



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)

New York, 12 December 2022

## Address of Mr. Serge Brammertz Prosecutor, International Residual Mechanism for Criminal Tribunals to the United Nations Security Council 12 December 2022

Madame President, Excellencies,

Thank you for this opportunity to address you about the activities of the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals.

My written progress report provides details about our activities and results during the reporting period in relation to our strategic priorities. Today, I would like to highlight a few important issues.

At the outset, I would like to congratulate President Gatti Santana on her appointment, and I look forward to working with her and her Office.

Madame President, Excellencies,

The Mechanism now has only two core crime cases remaining, the *Kabuga* trial and the *Stanišić and Simatović* appeal. My Office remains committed to demonstrating the highest professional standards and expeditiously undertaking our responsibilities.

We are satisfied with the swift progress in the presentation of our evidence in the *Kabuga* case. Since the first witness was called on 5 October, the evidence of 12 out of 54 witnesses have already been heard.

Hearings are being held in person and remotely, which has proceeded smoothly so far.

At the encouragement of the Trial Chamber, our team has made extensive use of available Rules to present evidence in writing, which reduces the amount of in-courtroom time we require.

Subject to further developments, we hope to be able to complete the presentation of our evidence in the 2nd quarter of next year.

In relation to the *Stanišić and Simatović* appeal proceeding, the Prosecution team is preparing for oral arguments, which are currently scheduled for the end of January.



Finally, I would like to highlight my Office's important work under our mandate to investigate and prosecute contempt of court crimes.

At the end of June the Appeals Chamber announced its judgement in the *Fatuma et al.* case.

The Appeals Chamber granted our appeal in its entirety, while dismissing all defence appeals.

My Office is satisfied that Augustin Ngirabatware's attempt to influence witnesses in order to overturn his genocide convictions was detected and halted. Five accused, including a defense investigator, were convicted and punished for these crimes.

The effective investigation and prosecution of contempt of court and breaches of witness protection measures are essential to protecting witnesses and maintaining the integrity of proceedings conducted by the ICTR, ICTY and Mechanism.

We trust that by prosecuting these crimes now, we deter others from similar attempts in the future.

Madame President, Excellencies,

Turning to the search for the remaining fugitives, there are now only four remaining.

Our top priority is Fulgence Kayishema. Kayishema is indicted for the murders of more than 2,000 women, men, children and elderly refugees at Nyange Church in April 1994.

As I have previously reported to you, since 2018, this investigation has been significantly impeded by challenges in obtaining cooperation from South Africa.

However, I am pleased that cooperation with South Africa is now moving in a positive direction.

Thanks to the support of the President of South Africa, a dedicated national investigative team was established to work directly with our Tracking Team at an operational level.

The two teams have been regularly meeting and undertaking coordinated investigations over the last six months. Important results have already been achieved, and our investigation in South Africa is progressing quickly.

Looking ahead, my Office will continue to need extensive support from national partners. Our tracking team is now in contact with a number of other countries in Africa, Europe and North America, and we trust we will receive a positive response to our requests.

As always, we continue to receive excellent support from the Government of Rwanda, including the Minister of Justice, Minister of National Unity and Civic Engagement, Inspector General of Police and Prosecutor General.

In this respect, I would like to take this opportunity to brief you about an issue that is important to victims and survivors of the 1994 Genocide against the Tutsi in Rwanda.

Today, there are still more than 1,000 fugitives wanted by Rwandan prosecutors for crimes committed during the Genocide.



They organized, encouraged, led and assisted mass killings at the local level, including as members of the army, police and civilian leadership.

To escape justice, they lied about their pasts and abused the refugee process to find sanctuary in countries around the world. In their new homes, many continue to promote genocide ideology, encouraging hatred between Hutus and Tutsis.

While tracking our ICTR fugitives, my Office has been uncovering some of these other fugitives, who are enjoying impunity in third countries. We will work with national authorities who are responsible for extraditing or prosecuting them.

States should be concerned that suspected *génocidaires* may be living in their territory. And the refugee process needs to be protected by ensuring that those who abuse it are detected and appropriately dealt with.

My Office will continue to track the remaining ICTR fugitives. While bringing these four fugitives to justice is a critical step, Rwanda will still need assistance from the international community to account for the many other fugitives suspected of genocide.

Madame President, Excellencies,

Recognizing that national courts are continuing the work of the ICTR and ICTY, the Security Council mandated my Office to respond to requests for assistance from domestic investigators and prosecutors around the world. Meeting this mandate continues to be our priority.

As my Office moves closer to completing our last cases and accounting for the final fugitives, it is important to remind ourselves that there remain thousands of cases that still need to be completed in national courts.

I have just mentioned that the Prosecutor General of Rwanda is still seeking to prosecute more than 1,000 fugitives for genocide.

In Bosnia and Herzegovina, Croatia and Serbia, there are still more than 3,000 suspected perpetrators of war crimes, crimes against humanity and genocide to be investigated and prosecuted.

My Office's assistance remains essential to completing this work. Our confidential evidence collection contains more than eleven million pages of testimony, reports and records. By providing access to this evidence, as well as the expert knowledge of our staff, we directly support more justice for more victims.

This is reflected in the numbers of requests for assistance we receive each year. Ten years ago we received approximately 100 requests for assistance. In the last five years, an average of 362 RFAs have been submitted annually.

Recent requests are also of greater complexity and significance.

In light of national war crimes strategies, we anticipate these trends will continue for a number of years to come.

Yet despite the support we are providing, national prosecutors still face other critical challenges.



In the former Yugoslavia, the most significant issue remains regional judicial cooperation.

Cooperation between prosecutors in the region is essential because today, the victims and the perpetrators often live in different countries.

To achieve meaningful justice, cases must then be transferred from the country investigating the crime to the country that can prosecute the suspect.

As my written report details, there are important signs of positive progress in cooperation between Bosnia and Herzegovina, Montenegro and Serbia.

However, prosecutors in the region report that they are not receiving the cooperation they need from Croatia in cases involving Croatian suspects.

I have discussed this matter extensively for the last six years with Croatian Ministers of Justice and other interlocutors.

As Croatian authorities informed me earlier this year, they believe the investigation and prosecution of their nationals is a national security issue. This stance turns justice into a political matter, when it should only be about an impartial judicial assessment of the evidence and the law.

I was informed recently that a few requests from Bosnia and Herzegovina have been unblocked. Yet the backlog is still immense, and even more requests will be submitted in the future. The coming period will show whether there has been meaningful change.

In this context, NGOs and human rights mechanisms have raised further concerns about justice in Croatia. They note that the large majority of cases in Croatia are *in absentia* trials of Serbian nationals, while notable crimes against Serbs have not yet been addressed. Unfortunately, then, few victims receive meaningful justice.

Prior to joining the European Union, Croatia was at the forefront of promoting justice and effective regional judicial cooperation. Regrettably, it is no longer playing that role.

My Office will continue to engage with Croatian authorities to find mutually-acceptable solutions, as our goal is to ensure more victims receive justice.

More broadly, my report again details concerns with the continuing denial of war crimes and glorification of convicted war criminals in the countries of the former Yugoslavia.

In Croatia, the President continued to question that genocide was committed in Srebrenica.

In the Republika Srpska, senior officials, including the Prime Minister, praised convicted ICTY war criminals.

In Serbia, civil society embraces the atmosphere of denial and glorification created by political leaders: more than 150 murals of Ratko Mladić have been counted in Belgrade alone.

These are not the words and acts of the margins, but of the political and cultural centres of the region's societies. The glorification of war criminals and revisionist denials of recent atrocities have been mainstreamed.



My Office will continue to call upon all officials and public figures in the region to act responsibly and put the victims and civilian suffering at the forefront in all activities.

Madame President, Excellencies,

In conclusion, I would like to assure you that my Office remains firmly focused on our mandated functions.

Our prosecutions of the final Mechanism cases are moving forward expeditiously.

We are actively investigating the current whereabouts of the four remaining ICTR fugitives.

And we are providing critical assistance to national authorities who now have primary responsibility to continue the accountability process for crimes committed in Rwanda and the former Yugoslavia.

In all of our efforts, we remain grateful for the support of the Security Council.

Thank you for your attention.

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