



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)

New York, 19 October 2022

Address to the United Nations General Assembly Judge Graciela Gatti Santana, President, International Residual Mechanism for Criminal Tribunals 19 October 2022

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

[Good morning, is a great privilege to address you today for the first time as President of the International Residual Mechanism for Criminal Tribunals and allow me to extend special greetings to the Spanish-speaking delegations, before proceeding with my presentation in the Mechanism's two working languages, which are English and French.]

At the outset, I would like to congratulate His Excellency Mr. Csaba Kőrösi of Hungary on his election as President of the seventy-seventh session of the General Assembly. Excellency, I wish you every success in your extraordinary endeavour to find solutions for the complex and interlinked crises the world is facing, through solidarity, sustainability and science.

I also seize the opportunity to acknowledge the tremendous contribution of my predecessor, Judge Carmel Agius, to the Mechanism and to international criminal justice more generally. On behalf of the Mechanism, its Judges and staff, I wish to thank him sincerely for his wise and efficient stewardship. Looking ahead, my vision is to build on the Mechanism's solid achievements and take it forward successfully into the next phase.

Mr. President,

You have before you the Mechanism's tenth annual report. The submission of this particular report represents a significant milestone for the Mechanism. On 1 July 2022, the same day I assumed my new role as President, the Arusha branch marked ten years of operations since taking over responsibilities derived from the International Criminal Tribunal for Rwanda (ICTR). I commenced my Presidency in Arusha, and being there on that special date made me acutely aware of how far we have come together since July 2012.



Today, I am pleased to inform you that, with the exception of one appeal, all ICTY cases related to core crimes have been finalised. Similarly, with the exception of one trial, we have disposed of all ICTR proceedings earmarked to be heard before the Mechanism. Allow me to commend Prosecutor Brammertz and his team for their outstanding efforts in accounting for the remaining fugitives indicted by the Rwanda Tribunal. Following the Prosecution's confirmation of the death of two high-profile fugitives, who were charged with playing key roles during the 1994 Genocide against the Tutsi, only four remain at large. The Prosecutor is working closely with the Republic of Rwanda and several other key partner States to ensure that these individuals are effectively tracked down and brought to justice in Rwanda.

The coming years will therefore see the transition of the Mechanism from a fully operational court to a truly residual institution. It is evident that the associated necessary downsizing will create challenges and that this transition will not be an easy one. Regardless of how much we are able to shrink as an institution, our unique and important mandate involves a number of long-term tasks and requires that we continue to perform at the highest international standards. We also intend to do this with full commitment to gender equality, in line with the United Nations-wide Strategy on Gender Parity. I say this as the first-ever female President of the Mechanism.

Mr. President,

The Mechanism recently underwent the fourth review of its progress of work by the Security Council. This process culminated in Resolution 2637 (2022), which contains clear guidance on what the international community expects from us. Against this backdrop, I have established the following priorities for my Presidency:

First, to ensure the efficient, effective and fair conclusion of the remaining trial and appeal proceedings.

Second, to lead efforts in developing a comprehensive strategy to guide the Mechanism's continuing transition from an operational court to a truly residual institution.

Third, to consolidate the achievements of the *ad hoc* Tribunals and the Mechanism and to safeguard their invaluable legacy, while further enhancing inter-organ and inter-branch coordination and collaboration.

In relation to my first priority, due to the excellent work of our dedicated Judges and staff, I can report decisive progress with respect to our ongoing trials and appeals.

In the case against Félicien Kabuga, the opening statements of the parties were heard last month, on 29 and 30 September. Subsequently, the Prosecution commenced the presentation of its evidence two weeks ago, on 5 October. For the moment, as a result of Mr. Kabuga's health condition, the Trial Chamber holds court sessions three days per week for two hours per day. In line with the Chamber's decision of 13 June 2022, the trial is being held in The Hague, however both the Arusha branch and the Mechanism's Kigali Field Office are also supporting these proceedings. Thanks to our state-of-the-art courtroom technology, which provides for remote participation, and with a view to optimising costs and facilitating logistics, it is expected that a number of witnesses will testify from these locations. The preparation and conduct of this trial is a great example of the Mechanism's commitment to enhancing inter-branch coordination and the efficient use of its limited resources.

**Mr. President,**

As the last ICTR case commences, the last ICTY case is in its final stages. I refer to the appeals proceedings involving Mr. Jovica Stanišić and Mr. Franko Simatović. I now have the honour to preside over this case in my new capacity as Presiding Judge of the Appeals Chamber, and I am pleased to confirm that we are still on track to render a judgement by June next year.

Turning to my second priority, it is important to emphasise that not all Mechanism functions will cease with the end of in-court proceedings. Far from it; our residual functions will remain ongoing in areas such as protecting witnesses, monitoring cases referred to national jurisdictions, preserving the archives and assisting national jurisdictions. Furthermore, we have a continuing responsibility towards the persons convicted by the Mechanism or its predecessor Tribunals. Currently, 46 persons are serving their sentences across 13 enforcement States. These diverse matters routinely call for decisions by the independent Judges on the Mechanism's roster. The enforcement of sentences, in particular, requires full attention from myself as President, as I am entrusted to make determinations on all requests for pardon, commutation of sentences or early release. My undertaking is to exercise this discretion in a transparent and fair manner and in accordance with the established legal framework.

Back in 2010, the international community assumed responsibility for establishing a residual mechanism to follow the international criminal tribunals for both Rwanda and the former Yugoslavia. The international community therefore also retains responsibility for the Mechanism's ultimate closure. But this must be done in a way that safeguards the precious contributions of these institutions and protects their legacy. In my capacity as President, I will be leading efforts to develop an internal strategy and to explore options regarding the transfer of certain Mechanism activities to other bodies - with due regard for judicial independence and the rights of persons under the Mechanism's care.

This is closely linked with my third priority - to protect the legacy of the Tribunals and the Mechanism. The establishment of international courts and tribunals has clearly been an important step towards promoting a multilateral system of ending impunity for the most serious crimes. Yet, the current state of world affairs demonstrates once again that their existence alone is insufficient to secure peace and advance the rule of law. The international community's trust in a credible international criminal justice system may be jeopardised without long-term strategies and support.

In this context, the Mechanism – like other international courts and tribunals – will continue to need all States to provide sustainable support in two main areas, cooperation and resources.

Mr. President,

Cooperation is indispensable with respect to the enforcement of sentences and will remain critical for years to come, until all sentences pronounced by the *ad hoc* Tribunals and the Mechanism have been served. I wish to express my deepest gratitude to the 13 enforcement States that have taken on additional responsibilities in this regard. We rely heavily on such cooperation and urgently appeal to other States to share the burden and consider enforcing the sentences of our convicted persons. Indeed, unless additional States come forward, the Mechanism will not be in a position to fulfil its mandated function in this important area within existing resources or consistent with its current legal framework.



In relation to contempt of court, State cooperation is also vitally important. It is imperative that the Mechanism is able to safeguard the integrity of judicial proceedings and uphold the rule of law through the effective administration of justice. According to our Statute, the Mechanism shall consider referring contempt proceedings to national jurisdictions, taking into account the interests of justice and expediency. However, referral is not always possible, as we have seen with one particular case involving the Republic of Serbia, where the relevant conditions were not met. Unfortunately, Serbia's ongoing refusal to arrest and transfer Mr. Petar Jojić and Ms. Vjerica Radeta is in violation of its obligations under the Charter of the United Nations and erodes this very integrity.

Another regretful instance where a State has not honoured its international obligations concerns the situation of the eight persons who were relocated to the Republic of the Niger in December 2021, in accordance with an agreement between the United Nations and Niger. While the eight individuals are still there, the threat of expulsion remains. These are free men, who have either been acquitted or have served their sentences, yet their movement is restricted, they have been stripped of their identification documents and are living under *de facto* house arrest. The Mechanism has taken numerous judicial and diplomatic steps, and has sought the Security Council's support, in order to resolve the situation; regrettably, to no avail. I fear that, without Member States' support and good faith, the Mechanism will not be able to find a solution to this protracted challenge.

Finally, in order to remain operational and keep producing results, the Mechanism will need adequate resources. In this respect, financial considerations must not be permitted to drive the judicial process. The Mechanism will continue to downsize and streamline its activities and expenditures to the extent possible. However, there is a line we cannot cross if we are to deliver on our mandate, and as a court of law we must always be mindful of the fundamental rights of those persons within our jurisdiction. I therefore urge Member States to support our recent budget submission, which is as modest as can be. From our side, we will continue to work towards justice in a fair, effective and accountable manner that allows the Membership and other stakeholders to understand our activities, as well as the contributions made by the *ad hoc* Tribunals.

Mr President,

[I will now revert to Spanish to close with some personal thoughts.]

Since I took office as President, I had the opportunity to travel to two of the countries most affected by the Mechanism's work - Bosnia and Herzegovina and Rwanda. I participated in the Twenty-seventh Commemoration of the Genocide in Srebrenica in July, and just last month I visited a number of memorial sites in and around Kigali and met with survivors of the 1994 Genocide against the Tutsi. These encounters have had a profound impact on me, personally and professionally, and have reinforced my pledge to secure the legacy of the *ad hoc* Tribunals and the Mechanism. All three institutions have brought a measure of solace to the victims of the conflicts in question and served as an inspiration for other international courts and tribunals.

However, while the world is facing a multitude of new challenges, the trauma of the victims still continues. Unfortunately, we are also witnessing an increase in genocide denial, historical revisionism and the glorification of convicted war criminals. These phenomena seek to dehumanize the victims and deprive them of justice and recognition; they distort the truth and deny the lived experiences of those who have suffered the most. I therefore call upon the international community not only to stand by the



Mechanism until we have accomplished our mandate, but to also remain vigilant and firm in countering these societal patterns that feed on hatred, incitement and the denial of past crimes - wherever they may occur.

Thank you.
