vision for a small and temporary institution. For example, the Mechanism's Judges, having carefully considered the interests of justice, amended the Rules of Procedure and Evidence in September to limit the prospect of resource-intensive investigations and in-court proceedings related to contempt, false testimony, and review matters.

Through streamlining and prioritization, the Mechanism's 2026 budget proposal reflects an approximate 20 percent reduction in staff and 15 percent reduction in overall resources compared to 2025 without any corresponding decrease in work. This amounts roughly to a 70 percent reduction in staffing and a 50 percent reduction in budget over the past six years.

Notwithstanding the ability to achieve efficiencies on our own, the Mechanism has also sought expert support from the United Nations' Human Resources Services Division to identify appropriate staffing levels and reporting lines for the multiple scenarios that lie ahead of the Mechanism, following this Council's sixth review of the progress of our work next year.

In closing, the Mechanism remains committed to the responsible conclusion of the justice cycle. Whether long-term residual responsibilities are completed by a smaller Mechanism or other suitable institutions, the process will require an orderly transition. Our legacy, as well as the Council's, requires that transfer and closure do not undermine the more than three decades of groundbreaking advancements in human rights and international criminal justice. The Mechanism will continue to adapt its working methods and faithfully implement the Council's decisions to ensure the efficient and just resolution of its work.

I thank you sincerely for your attention and look forward to hearing from you.
