



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)

New York, 14 June 2022

Address to the United Nations Security Council Judge Carmel Agius, President, International Residual Mechanism for Criminal Tribunals 14 June 2022

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

On behalf of the International Residual Mechanism for Criminal Tribunals (Mechanism), I have the pleasure to brief you on the progress of our work, as detailed in the comprehensive reports before you. On a personal note, let me say it is a great honour to address you one last time before I step down as President of the Mechanism at the end of this month.

Leading the Mechanism, alongside my fellow Judges and Principals, has been one of the richest and most rewarding professional experiences of my life, and I will miss being able to contribute to the work of our fine institution on a daily basis and interacting with those who have become like family to me. Allow me to share, too, my strong sense of satisfaction, gratitude and confidence, when I consider everything that has happened since I took over as President, and my conviction that we must carry this momentum forward.

Mr President,

I am satisfied with the significant progress accomplished during the reporting period and throughout my Presidency, despite enormous challenges including the COVID-19 pandemic. Indeed, I am struck by how different the landscape of the Mechanism appears now, particularly as regards the pending cases.

We have only three main cases left, representing a markedly reduced judicial workload compared to early 2019. And very soon there will be two, after the delivery on 29 June 2022 of the appeal judgement in the *Fatuma et al.* case, over which I preside. In our other appeal case, *Stanišić & Simatović*, the proceedings are well on track for completion by the projected time-frame of June 2023, and another status conference will be held next week. In the *Kabuga* case, following the recent hearing of independent medical experts and oral submissions of the parties, I can report that the Trial Chamber just yesterday issued its decision, finding that the Defence has not established that Mr Kabuga is presently unfit for trial. The Chamber also decided, *inter alia*, that the accused shall remain detained at the Mechanism's Hague branch and that his trial shall commence there until otherwise determined. I



invite you to read the comprehensive decision of the Trial Chamber, which is publicly available via the Mechanism's website.

I am encouraged that these developments represent the substantial fulfilment of one of the central priorities of my Presidency, which was to conclude the Mechanism's existing judicial proceedings in a timely and efficient manner, while ensuring due process and fundamental rights. However, the progress has not stopped there.

Major advances in the tracking of fugitives of the International Criminal Tribunal for Rwanda (ICTR) have also had a decisive impact on the Mechanism's operations and outlook. As a result of the arduous efforts of Prosecutor Brammertz and his team, only four fugitives of the ICTR are left, all of whom are expected to be tried in Rwanda.

We have made headway in other key aspects of our mandate, as well. Regarding the enforcement of sentences, for example, you will recall that in 2020, I issued a revised Practice Direction on applications for pardon, commutation of sentence or early release, with the aim of simplifying the process while retaining the same legal approach. Since taking office, I have issued a total of 72 decisions and orders in relation to such applications and I will leave only two recently-filed matters to be dealt with by my successor. Separately, the Mechanism's responsibilities in the monitoring of cases referred to national jurisdictions have been drastically reduced. When I assumed the Presidency, the Mechanism was responsible for monitoring seven cases. Now, only two cases remain.

All the while, steady progress has been achieved in areas as diverse as protecting witnesses, responding to national requests for assistance, and managing the archives of the ICTR, the International Criminal Tribunal for the former Yugoslavia (ICTY) and the Mechanism. Our productivity in these respects has been enhanced by the Mechanism's continual efforts to further harmonise and streamline its working methods.

Parallel to the results, there have been some setbacks. To my chagrin, I must now return to this Chamber, where last December I announced that the situation of the acquitted and released persons had been resolved, to report that this is no longer the case; that the binding agreement signed between the United Nations and Niger to relocate these persons onto Niger's territory has not been honoured. The Registrar of the Mechanism is doing his utmost to find a way through this predicament. Separately, the contempt case against Petar Jojić and Vjerica Radeta is an illustration of where the Mechanism's ability to secure justice has been thwarted; in that instance, by Serbia's ongoing failure to fulfil the international obligations imposed on all States by this Council in Resolution 1966 (2010).

Mr President,

I now turn to the immense gratitude I feel when thinking about my Presidency and the collaborative efforts that have given rise to our accomplishments. Here I can categorically assert that we have all done the best that can be done. First and foremost, I wish to acknowledge the contributions made by our extraordinary staff, whom I thank sincerely. I also pay tribute to the friendship and outstanding service of the Mechanism's Judges, who hail from all corners of the globe and whose differing perspectives have immeasurably enriched my own. Likewise, I commend my fellow Principals, Prosecutor Brammertz and Registrar Tambaou, for their collegiality and assiduousness. Finally, I would like to publicly praise my own team, for their steadfast commitment and how greatly they have inspired me.



Of course, the Mechanism's success is not only attributable to those who work for, or at, the institution. The Mechanism, like its predecessor Tribunals, is part of a broader system. Reflecting a shared vision of justice, and a determination that the crucial work of those Tribunals would be seen through to the very end, the Mechanism was brought into being at the international level but also relies heavily upon stakeholders in the regional and domestic spheres.

Within the United Nations, the sterling support and guidance provided by Members of this Council and the Informal Working Group on International Tribunals is essential for the Mechanism's functioning. Thanks to you, and to the United Nations Membership, we are able to continue carrying out the vital mission entrusted to us. During my time as President, I have especially valued the superb assistance of the Office of Legal Affairs.

With respect to the role of States in the fulfilment of our mandate, I recall announcing early in my Presidency that justice does not end with the delivery of judgement. The truth of those words has been borne out time and again, and I highly commend all States that have volunteered to enforce the sentences of persons convicted by the *ad hoc* Tribunals or the Mechanism. Their exceptional cooperation was apparent at the height of the pandemic, when pursuant to my orders, enforcement States provided COVID-19 updates every two weeks. I also acknowledge the Mechanism's wonderful host States, Tanzania and the Netherlands, who so robustly support us in our mission. Finally, I express my gratitude to the European Union, as well as the Swiss Government, whose funding of outreach and informational activities makes a palpable difference to those living in affected communities.

Mr President,

This brings me to the future, and to the sense of assurance I mentioned at the beginning of my remarks. Following its fourth review of the progress of work of the Mechanism, this esteemed Council will soon issue a resolution concerning our mandate, and subsequently the Secretary-General will appoint the next President from among the Judges on the Mechanism's roster. Change is therefore upon us, and with it comes possibilities for revitalisation and further improvement.

I am confident that the Mechanism will keep thriving under a new leadership, largely because it is in better shape than ever before. Moreover, after almost a decade of operations, the Mechanism is far closer to realising the Council's vision of a small and temporary institution; an endeavour that should not be underestimated. It is not easy to head a downsizing institution and to counter the deleterious effects of reduced productivity, wounded morale and increased employee turnover. Equally difficult is trying to solidify the "One Mechanism" approach within the Mechanism's unique structure, to ensure the optimal, most efficient use of resources at our two branches. Still, I am sure that my successor will be more than capable of meeting such challenges.

At the same time, I very much hope that our progress has instilled trust in you, the Members of this Council; that when we say we will deliver results, we mean it, and that the Mechanism will continue carrying out its residual functions in good faith, to the highest of standards. Nonetheless, I must emphasise once more that many of these activities – including a number of judicial functions – will extend into the foreseeable future and for long after the main cases have concluded, unless the Council decides otherwise. It will be for the Security Council, which itself determined the scope of the Mechanism's mandate, to decide if and when certain of our duties should more appropriately be discharged by others. In this and many other respects, we are in your hands.



Mr President,

It is unsettling to be stepping down at a time when the global situation is arguably more precarious than it has been in years. The uncertainties that have plagued us recently show no signs of abating, and I admit it is not always easy to remain optimistic about the state of international criminal justice. However, my experiences at the Mechanism and the *ad hoc* Tribunals have reinforced in me the unshakeable belief that the work of these institutions truly matters; that international justice initiatives can and do succeed, beyond all expectations; and that justice will ultimately prevail where there is the political will to seek it. In this light, I urge the international community to draw upon the same courage, determination and imagination it displayed in the 1990s when establishing the ICTY and the ICTR, and later in 2010 when it set up the Mechanism.

Finally, the Mechanism will continue to require staunch backing in the years ahead, and the meaningful cooperation of those who respect its purpose and foundational principles. There is much work yet to be done, and comfort in knowing that the task is a joint one. I again wholeheartedly thank all individuals, States and stakeholders that have shared in the journey of the Mechanism thus far, and stood for what is right and just. Your support of our institution, and in recent years of my Presidency, means more than I can express.

Thank you for your attention.
