

**ADDRESS TO THE UNITED NATIONS GENERAL ASSEMBLY  
JUDGE CARMEL AGIUS, PRESIDENT,  
INTERNATIONAL RESIDUAL MECHANISM FOR CRIMINAL  
TRIBUNALS  
21 October 2020**

**Mr. President,**

**Excellencies,**

**Ladies and Gentlemen,**

It is my privilege to address the General Assembly on behalf of the International Residual Mechanism for Criminal Tribunals. Although this year's circumstances demand a less personal approach than usual, I am no less enthusiastic to be with you today to present the Mechanism's Annual Report and brief you on its most recent activities.

At the outset, allow me to congratulate His Excellency Volkan Bozkir from Turkey on his election as President of the historic seventy-fifth session of this Assembly. Mr. President, I wish you every success in this distinguished office, in particular considering the challenging times we find ourselves in. I also wish to express my sincere gratitude to the United Nations Secretary-General for his steadfast support of the Mechanism's work, as well as the extremely valuable assistance provided by the Legal Counsel and the Office of Legal Affairs.

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**Mr. President,**

Every single one of us, every State and every international organisation, has been affected in some way by the ongoing COVID-19 pandemic, and the Mechanism is no exception. Before the pandemic took hold, the Mechanism was on track to conclude most of its ongoing judicial caseload by the end of this

year. However, as the global health crisis unfolded and as various restrictions and measures were put in place, the envisaged timelines for case completion were interrupted and delayed. Nevertheless, the need to tackle and minimise the impact of the pandemic on the operations of the Mechanism also provided us with an opportunity to demonstrate our resilience, creativity and commitment. I am proud to report that, despite the many challenges presented, the Mechanism remained operational throughout, and undeterred in its commitment to continue delivering results.

Indeed, while most staff transitioned rapidly to remote work arrangements thanks to our outstanding Information Technology Services Section, judicial activity continued outside the courtroom, with Judges and staff making all efforts to ensure continued progress on the existing caseload. Subsequently, as the pandemic eased somewhat mid-year, our facilities management and other sections immediately started to develop and implement measures to provide for a safe gradual return of staff to the premises, and to enable the resumption of in-court proceedings at both branches.

This allowed for some important developments since the submission of the Mechanism's report, which I would like to mention today. First, following the remodelling and technical enhancement of the courtroom in The Hague, to enable remote participation and ensure the health and safety of all present, the Appeal Hearing in the *Mladić* case was successfully held in late August. This was a major logistical feat. Notably, four of the five Judges of the Bench participated by secure video link from two other continents, while one Judge and the parties participated inside the courtroom. Second, court hearings in the *Stanišić & Simatović* case recommenced in September, with the last witness for the Defence being heard two weeks ago, thus bringing the evidentiary hearings of the case to a close. Third, the long-awaited trial in the contempt case against *Turinabo* and others is due to start tomorrow at our Arusha branch, where the courtroom has undergone similar modifications.

I take the opportunity to express my sincerest gratitude to our Judges and wonderful staff, for their tireless work, their dedication and also their ingenuity. They have indeed risen to the challenges of this unprecedented time and ensured that the Mechanism could honour its responsibilities towards the accused and convicted persons, as well as to witnesses and victims.

**Mr. President,**

Another significant highlight during the reporting period, was the issuance of Security Council Resolution 2529 (2020), following the Council's

third review of the Mechanism's work and progress, as well as an evaluation of the Mechanism's methods and work by the Office of Internal Oversight Services. In its Resolution, the Security Council reaffirmed the Mechanism's mandate, and extended the term of the Prosecutor for two more years. Following the adoption of the Resolution, the Secretary-General renewed my own term of office, together with that of the Judges on the Mechanism's judicial roster, and appointed a new Registrar, Mr. Abubacarr Tambadou from The Gambia.

Notably, the Resolution urged Member States to intensify their cooperation with the Mechanism to achieve, among other things, the arrest and surrender of all remaining fugitives indicted by the International Criminal Tribunal for Rwanda.

The crucial importance of such State cooperation was highlighted in May of this year, when the Office of the Prosecutor, in the middle of the global pandemic, managed to secure the arrest of Félicien Kabuga in France, after he had been on the run for more than 20 years. While Mr. Kabuga challenged his transfer into the Mechanism's custody, ultimately the French *Cour de cassation* found that there were no medical or legal reasons to prevent such transfer and rejected his appeal. Immediately afterwards, Mr. Kabuga filed a motion before the Mechanism requesting to be transferred to The Hague rather than Arusha. Earlier today, the Judge seised with that motion ordered that Mr. Kabuga be transferred temporarily to The Hague for the reasons explained in the public decision. Once Mr. Kabuga has been transferred, his initial appearance will take place without delay, in accordance with our Rules of Procedure and Evidence.

Mr. Kabuga's arrest would not have been possible without the outstanding collaboration of law enforcement and judicial authorities of France – as well as Austria, Belgium, Germany, Luxembourg, the Netherlands, Rwanda, Switzerland, the United Kingdom, the United States and others, together with Europol and Interpol. I wish to commend Prosecutor Brammertz and his excellent team for this impressive achievement, which is a prominent example of what can be accomplished when States and international organisations join forces to uphold the rule of law and end impunity for mass atrocity crimes.

Another great example of effective State cooperation is with regard to the enforcement of sentences. I am pleased to share that, since the Mechanism's report was submitted, the Kingdom of Belgium generously agreed to enforce the sentence of another convicted person, who was successfully transferred to

its custody in September. Following this welcome development, 50 individuals convicted by the International Criminal Tribunal for Rwanda, the International Criminal Tribunal for the former Yugoslavia or the Mechanism are currently serving their sentence in the prison facilities of enforcement States. Only two persons await transfer to an enforcement State to serve their sentence – one in the United Nations Detention Facility in Arusha, and one in the United Nations Detention Unit in The Hague.

I praise once again the 15 Member States who are assisting us with the enforcement of sentences imposed by the *ad hoc* Tribunals or the Mechanism. Your assiduous support with this important undertaking allows the Mechanism to fulfil a key part of its mandate, and for this I wholeheartedly thank you. Allow me to add that I am particularly impressed by the efforts made to ensure the health and safety of our convicted persons during the current COVID-19 pandemic, and appreciative of States' fortnightly updates in response to my relevant orders to the Registrar for regular information.

Connected with enforcement issues, and as I noted in my report, earlier this year I issued a revised Practice Direction on applications for pardon, commutation of sentence, or early release of convicted persons, with a view to simplifying and making the process more transparent. However, the legal approach and framework remain the same. Since the close of the reporting period, I have issued three more decisions on early release applications. I continue to take my responsibilities in this regard extremely seriously and to seek a fuller range of relevant information, including on issues of rehabilitation, before making my determination. You will understand that much is at stake when a person convicted of genocide, war crimes or crimes against humanity is released early – not only for the convicted person, but also for victims, communities and whole societies. Therefore, these issues must be decided in accordance with the law, and with the utmost care and fairness.

Returning to the topic of State cooperation, I echo Security Council Resolution 2529 (2020) in urging Member States to keep up the momentum and intensify their support to achieve the arrest and surrender of the remaining fugitives indicted by the International Criminal Tribunal for Rwanda. The Prosecutor and his team are engaging in intensive efforts to find the fugitives, and the Mechanism stands ready to try those whose cases have not already been referred to Rwanda. However, these individuals will only be brought to justice with the sustained assistance and genuine commitment of Member States.

The same Resolution of the Council also emphasises the importance of finding expeditious and durable solutions for the continued dilemma of the acquitted and released persons residing in a safe house in Arusha, and reiterates its call upon Member States to cooperate with and render all necessary assistance to the Mechanism. I take this opportunity to commend Registrar Tambaou for his proactive efforts to resolve the situation since assuming office, and am cautiously optimistic that these may bear fruit.

**Mr. President,**

I am grateful that, for eight years now, the General Assembly has continued to meet annually to discuss the Mechanism's performance in carrying out the essential residual functions of the *ad hoc* Tribunals. Now more than ever, it is apparent that international criminal justice still requires the international community's attention and unwavering commitment. For this reason, I am particularly heartened by Member States' reaffirmation of their collective commitment to multilateralism, 75 years after the United Nations was established. In my role as President, I am ever mindful that the Mechanism is the product of such multilateralism, and of a strong and resolute United Nations that had the courage to take action when needed. First, in breaking new ground by establishing the *ad hoc* Tribunals way back in 1993 and 1994, respectively, and subsequently, by creating in 2010 a residual mechanism to follow through and conclude their work.

This year also provided us with a sad reminder of what can happen when the international community stands by, powerless to take unified action. Indeed, July 2020 marked twenty-five years since the genocide in Srebrenica, and the Mechanism took part in commemorative events honouring the victims of those unspeakable crimes. However, 2020 also marks 25 years of peace in the Balkans, following the signing of the Dayton Peace Agreement, which effectively ended the war and provided for a measure of stability that continues to date.

While such instances demonstrate that multilateralism will always be a crucial component of any peaceful world order, I am acutely conscious of the Mechanism's own responsibilities in promoting and advancing the principles and purposes embedded in this Organisation's founding Charter, which has endured the test of time for seven and a half decades. And I am proud that one of the lasting contributions of the Mechanism and its predecessor Tribunals is

the establishment of a network of accountability, which reaches all corners of the world and has the potential to make justice an everyday reality within domestic legal systems.

Of course, the judgements of an international criminal court or tribunal can never heal the deep wounds inflicted by the horrors of war. It falls to Member States to provide justice on a national level, to reconcile fractured societies, and to combat the forces of revisionism. Nevertheless, international justice mechanisms play a crucial role in ensuring sustainable peace, and they – we – will continue to require your support.

In closing, I can assure this Assembly that the Mechanism's Judges and staff remain determined to see through, until the end, the solemn mandate entrusted to us by the United Nations. In doing so, we will continue to rely upon your sustained cooperation and assistance, and we look forward to sharing in the ultimate success of this joint endeavour.

Thank you very much and please stay safe.