

**Security Council**

Distr.: General  
20 May 2019

Original: English

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**Letter dated 20 May 2019 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council**

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Residual Mechanism for Criminal Tribunals, submitted pursuant to paragraph 16 of Security Council resolution [1966 \(2010\)](#).

I should be grateful if you would have the present letter and its annexes circulated to the Security Council.

*(Signed)* Carmel Agius  
President



**Annex I**

[Original: English and French]

**Assessment and progress report of the President of the International Residual Mechanism for Criminal Tribunals, Judge Carmel Agius, for the period from 16 November 2018 to 15 May 2019**

1. The present report, the fourteenth in a series, is submitted pursuant to Security Council resolution [1966 \(2010\)](#), by which the Council established the International Residual Mechanism for Criminal Tribunals and, in paragraph 16 of that resolution, requested the President and the Prosecutor of the Mechanism to submit reports every six months to the Council on the progress of the work of the Mechanism.<sup>1</sup> Certain information contained in the present report is also submitted pursuant to paragraph 20 of Council resolution [2256 \(2015\)](#) and paragraph 9 of Council resolution [2422 \(2018\)](#).

**I. Introduction**

2. The International Residual Mechanism was established by the Security Council to carry out a number of essential residual functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, which closed in 2015 and 2017, respectively. In accordance with article 3 of the statute of the Mechanism (see Security Council resolution [1966 \(2010\)](#), annex 1), the Mechanism comprises two branches: one located in Arusha, United Republic of Tanzania, and the other in The Hague, Netherlands.

3. The Mechanism commenced operations at its Arusha branch on 1 July 2012, assuming functions derived from the International Criminal Tribunal for Rwanda, while its branch in the Hague commenced operations on 1 July 2013, assuming functions derived from the International Tribunal for the Former Yugoslavia. Following the closure of the latter Tribunal on 31 December 2017, the Mechanism became a fully fledged and self-standing institution on 1 January 2018. Pursuant to resolution [1966 \(2010\)](#), the Mechanism was tasked to operate for an initial period of four years and, subsequently, for periods of two years, following reviews of its progress, unless the Council decides otherwise.

4. In accordance with the mandate of the Mechanism, and as set forth below, its residual functions include a wide range of judicial activities, the enforcement of sentences of persons convicted by the two Tribunals or the Mechanism, the trial of fugitives who are among the most senior leaders suspected of being primarily responsible for crimes under the jurisdiction of the Mechanism, the protection of victims and witnesses who have given evidence before the Tribunals and the Mechanism, and the management and preservation of archives.

5. The reporting period was a particularly busy and significant one for the Mechanism in terms of its continued judicial activity, with the conclusion of the appeal proceedings in *Prosecutor v. Radovan Karadžić* representing an important further step towards the completion of its mandate. The appeal judgment in the *Karadžić* case was delivered on 20 March 2019. Proceedings are ongoing in the trial case of *Prosecutor v. Jovica Stanišić and Franko Simatović*, the appeal case of *Prosecutor v. Ratko Mladić*, the multi-accused contempt case of *Prosecutor v. Maximilien Turinabo et al.* and a host of other judicial matters, including in relation

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<sup>1</sup> Unless otherwise specified, the figures discussed in the present report are accurate as at 15 May 2019.

to the enforcement of sentences. The pending review hearing in the case of *Prosecutor v. Augustin Ngirabatware* is expected to take place in September 2019. Alongside this judicial activity, the Mechanism made important advances during the reporting period in relation to its other residual functions, further developed its legal and regulatory framework and continued its efforts to implement the recommendations of the Office of Internal Oversight Services (OIOS) (see paras. 137–142 below).

6. In addition, the reporting period was one of change, with Judge Carmel Agius (Malta) assuming the presidency on 19 January 2019, thereby taking over from Judge Theodor Meron (United States of America), who had served as President for more than six and a half years since the inception of the Mechanism in 2012. The Mechanism wishes to thank Judge Meron and to pay tribute to his dedication and leadership in guiding the Mechanism through its crucial first years. Details regarding the main priorities of President Agius are provided below.

7. Despite the progress made during the reporting period, the Mechanism continued to face numerous challenges in the wake of its budget proposal for the biennium 2018–2019, which was approved in significantly reduced form only in July 2018, following an initial rejection by the General Assembly in December 2017. The impact of the budgetary reductions on staffing, non-post resources and other aspects of the Mechanism’s operations is detailed below. Notwithstanding those challenges, the Mechanism is committed to concluding all remaining judicial work and fulfilling its mandate as efficiently and effectively as possible, bearing in mind the need to ensure due process and the fundamental rights of the accused and convicted persons subject to its jurisdiction.

8. Indeed, the Mechanism remains cognisant of the nature of its mandate as a judicial institution and, in particular, the vision of the Security Council, as set out in its resolution 1966 (2010), of a “small, temporary and efficient structure, whose functions and size will diminish over time, with a small number of staff commensurate with its reduced functions”. Under the guidance of the new President, the Mechanism is therefore focused on identifying areas in which greater efficiencies can be achieved and on harmonizing and streamlining operations, procedures and working methods across the two branches.

9. Wherever possible, the present report provides detailed projections of the duration of residual functions entrusted to the Mechanism, in accordance with Security Council resolutions 2256 (2015) and 2422 (2018). Such projections are based on data available to date and, as a consequence, may be subject to modification in the event of evolving circumstances.

## **II. Structure and organization of the mechanism**

### **A. Organs and principals**

10. Article 4 of the statute of the Mechanism provides that the Mechanism shall consist of three organs: the Chambers; the Prosecutor; and the Registry, to provide administrative services for the Mechanism. The workloads of the Chambers and the Registry are discussed below.

11. In accordance with its statute, the Mechanism has a single set of principals – the President, the Prosecutor and the Registrar – who have responsibility over the branches in Arusha and The Hague.

12. The new President of the Mechanism, Judge Carmel Agius, is based at the branch in The Hague. Judge Agius was appointed to serve as President from 19 January 2019, following the completion of the term of his predecessor, Judge

Theodor Meron, on 18 January 2019. The Prosecutor, Serge Brammertz, and the Registrar, Olufemi Elias, are based at the Arusha branch. In December 2018, Registrar Elias was reappointed to a new term with effect from 1 January 2019. The current terms of all three principals run until 30 June 2020.

## B. New presidency

13. Upon assuming leadership of the Mechanism in January 2019, and having examined carefully Security Council resolutions [2256 \(2015\)](#) and [2422 \(2018\)](#), statements made by States Members of the United Nations and the President of the Security Council, recommendations by OIOS and concerns expressed by Mechanism staff, the new President announced the three main priorities of his presidency. These are: (a) to ensure that the residual judicial proceedings of the Mechanism are concluded efficiently and in a timely manner, while ensuring due process and the fundamental fair trial rights of the accused; (b) to enhance the unique mandate of the Mechanism through a unified work culture, better inter-branch coordination and the harmonization of practices and procedures at both the Arusha branch and the branch in The Hague; and (c) to foster a work environment that encourages high staff morale and performance.

14. Further, having joined the Prosecutor and the Registrar of the Mechanism as a member of the International Gender Champions network, the President pledged to take action on gender issues within the Mechanism and in particular to: (a) intensify efforts against sexual harassment at the Mechanism, in line with General Assembly resolution [73/148](#) on sexual harassment, and remove or minimize any barriers to reporting sexual harassment or discrimination in the branches in Arusha and The Hague; and (b) periodically assess the internal policies and procedures of the Mechanism to ensure that they promote equity and protection for all, and fully support the gender focal points of the Mechanism in all their activities. The President is also committed to addressing the concerning results of staff surveys regarding discrimination, sexual harassment, harassment and abuse of authority within both the Mechanism and the United Nations more generally.<sup>2</sup>

15. In addition to those priorities, which relate primarily to the internal functioning of the Mechanism, the new President announced his intention to do his utmost to ensure a fiscally responsible budget submission for 2020 and to foster stronger relationships between the Mechanism and the Governments and peoples of Rwanda and the States of the former Yugoslavia, respectively. With the latter aim in mind, the President undertook his first official visit to Rwanda in April 2019, timed to coincide with the twenty-fifth commemoration of the 1994 genocide against the Tutsi in Rwanda, where he met with high-level government officials and members of civil society, including representatives of victims. The President intends to pay similar visits to Bosnia and Herzegovina, Croatia and Serbia during his presidency.

16. Soon after commencing his new role, the President, together with the Prosecutor and the Registrar, held a town hall meeting with Mechanism staff in The Hague and hosted a diplomatic briefing for members of the diplomatic corps accredited to the Netherlands, in order to share with them his main leadership priorities. In early March 2019, the President hosted the Mechanism's second in-person plenary of the judges at the Arusha branch, following which he and the other principals met with the Arusha branch staff. During the same week, the President and the Registrar carried out an official mission to Dar-es-Salaam, United Republic of Tanzania, that included high-

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<sup>2</sup> See [www.ccisua.org/wp-content/uploads/2019/02/CCISUA-prohibited-conduct-survey-results-report.pdf](http://www.ccisua.org/wp-content/uploads/2019/02/CCISUA-prohibited-conduct-survey-results-report.pdf) and [https://iseek-newyork.un.org/system/files/un\\_safe\\_space\\_survey\\_report\\_15\\_january\\_2019\\_final.pdf](https://iseek-newyork.un.org/system/files/un_safe_space_survey_report_15_january_2019_final.pdf).

level meetings and a diplomatic briefing for members of the diplomatic corps accredited to the United Republic of Tanzania. In the first two months of his presidency, the President held more than 40 bilateral meetings with representatives of the diplomatic corps and international organizations in both host States.

### C. Judges

17. Article 8 (1) of the statute of the Mechanism provides that the Mechanism shall have a roster of 25 independent judges. Pursuant to article 8 (3), the judges shall travel to Arusha or The Hague only when necessary, as requested by the President. Further, insofar as possible, and as decided by the President, the judges shall carry out their functions remotely. Pursuant to article 8 (4), the judges of the Mechanism are not remunerated for being on the roster, but rather receive compensation only for the days on which they are called to exercise their functions.

18. Several changes to the roster of judges have taken place in recent months. As previously reported, in June 2018, the Secretary-General reappointed 23 of the 25 Mechanism judges for a new two-year term, with effect from 1 July 2018 to 30 June 2020. During the present reporting period, the two remaining judicial vacancies were filled, with Judge Yusuf Aksar (Turkey) and Judge Mustapha El Baaj (Morocco) being elected by the General Assembly to the judicial roster of the Mechanism on 21 December 2018 and 15 January 2019, respectively.

19. In addition, following the sad passing of Judge Mparany Mamy Richard Rajohnson (Madagascar) on 2 October 2018, Judge Mahandrisoa Edmond Randrianirina (Madagascar) was appointed by the Secretary-General on 28 January 2019 to serve the remainder of Judge Rajohnson's term of office as a Mechanism judge.

20. Further, Judge Christoph Flügge (Germany) resigned as a judge of the Mechanism on 7 January 2019 and was replaced on the roster by Judge Claudia Hofer (Germany), effective 21 February 2019. Judge Hofer was appointed by the Secretary-General to serve the remainder of Judge Flügge's term of office. Given his departure during the reporting period, the Mechanism takes this opportunity to acknowledge the outstanding contribution made by Judge Flügge to the Mechanism and to international criminal justice more broadly. It also welcomes all new judges who have been appointed in the past six months. The Mechanism further notes that the appointment of Judge Hofer to the roster brings the number of women judges to 6 out of 25 judges. While this is an improvement, it is apparent that more needs to be done to improve gender parity at the highest levels, including by the nominating States.

21. The current roster of Mechanism judges comprises (in order of precedence): Judge Carmel Agius, President (Malta), Judge Theodor Meron (United States of America), Judge Jean-Claude Antonetti (France), Judge Joseph Edward Chiondo Masanche (United Republic of Tanzania), Judge William Hussein Sekule (United Republic of Tanzania), Judge Lee Gacuiga Muthoga (Kenya), Judge Alphonsus Martinus Maria Orié (Netherlands), Judge Burton Hall (Bahamas), Judge Florence Rita Arrey (Cameroon), Judge Vagn Prusse Joensen (Denmark), Judge Liu Daqun (China), Judge Prisca Matimba Nyambe (Zambia), Judge Aminatta Lois Runeni N'gum (Gambia), Judge Seon Ki Park (South Korea), Judge José Ricardo de Prada Solaesa (Spain), Judge Gberdao Gustave Kam (Burkina Faso), Judge Ben Emmerson (United Kingdom of Great Britain and Northern Ireland), Judge Graciela Susana Gatti Santana (Uruguay), Judge Ivo Nelson de Caires Batista Rosa (Portugal), Judge Seymour Panton (Jamaica), Judge Elizabeth Ibanda-Nahamya (Uganda), Judge Yusuf

Aksar (Turkey), Judge Mustapha El Baaj (Morocco), Judge Mahandrisoa Edmond Randrianirina (Madagascar) and Judge Claudia Hoefler (Germany).

22. On 4 and 5 March 2019, the new President convened an in-person plenary of judges at the Mechanism's premises in Arusha. This was only the second in-person plenary session to be held since the inception of the Mechanism in 2012 and the first to take place in Arusha. During the plenary, the judges discussed issues pertaining to the work of the Chambers and the legal framework and internal functioning of the Mechanism, as well as other current priorities of the institution. In addition, they adopted an amendment to the Rules of Procedure and Evidence of the Mechanism. The Mechanism wishes to thank the Security Council and other stakeholders for their support in facilitating the timely appointment of new judges during the reporting period, thereby enabling their attendance at the plenary and their participation in those important discussions. The Mechanism further highlights the great benefits of such periodic in-person encounters, given its unique working methods and remote system of judges.

23. Lastly, pursuant to his discretion under article 12 (2) of the statute of the Mechanism, the President continued to assign, on an alternating basis, Judge Vagn Prüsse Joensen (Denmark) and Judge William Sekule (United Republic of Tanzania) as duty judges at the Arusha branch. This decision maximizes efficiency, given that both judges reside in the United Republic of Tanzania and their assignment as duty judge requires no remuneration for additional duties performed for the Mechanism.

#### **D. The branches**

24. While the Mechanism operates as a single institution, in accordance with article 3 of its statute, the Mechanism has two branches, with seats in Arusha and The Hague, respectively. The Mechanism continues to enjoy excellent cooperation with the host State at each of the two branches, in accordance with the headquarters agreement in place for each branch.

25. As noted above, in order to enhance efficiency and streamline the operations of the Mechanism, the new President has made it one of his core priorities to improve inter-branch coordination and the harmonization of practices and procedures at the Mechanism. While progress has already been made in that regard, the Mechanism will continue to identify and address areas for improvement across all sections. In particular, since the commencement of the new presidency, the Office of the President and the Registry have been working together to explore methods by which further efficiencies can be achieved, including through the implementation of harmonized filing practices and policies, the shared use of a common software programme for filing, the alignment of standard court procedures and the provision of increased cross-branch training for critical and specialized roles. The President has emphasized to all staff members that, while there are challenges that are specific to the Arusha branch and the branch in The Hague, the Mechanism must function as one institution, reinforcing the importance of inter-branch cooperation and that both branches are equally crucial to its mandate.

26. The new premises of the Arusha branch have been in use since 5 December 2016. During the reporting period, the Arusha branch hosted status conferences in its new courtroom in the *Turinabo et al.* case on 13 December 2018 and 14 March 2019. While the large number of accused persons and counsel initially presented challenges for the existing space, the courtroom has since been reconfigured to accommodate the proceedings in the *Turinabo et al.* case. Regarding the premises as a whole, as previously reported, the post-construction phase of the project is nearing completion and focuses on the transition from project management to facilities management, the

final closure of the project account and the correction of technical defects in the archives building. Notwithstanding those technical defects, the archives building continues to house 95 per cent of the archive holdings of the Arusha branch. The Mechanism remains focused on the appropriate recovery of direct and indirect costs arising from errors and delays where economically feasible to do so, pursuant to General Assembly resolution 73/288, as well as on implementing remedial works. The Mechanism continues to be grateful to the United Republic of Tanzania for its generous and steadfast support throughout this construction project.

27. The branch at The Hague and the International Tribunal for the Former Yugoslavia shared premises until the closure of the Tribunal on 31 December 2017. In April 2019, the host State acquired the premises, which will allow the Mechanism to remain in its current location. Negotiations with the host State on the future lease, which will take into account the reduced occupancy requirements of the Mechanism, will commence in due course. The Mechanism is equally grateful for the long-standing commitment and outstanding support of the Netherlands for its work and activities.

28. In addition to its branches in Arusha and The Hague, the Mechanism has two field offices. Its field office in Kigali, Rwanda continues to provide essential support to the Registry, the Office of the Prosecutor (the Prosecution) and the Defence in relation to the review proceedings in the *Ngirabatware* case and the ongoing contempt proceedings in the *Turinabo et al.* case. The Kigali field office also continues to provide protection and support services to witnesses, including liaising with relevant national and local governmental bodies on those issues and providing medical and psychosocial services to witnesses through its medical clinic. Further, it facilitates the activities of the monitors of cases of the International Criminal Tribunal for Rwanda that have been referred to Rwanda, pursuant to article 6 of the statute of the Mechanism.

29. The field office in Sarajevo, for which the Mechanism assumed full responsibility following the closure of the International Tribunal for the Former Yugoslavia, continues to provide essential support to witnesses in relation to the ongoing *Stanišić and Simatović* case. It also continues to provide protection and support services to witnesses who have previously been called to appear before the Tribunal or the Mechanism and liaises with national and local authorities on those issues. The Sarajevo field office further facilitates requests for variation of witness protective measures in support of national prosecutions of individuals allegedly implicated in the conflicts in the former Yugoslavia.

## **E. Administration, staffing and budget**

30. As at 1 January 2018, the Mechanism's administration has been fully self-standing. Administrative staff are present at both branches and work across branches to provide the Mechanism with the full spectrum of administrative services needed.

31. As at 1 May 2019, 168 of the 186 continuous posts approved to carry out the Mechanism's continuous functions were occupied. An additional 348 personnel are serving as general temporary assistance to assist with ad hoc needs, including judicial work and litigation issues. Those positions are short-term in nature and, consistent with the flexible staffing structure of the Mechanism, the number of such staff will fluctuate depending on the workload. Details concerning the staffing by division of the Mechanism are provided in enclosure 1.

32. The Mechanism's continuous and general temporary assistance positions included nationals of 70 States, namely, Algeria, Australia, Austria, Belgium, Bosnia

and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, China, Croatia, Cuba, Cyprus, Czechia, the Democratic Republic of the Congo, Denmark, Egypt, Fiji, Finland, France, Germany, Ghana, Greece, Guatemala, Haiti, India, Indonesia, Iraq, Ireland, Italy, Jamaica, Kenya, Latvia, Lebanon, Lesotho, Liberia, Madagascar, Malta, Mexico, Morocco, Nepal, the Netherlands, New Zealand, the Niger, Nigeria, North Macedonia, Pakistan, the Philippines, Poland, the Republic of Korea, Romania, the Russian Federation, Rwanda, Senegal, Serbia, Sierra Leone, South Africa, Spain, the Sudan, Sweden, Thailand, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, the United States of America, Zambia and Zimbabwe.

33. Averaged across the two branches, 50 per cent of Professional staff members at the Mechanism are women, which the Mechanism is pleased to note is in line with the gender parity goals set by the Secretary-General. However, the Mechanism wishes to provide as much information as possible and acknowledges also the relevant findings by OIOS set forth in its 2018 evaluation report on the methods and work of the Mechanism (see [S/2018/206](#), paras. 35–36). In that respect, the Mechanism notes that when General Service staff are also taken into account, the average percentage of women staff members is unfortunately lower, with a total of 42 per cent overall. Further, when the Mechanism's gender statistics are disaggregated by branch and field office, it is apparent that women are underrepresented in certain locations. While as a downsizing institution, the Mechanism is constrained in its ability to tackle this problem, it is aware that more can and must be done and is committed to doing its utmost to improve gender balance within its ranks.

34. To provide information and address possible issues that may arise in the workplace, the Mechanism has in place focal points for gender issues; sexual exploitation and abuse issues; diversity and inclusion issues, including lesbian, gay, bisexual, transgender and intersex issues; and disability and accessibility issues.

35. The President and other principals, together with the staff union and gender focal points, are actively exploring ways in which gender parity can be addressed. Similarly, the principals and staff union are working together to address the results of the staff surveys on discrimination, sexual harassment, harassment and abuse of authority mentioned above. During the reporting period, mandatory diversity and inclusion workshops for all Mechanism staff members were introduced, with the Arusha staff undergoing training in May 2019 and training for the staff in The Hague scheduled to take place later in the year. The learning modules were developed by "UN for All" and address disability, sexual orientation and gender identity, and substance misuse, in relation to United Nations workplace policies and practices.

36. The gender focal points support the Registrar and management to achieve gender equality at the Mechanism and provide counselling and advice to staff on issues affecting career development or conditions of service. During the reporting period, the gender focal points were involved in the following key areas: (a) reviewing recruitment at the Mechanism to identify areas where gender parity can be improved; (b) briefing new staff members and interns on the role of the gender focal points and the United Nations policy on sexual harassment; and (c) updating the website of the gender focal points to ensure that staff can easily find current information.

37. In addition, as part of their ongoing activities in promoting an equal, inclusive and supportive work environment at the Mechanism, the gender focal points organized events marking International Women's Day on 8 March 2019. The Arusha branch event was attended by more than 60 students from three local girls' high schools, students from the Tumaini University Makumira in Arusha and representatives of local non-governmental organizations. In The Hague, more than 80 representatives of the diplomatic community, international organizations (including



international courts and tribunals) and non-governmental organizations attended an event at the Mechanism's premises entitled "Efforts to end impunity: national and international prosecution of sexual and gender- based crimes".

38. Regarding the budget, the Mechanism continues to operate under its revised and significantly reduced budget for the 2018–2019 biennium (\$196,024,100 gross). It is recalled that that budget was approved by the General Assembly in its resolution 72/258 B, thereby replacing the commitment authority that had initially been granted in an amount not to exceed \$87,796,600 gross for the maintenance of the Mechanism from 1 January to 31 December 2018 by the Assembly in its resolution 72/258 A.

39. It is also recalled that, in order to implement the decisions of the General Assembly, the Registry developed an expenditure reduction plan to reduce the size of its staff as well as a number of non-post resources. The Mechanism continues to implement this expenditure reduction plan in order to fulfil the core elements of its mandate – mainly judicial activity, including the multi-accused *Turinabo et. al* case in Arusha – to the greatest extent possible while respecting the approved budget. As a result, reductions have been made and continue to be made in both post and non-post resources.

40. As previously reported, in order to manage the post reductions, the Registrar adopted a streamlined downsizing policy for exigent circumstances in early 2018, through which a considerable number of general temporary assistance positions were abolished. Subsequently, the Registrar adopted a general downsizing policy on 26 June 2018, building upon lessons learned during the downsizing at the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. In accordance with that downsizing policy, post reductions have taken place and further reductions are scheduled for the next reporting period. Moreover, the general downsizing policy is currently being updated to guide further downsizing of staff in 2020 and beyond. Both of the policies were based on proposals by the Joint Negotiating Committee, which serves as an advisory body to the Registrar and is comprised of management and staff union representatives.

41. In terms of non-post resources, the Mechanism's general operating expenses have been significantly reduced and remain at this level. The reductions were achieved through measures such as reducing access to the premises for staff at evenings and weekends, reconfiguring the housing of staff at the premises in The Hague to reduce the number of floors in use (thereby saving on the costs of utilities and services) and revising arrangements for the delivery of other services such as information technology, internal mail and cleaning services. The Mechanism continues to explore ways to further reduce its general operating expenses.

42. Details and a breakdown of the Mechanism's costs, presented in terms of funds committed, are provided in enclosure 2.

## **F. Legal and regulatory framework**

43. In addition to its statute, the Mechanism has developed over the years a legal structure governing its activities, which comprises its Rules of Procedure and Evidence as well as Practice Directions and other internal policies. During the reporting period, the Mechanism continued to develop rules, procedures and policies that harmonize and build upon the best practices of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, as well as its own practice, in order to more efficiently and effectively carry out its mandate.

44. At the plenary session held on 4 and 5 March 2019, the judges of the Mechanism agreed on amendments to rules 42 (C) and 43 (A) of the Rules of Procedure and Evidence of the Mechanism. In accordance with article 13 of the statute, those amendments were reported by the President to the President of the Security Council on 13 March 2019. The amendments can be found within the revised version of the Rules of Procedure and Evidence, document number MICT/1/Rev.5, which is publicly accessible on the Mechanism website.

45. On 5 December 2018, the Rules Governing the Detention of Persons Awaiting Trial or Appeal Before the Mechanism or Otherwise Detained on the Authority of the Mechanism (Rules of Detention) came into force. The rules had been adopted by the then-President on 5 November 2018. Also on 5 December 2018, the Registrar issued a number of detention-related regulations governing the supervision of visits to and communication with detainees, the disciplinary procedure for detainees and the complaints procedure for detainees. The Rules of Detention and regulations governing detention matters apply to both branches of the Mechanism and draw upon the best practices of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, as well as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) (General Assembly resolution [70/175](#), annex).

46. In addition, during the reporting period, a number of Practice Directions were formally revised by the President, following consultation with the Prosecutor and the Registrar. Amendments were made to the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence, and Early Release of Persons Convicted by the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia, or the Mechanism; and the Practice Direction on Formal Requirements for Requests for Review of Administrative Decisions. Minor amendments were also made to three other Practice Directions issued by the President as well as the Code of Professional Conduct for the Judges of the Mechanism, in order to reflect the full title of the Mechanism, while further documents were simply republished without requiring formal revision. Similarly, in January 2019, the Registrar revised 17 policy instruments to reflect the Mechanism's full title.

47. During the reporting period, the Registry, in consultation with the President, drafted a new Practice Direction relating to the support and protection of victims and witnesses. This draft Practice Direction regulates the Registry's witness management operations and incorporates gender-sensitive and gender-appropriate approaches. Gender considerations will also be reflected in lower-level instruments that continue to be reviewed and amended, as required, over the course of the next few months. In addition, consultations regarding the proposed amendments to the Code of Professional Conduct for Defence Counsel Appearing Before the Mechanism are ongoing. The proposed amendments are aimed at further clarifying the obligations of defence support staff.

48. The legal and regulatory instruments, policies, internal guidelines and operating procedures in effect at the Mechanism provide important clarity and transparency for stakeholders across a broad range of the Mechanism's mandated functions.

### **III. Judicial activities**

49. During the reporting period, the Mechanism was seized of a number of complex judicial matters. The President and the judges continued to engage in a wide variety of judicial activity, issuing 225 decisions and orders since the previous reporting date. In accordance with article 8 (3) of the statute of the Mechanism, judicial activity was

primarily carried out remotely. To the extent possible, in assigning matters to judges, the President endeavoured to ensure an equitable distribution of workload. All of the judges on the roster are collectively supported by a Chambers team of 27 staff, comprising 23 legal staff and four administrative assistants, serving at both branches of the Mechanism.

50. Of the 225 decisions and orders issued during the reporting period, 142 (or approximately three in five) related not to the adjudication of the core crimes enumerated in the statute of the Mechanism but rather to the adjudication of requests pertaining to the protection of victims and witnesses, assistance to national jurisdictions, the enforcement of sentences and the investigation and trial of allegations of false testimony or contempt, as well as the management of the work of Chambers and the judicial review of administrative decisions. All such matters were adjudicated by the President, by single judges working remotely or by the presiding judge in a pending case.

51. Chambers leadership continues to undertake efforts to streamline internal working methods and processes within Chambers and, in collaboration with other sections of the Mechanism, to further facilitate the maintenance of an efficient and transparent one-office work environment that draws on the resources available at both branches to address judicial workload wherever arising. Moreover, the judges, whose legal backgrounds are roughly evenly split between civil and common law, continue to draw on their expertise and knowledge in the adjudication of the various matters to which they are assigned.

52. With respect to the core crimes enumerated in the statute of the Mechanism, during the reporting period, the judges continued their work on a trial, appeals and a request for review, as set forth below.

53. In the *Stanišić and Simatović* case, the trial commenced on 13 June 2017 and the Prosecution's case concluded on 21 February 2019. The Trial Chamber heard submissions on the request by Franko Simatović for judgment of acquittal on 26 and 28 February 2019 and dismissed the request on 9 April 2019. The pre-Defence conference is scheduled for 30 May 2019, and the Defence case will commence on 18 June 2019. According to the presiding judge, it is anticipated that the case will be concluded and the trial judgment delivered by the end of 2020. At the current stage of the proceedings, the three judges on the bench in this case are carrying out their work at the seat of the Mechanism in The Hague.

54. As noted earlier, the *Karadžić* case was concluded during the reporting period. Both Radovan Karadžić and the Prosecution had appealed against the judgment issued on 24 March 2016 by a Trial Chamber of the International Tribunal for the Former Yugoslavia, in which the Trial Chamber had found Mr. Karadžić guilty of genocide, crimes against humanity and violations of the laws or customs of war and had sentenced him to 40 years of imprisonment. In their notices of appeal, filed on 22 July 2016, Mr. Karadžić and the Prosecution presented a total of 54 grounds of appeal. Citing the unprecedented breadth and complexity of the case, the parties requested the Appeals Chamber to grant extensions of time for the briefing process. The Appeals Chamber partly granted the requests and, after 217 days of extensions of time, the briefing process concluded on 6 April 2017. An appeal hearing was held on 23 and 24 April 2018, and the case was expected to be completed in December 2018, significantly earlier than had been projected initially. However, following the motion by Mr. Karadžić for the disqualification of a judge from the bench, the judge withdrew from the case on 27 September 2018, explaining that to do so was in the interests of justice in order not to allow the disqualification proceedings to impede the progress of the appeals in the case. On the same day, another judge was assigned to fill the vacancy on the bench.

55. The President wishes to commend Judge Vagn Prüsse Joensen (Denmark), who took over as the presiding judge in the *Karadžić* case following this change in the bench, as well as Judge Ivo Nelson de Caires Batista Rosa (Portugal) who, following his assignment, quickly took up the complex and large responsibilities entrusted to him at such a late stage. Thanks to their efforts and professionalism and that of all the judges on the bench as well as the Chambers team, the appeal judgment was delivered without much delay, despite the challenges encountered.

56. The Appeals Chamber delivered its judgment in the *Karadžić* case on 20 March 2019, reversing in part some of Mr. Karadžić's convictions on the basis of certain incidents while affirming his remaining convictions for genocide, persecution, extermination, murder, deportation and other inhumane acts (forcible transfer) as crimes against humanity, as well as for murder, terror, unlawful attacks on civilians and hostage-taking as violations of the laws or customs of war, in relation to his participation in four joint criminal enterprises. The Appeals Chamber found that the Trial Chamber had abused its discretion in imposing a sentence of only 40 years of imprisonment and instead imposed on Mr. Karadžić a sentence of life imprisonment. Apart from the appeal hearing, in-person deliberations, status conferences and the pronouncement of the judgment, all of the judges on the bench in this case carried out their work remotely.

57. The appeal proceedings in the *Mladić* case remain ongoing. On 22 November 2017, a Trial Chamber of the International Tribunal for the Former Yugoslavia issued its judgment against Ratko Mladić, finding him guilty of genocide, crimes against humanity and violations of the laws or customs of war and sentencing him to life imprisonment. Citing the extraordinary breadth and complexity of the case, the length of the trial judgment, the lack of defence resources, and intended medical and legal filings, Mr. Mladić requested the Appeals Chamber to extend the deadlines for the briefing process. The Appeals Chamber partly granted the requests, allowing a total of 210 days of extensions of time. Both Mr. Mladić and the Prosecution filed their notices of appeal on 22 March 2018, their appeal briefs on 6 August 2018 and their responses on 14 November 2018. The briefing concluded during the reporting period with the filing of the reply briefs by both parties on 29 November 2018. Following disqualification motions brought by Mr. Mladić, three judges were disqualified from the bench in this case on 3 September 2018 owing to the appearance of bias and were replaced. However, the replacement of the judges is not expected to delay the proceedings and, according to the presiding judge, it is anticipated that the *Mladić* case will be concluded and the appeal judgment delivered by the end of 2020. Apart from the presence of the presiding judge during status conferences, all of the judges on the bench in the *Mladić* case are carrying out their work remotely. A status conference was held during the reporting period, on 18 February 2019, and the next status conference has been scheduled for 13 June 2019.

58. Regarding the *Ngirabatware* case, on 8 July 2016, Augustin Ngirabatware filed a request for review of the appeal judgment delivered in his case on 18 December 2014 by the Appeals Chamber of the International Criminal Tribunal for Rwanda. On 19 June 2017, the Appeals Chamber of the Mechanism granted Mr. Ngirabatware's request for review. As described in previous reports, this decision was delayed owing to the inability of a member of the bench to exercise his judicial functions in the case until his provisional release from detention on 14 June 2017. In addition, during the previous reporting period, the replacement of Mr. Ngirabatware's counsel and the disclosure of voluminous material related to the *Turinabo et al.* case resulted in the postponement of the review hearing, which had previously been scheduled for September 2018. During the present reporting period, on 7 December 2018, the Appeals Chamber ordered that the review hearing be held in September 2019, considering that the exceptional circumstances of the case justified an extension of

time to allow Mr. Ngirabatware to conduct further preparations. It is therefore currently expected that the review hearing in the *Ngirabatware* case will take place in September 2019. At the present stage of the proceedings, all of the judges on the bench in this case are carrying out their work remotely.

59. In addition to the above proceedings relating to core crimes enumerated in the statute of the Mechanism, during the reporting period, the Mechanism was seized of six matters pertaining to allegations of false testimony or contempt, four of which remain confidential and *ex parte*. Notably, a single judge is conducting pretrial proceedings in the *Turinabo et al.* case, which relates to allegations of interference with the *Ngirabatware* case, currently on review. The five accused persons, namely, Maximilien Turinabo, Anselme Nzabonimpa, Jean de Dieu Ndagijimana, Marie Rose Fatuma and Dick Prudence Munyeshuli, were arrested in Rwanda on 3 September 2018 and transferred to the Mechanism's Arusha branch on 11 September 2018. The accused pleaded not guilty to all counts at their initial appearance on 13 September 2018. Following extensive submissions, the single judge decided on 7 December 2018 that it was not in the interests of justice and expediency to refer the case to Rwanda and that it should instead be tried before the Mechanism. Two status conferences were held in Arusha on 13 December 2018 and 14 March 2019, respectively. A further status conference is scheduled for 4 June 2019. According to the presiding judge, it is currently anticipated that the trial in the *Turinabo et al.* case will commence in the second half of 2019 and conclude by June 2020.

60. The contempt case of *Prosecutor v. Petar Jojić and Vjerica Radeta*, which was transferred from the International Tribunal for the Former Yugoslavia to the Mechanism on 29 November 2017, was referred to the authorities of Serbia for trial by order of a single judge on 12 June 2018. The *amicus curiae* prosecutor in the case appealed against the order of referral. On 12 December 2018, the Appeals Chamber found that the *amicus curiae* prosecutor had not raised before the single judge the issue of "the unwillingness of the witnesses to testify if the case is tried in Serbia" and remanded the matter for consideration of further submissions on that issue. On 13 May 2019, the single judge issued a decision revoking the referral order and requesting Serbia to transfer the accused to the Mechanism without delay. On the same day, the single judge issued new international arrest warrants, directed to all States Members of the United Nations, for the arrest, detention and transfer to the custody of the Mechanism of the accused, Petar Jojić and Vjerica Radeta.

61. Given that the Mechanism has a continuing obligation to safeguard the administration of justice, its duty to investigate and prosecute allegations of false testimony or contempt, subject to the provisions of article 1 (4) of the statute, will continue until its closure. Further, although it is not possible to fully foresee when or how often requests for access to confidential material or variation of protective measures will arise in the future, as was recognized in the report of the Secretary-General preceding the establishment of the Mechanism (see [S/2009/258](#), para. 102), it is anticipated that such requests will continue to be filed as long as cases continue to be investigated and prosecuted in domestic jurisdictions. In addition, accused persons or appellants will likely continue to file such requests while their cases are pending and convicted persons may likewise do so until the conclusion of their sentences.

62. During the reporting period, the new President, pursuant to his authority in the area of enforcement of sentences, dealt with a large number of enforcement matters, including pending requests for early release of convicted persons, having inherited a significant backlog of matters from the previous presidency. In reaching decisions on certain enforcement matters, including requests for early release, the President consults the judges of the sentencing Chamber who are judges of the Mechanism, as applicable, through remote procedure. If none of the judges who imposed the sentence

are judges of the Mechanism, the President is to consult at least two other judges. In addition, the new President intends to engage in consultations with other stakeholders, as appropriate, in an attempt to ensure greater transparency and to more fully consider the broader impact of early release. He will also take into account paragraph 10 of Security Council resolution [2422 \(2018\)](#), in which the Council encouraged the Mechanism to consider putting in place conditions on early release, and is currently exploring appropriate solutions consistent with the governing legal framework and applicable jurisprudence, as well as potential changes to the relevant Practice Direction.

63. The President issued a total of 59 orders and decisions during the reporting period, including 5 orders and decisions related to requests for review of administrative decisions, 2 related to requests for legal aid and 12 related to enforcement matters. Moreover, the President issued 27 assignment orders, of which 17 were assignments to single judges, 1 was an assignment to a Trial Chamber and 9 were assignments to the Appeals Chamber.

64. With regard to the projections for case completion indicated above, it should be noted that these estimates as provided by the respective presiding judges may be impacted by unforeseen events during the course of proceedings, such as the replacement of counsel, the disqualification of judges or the illness of an accused person. All projections therefore remain subject to periodic updating on the basis of any new information, yet the judges and Chambers leadership remain fully committed to identifying measures to expedite pending cases and conclude them as soon as possible. In this respect, the Mechanism recalls that the OIOS evaluation report of 12 May 2016 indicated with respect to cases of the International Tribunal for the Former Yugoslavia that any changes based on the requirements of a just resolution of a case should not be construed necessarily to reflect slippage in the conduct of the case and that accurate predictions as to completion can be made only at the close of a trial or at the conclusion of briefing on appeal (see [A/70/873-S/2016/441](#), para. 29).

65. With respect to projections for judicial activities other than trials and appeals from judgment, the Mechanism recalls the observations made in the report of the Secretary-General that “it is not possible to foresee when, and how often, requests related to contempt cases, protective orders, review of judgments, referral cases and pardon and commutation of sentences will arise” but that “such issues are more likely to arise within a period of 10 to 15 years after the closure of the Tribunals ... and that the level of work involved ... will inevitably decrease over time” (see [S/2009/258](#), para. 102).

66. The current status of the Mechanism’s trial, appeal and review proceedings is provided in enclosure 3.

#### **IV. Registry support to judicial activities**

67. During the reporting period, the Registry continued to provide support to the Mechanism’s judicial activities at both branches.

68. The Registry processed and disseminated 1,589 filings, including 134 Registry legal submissions, amounting to 16,189 pages. In addition, the Registry facilitated and serviced two status conferences in the multi-accused *Turinabo et al.* case in Arusha. In The Hague, the Registry facilitated and serviced one status conference in the *Karadžić* case and one status conference in the *Mladić* case and facilitated the rendering of the appeal judgment in the *Karadžić* case on 20 March 2019. The Registry further facilitated court hearings in the *Stanišić and Simatović* case in accordance with the Trial Chamber’s court schedule and arranged for the provision

of testimony via video-link conference. In total, 15 court hearing days were serviced during the reporting period.

69. The Registry's Language Support Services translated approximately 10,000 pages, provided 118 conference interpreter days and produced 1,600 pages of transcripts in English and French. This includes, inter alia, providing support for the *Stanišić and Simatović* case and the *Turinabo et al.* case at the branches in The Hague and Arusha, respectively, as well as translations of monitoring reports with regard to cases referred to Rwanda.

70. As previously reported, reductions undertaken pursuant to the expenditure reduction plan leave only a bare minimum of staff in the Registry to support courtroom functions in the ongoing cases, and reductions in Security and in Language Support Services staff continue to have an impact on the Mechanism's ability to hold more than one proceeding a day or sit for extended hours, if needed, absent significant advance notice. In addition, while the anticipated delays in court proceedings have not yet materialized, the fact that the Registry can provide only limited technical and administrative support has continued to slow down the pace of proceedings: the implementation of judicial decisions that require Registry support, such as redactions of transcripts and audiovisual recordings, have occasionally been significantly delayed. Similarly, the processing and service of certain documents take longer.

71. Furthermore, given the implementation of the expenditure reduction plan, the increased strain on the limited resources of the Language Support Services continues to put at risk the timeliness of translations necessary for court proceedings. Staff reductions in Language Support Services have delayed the completion of the translation of the trial judgment against Ratko Mladić into Bosnian-Croatian-Serbian by several months, which risks affecting the appeal proceedings in the *Mladić* case. The Bosnian-Croatian-Serbian translations of the appeal judgments in the *Karadžić* case and the case of *Prosecutor v. Jadranko Prlić et al.* before the International Tribunal for the Former Yugoslavia can begin only thereafter. Resource reductions, together with the unexpected workload in the *Turinabo et al.* case and the *Ngirabatware* case, have also affected the delivery of translations into Kinyarwanda.

72. The Registry's Office for Legal Aid and Defence Matters administered the Mechanism's legal aid system and provided various forms of assistance, financial and otherwise, to an average of 58 defence teams comprising a total of approximately 110 defence team members. In particular, the Office processed more than 400 defence invoices, travel requests and expense reports during the reporting period. In addition, the Office maintained the number of counsel admitted to the list of those eligible for assignment to suspects and accused before the Mechanism at 60 and further increased the number of prosecutors and investigators eligible for assignment as an *amicus curiae* to 37.

## V. Victims and witnesses

73. Pursuant to article 20 of the statute of the Mechanism and article 5 of the transitional arrangements (see Security Council resolution 1966 (2010), annex 2), the Mechanism is responsible for the protection of the witnesses who have testified in cases completed by the two Tribunals, as well as those witnesses who have appeared or may appear before the Mechanism. In practice, this entails the protection and support of approximately 3,150 witnesses.

74. During the reporting period, consistent with judicial protection orders, and in close collaboration with national authorities and other United Nations entities, the Witness Support and Protection Unit provided security for witnesses by undertaking

threat assessments and coordinating responses to security-related requirements. The Unit also ensured that protected witness information remained confidential and continued to contact witnesses when orders to seek consent to the rescission, variation or augmentation of witness protective measures were received. Furthermore, the Unit facilitated contact between parties and relocated witnesses or witnesses of opposing parties when so required.

75. The witness protection teams at the two branches continued to exchange best practices and to use a common information technology platform for their respective witness databases. This platform maximizes operational efficiency across both branches.

76. The Witness Support and Protection Unit implemented 28 judicial orders related to protected witnesses, including orders in relation to requests for the variation of protective measures, during the reporting period. The Unit at the branch in The Hague continued to receive new referrals for assessment and implementation of protective measures and provided assistance to national courts, including by facilitating the provision of evidence by relocated witnesses.

77. As part of the provision of support services to witnesses by the Mechanism at the Arusha branch, witnesses residing in Rwanda continued to receive medical and psychosocial services from the medical clinic located at the Kigali field office. Those services are particularly focused on the witnesses experiencing psychological trauma or living with HIV/AIDS, as many of those who contracted the virus did so as a result of crimes committed against them during the 1994 genocide. In addition, the Witness Support and Protection Unit continues to support 85 protected witnesses who testified before the International Criminal Tribunal for Rwanda in resolving refugee status and residency-related issues.

78. During the reporting period, the Witness Support and Protection Unit at the Arusha branch together with its counterpart in The Hague undertook administrative and logistical arrangements for witness activity in relation to the *Ngirabatware* case, scheduled for September 2019. Similarly, the Witness Support and Protection Unit at the branch in The Hague continued to support witness activity in the *Stanišić and Simatović* case. In addition, the Witness Support and Protection Unit at the branch in The Hague was available to offer support to the many victims' groups that attended the rendering of the appeal judgment in the *Karadžić* case on 20 March 2019.

79. It is expected that victim and witness protection will continue to be required in the coming years in the light of the multitude of judicial protection orders covering 3,150 victims and witnesses that will remain in force unless rescinded or waived. It is difficult to assess precisely for how long the Mechanism's victim and witness protection function would need to remain operational. The provision of support may be required until the last victim or witness is deceased or, where applicable, until the cessation of protective measures covering a victim's or witness's immediate family members. In relation to relocated witnesses, support may be required until the last member of the immediate family is deceased.

## VI. Fugitives and trial and appeal readiness

80. The responsibility for tracking the remaining fugitives indicted by the International Criminal Tribunal for Rwanda was transferred to the Mechanism on 1 July 2012, in accordance with article 6 of the transitional arrangements. In its resolution 1966 (2010), the Security Council urged all States, particularly those where fugitives are suspected to be at large, to further intensify cooperation with and render all necessary assistance to the Mechanism in order to achieve the arrest and surrender



of all remaining fugitives as soon as possible. The Council has repeated this call to States in subsequent resolutions, including most recently in resolution 2422 (2018). The Mechanism is deeply grateful for the Council's support in relation to this vital matter and emphasizes that it will continue to rely on the cooperation and political will of Member States in order for the fugitives to be apprehended and prosecuted.

81. Eight accused indicted by the International Criminal Tribunal for Rwanda remained fugitives during the reporting period. Of the eight fugitives, the Mechanism retains jurisdiction over three: Félicien Kabuga, Augustin Bizimana and Protais Mpiranya. The cases of the other five fugitives, namely, Fulgence Kayishema, Phénéas Munyarugarama, Aloys Ndimbati, Ryandikayo (first name unknown) and Charles Sikubwabo, were referred to Rwanda by the International Criminal Tribunal for Rwanda, subject to the conditions set out in the relevant referral decisions. The arrest and prosecution of all eight individuals remains a top priority for the Mechanism. The fugitive tracking function is within the responsibility of the Prosecutor and is discussed in his report (see annex II).

82. Consistent with its commitment to efficiency, the Mechanism continues to ensure that it is prepared to conduct a trial or appeal in the event of a fugitive being apprehended or of any other ad hoc judicial activity. Pursuant to article 15 (4) of the statute of the Mechanism, rosters of qualified potential staff have been established to enable the expeditious recruitment, as necessary, of the additional staff required to support those judicial functions.

83. Trial readiness continues to be a priority for the Mechanism and, simply put, the Mechanism must remain trial-ready as long as the cases of the remaining fugitives are pending before it. Further, there is a possibility that a retrial may be ordered in any ongoing appeal proceedings before the Mechanism, that additional contempt or false testimony proceedings may be initiated or that the referral of a case to a national jurisdiction for trial may be revoked at any time.

## VII. Detention facilities

84. At the United Nations Detention Facility in Arusha and the United Nations Detention Unit in The Hague, the Mechanism detains persons awaiting trial, appeal or other judicial proceedings before the Mechanism, as well as persons otherwise detained on the authority of the Mechanism, such as convicted persons awaiting transfer to an enforcement State.

85. The United Nations Detention Facility in Arusha currently houses six individuals, five being the accused in the *Turinabo et al.* case and one convicted person who is involved in the *Ngirabatware* case. The Facility will continue to be required until the detained persons are either released or transferred to enforcement States. The Facility will also retain an area commensurate to the detention of the remaining three fugitives expected to be tried by the Mechanism after they are apprehended and will provide a residual custodial capacity for other individuals potentially appearing before the Mechanism.

86. The United Nations Detention Unit in The Hague currently houses five detainees while maintaining custodial capacity for two individuals who are currently on provisional release. The services of the Unit will continue to be required until all trials and appeals in ongoing cases are concluded and all detained persons are released or transferred to enforcement States, after which a reduced, residual custodial capacity for other individuals potentially appearing before the Mechanism may have to be arranged.

87. Both detention facilities are regularly inspected by the International Committee of the Red Cross to ensure that the Mechanism's Rules of Detention are properly applied and that both facilities are operating in accordance with international standards.

88. As described earlier, the Mechanism's regulatory framework to govern detention matters at both branches entered into force on 5 December 2018.

## **VIII. Enforcement of sentences**

89. Pursuant to article 25 of the statute of the Mechanism, the Mechanism has jurisdiction to supervise the enforcement of sentences. Following the delivery of a final judgment, the President decides where a convicted person will serve his or her sentence in accordance with article 25 of the statute, rule 127 of the Rules of Procedure and Evidence and the Practice Direction on the Procedure for Designation of the State in which a Convicted Person is to Serve His or Her Sentence of Imprisonment. There is no prescribed time limit for the decision of the President. However, rule 127 (b) of the Rules of Procedure and Evidence provides that the transfer of the convicted person to an enforcement State shall be effected as soon as possible. According to the relevant Practice Direction, the President designates the State of imprisonment on the basis of a range of information, which may include any relevant views expressed by the convicted person. In line with the Mechanism's agreements with the host States, there is no possibility for convicted persons to be detained indefinitely at the United Nations Detention Facility in Arusha or the United Nations Detention Unit in The Hague.

90. In addition, and according to article 26 of the statute of the Mechanism, the President has the authority to decide on requests for pardon or commutation of sentence. While article 26 of the statute, like the statutes of the two Tribunals, does not specifically mention requests for early release of convicted persons, the Rules of Procedure and Evidence of the Mechanism reflect the President's powers to deal with such requests and the long-standing practice of the two Tribunals and the Mechanism in that regard.

91. The Mechanism relies on the cooperation of States for the enforcement of sentences. Sentences are served within the territory of States Members of the United Nations that have concluded enforcement of sentence agreements or indicated their willingness to accept convicted persons under any other arrangement. The agreements concluded by the United Nations for the two Tribunals continue to apply to the Mechanism, *mutatis mutandis*, unless superseded by subsequent agreements. The Mechanism continued its efforts to increase its enforcement capacity for both branches during the reporting period and it welcomes the cooperation of States in that regard.

92. In December 2018, the Mechanism transferred five convicted persons who had been serving their sentences in Mali to Benin to serve the remainder of their sentences. Of the 30 persons convicted by the International Criminal Tribunal for Rwanda who are currently serving their sentences, 18 are in Benin, 7 are in Mali and 5 are in Senegal. One convicted person remains at the United Nations Detention Facility in Arusha, pending review proceedings.

93. In April 2019, one convicted person was transferred from the United Nations Detention Unit in The Hague to the United Kingdom of Great Britain and Northern Ireland to serve his sentence. Following that transfer, 18 persons convicted by the International Tribunal for the Former Yugoslavia are currently serving their sentences under the supervision of the Mechanism. Those individuals are serving their sentences

in 11 States: Austria (1), Denmark (1), Estonia (3), Finland (2), France (1), Germany (4), Italy (1), Norway (1), Poland (2), Sweden (1) and United Kingdom of Great Britain and Northern Ireland (1). Five convicted persons remain at the United Nations Detention Unit in The Hague, awaiting transfer to enforcement States. In view of the Mechanism's reliance on the cooperation of States in the enforcement of sentences, the completion of the transfers is taking longer than previously envisaged.

94. The Mechanism is deeply grateful to all of the above-mentioned States for their ongoing support to the Mechanism and engagement in the enforcement of sentences.

95. The Mechanism, in coordination with national authorities and the United Nations Development Programme, continued its efforts to address the recommendations of the relevant inspecting bodies charged with examining the conditions of detention in enforcement States, as well as the recommendations of an independent prison management expert engaged by the Mechanism.

96. In particular, sentences pronounced by the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the Mechanism are enforced in accordance with the applicable law of the enforcing State and with international standards of detention, subject to the supervision of the Mechanism. Conditions of imprisonment shall be compatible with relevant human rights standards, including the United Nations Standard Minimum Rules for the Treatment of Prisoners. Recognized organizations such as the International Committee of the Red Cross and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment regularly monitor the conditions of imprisonment to ensure that international standards are being met, and the Mechanism is grateful for their continued assistance in that regard.

97. The Mechanism also engaged an expert on ageing in prison and associated vulnerabilities. In March 2018, the expert inspected the prison conditions of the persons serving their sentences in Mali and Benin under the supervision of the Mechanism and has subsequently issued recommendations to the Mechanism. The recommendations continue to be considered by the Mechanism.

98. During the reporting period, the Mechanism continued to monitor closely the particular security situation in Mali and received advice and reports from the Department of Safety and Security of the Secretariat and the designated security official in Mali.

99. The functions related to supervision of the enforcement of sentences carried out under the authority of the President will continue until the last prison sentence has been served, subject to the application of rule 128 of the Rules of Procedure and Evidence of the Mechanism. This rule allows for the possibility of another body being designated to supervise the enforcement of sentences after the Mechanism ceases to exist, in the event that any convicted person remains imprisoned in an enforcement State at that time.

100. In the report of the Secretary-General mentioned above, it was noted that the two Tribunals estimated that applications for pardon, commutation of sentence or early release could be expected until at least 2027 for cases of the International Tribunal for the Former Yugoslavia and until around 2030 for cases of the International Criminal Tribunal for Rwanda (see [S/2009/258](#), footnote No. 24). The Mechanism notes that the 2009 estimate requires a slight adjustment, given the sentences imposed since that time and the fact that several individuals currently serving life sentences will not be eligible for consideration of pardon, commutation of sentence or early release until at least 2038, even if they may seek such relief before that time.

## **IX. Relocation of acquitted and released persons**

101. The Mechanism continued to deploy focused efforts to find a sustainable solution for the resettlement of the acquitted and released persons and to provide those still residing in Arusha with relevant assistance, in line with its Strategic Plan on the Relocation of Acquitted and Released Persons. The number of acquitted and released persons in Arusha is currently nine. By way of background, the Mechanism's headquarters agreement with the United Republic of Tanzania provides that the released and acquitted persons shall not permanently remain in the United Republic of Tanzania except with its consent. The United Republic of Tanzania has therefore permitted those persons to stay on its territory temporarily pending their relocation to another country.

102. Through its consistent approach of seeking consensual relocation outcomes, the Mechanism continued to engage bilaterally with States that had, in principle, indicated willingness to accept one or more of those persons. The Mechanism also supported the private relocation efforts of acquitted and released persons by engaging with relevant government officials.

103. Bearing in mind Security Council resolution [2422 \(2018\)](#), in which the Council called upon all States to cooperate with and render all necessary assistance to the Mechanism for increased efforts towards the relocation of the nine persons, the President reached out to numerous States during the reporting period in order to draw their attention to the situation. Furthermore, the Registrar continued to pursue high-level exploratory contacts with other relevant States in that regard.

104. The Mechanism remains dependent on the goodwill of States in accepting acquitted and released persons for relocation in their countries. It emphasizes the urgent need to resettle such individuals, who find themselves in an unacceptable legal limbo. Indeed, the status quo presents a humanitarian crisis that profoundly affects the fundamental rights of the nine persons, one of whom has remained in this predicament since his acquittal by the International Criminal Tribunal for Rwanda in 2004. As an organization that prides itself on advancing the rule of law and safeguarding fundamental human rights, the Mechanism's inability thus far to resolve the problem is of significant concern and threatens to cast a shadow over both the Mechanism and the United Nations more broadly.

105. In addition, the Mechanism continues to shoulder the burden of the administrative and financial implications of this protracted situation, including by having to provide temporary accommodation for the individuals. To that effect, during the reporting period, the Mechanism adopted a set of House Rules in February 2019 to address further complexities that have arisen.

106. While the Mechanism is grateful to the Security Council and individual States for their support for relocation efforts to date, it notes that this humanitarian challenge will exist until such time as all acquitted and released individuals are appropriately relocated or are deceased. The Mechanism therefore urges Member States to continue to support it in finding a permanent solution.

## **X. Cooperation of States**

107. Pursuant to article 28 of the statute of the Mechanism, States are required to cooperate with the Mechanism in the investigation and prosecution of persons covered under the statute and to comply with orders and requests for assistance in relation to cases before the Mechanism. States are also required to respect the statute

owing to its adoption by the Security Council pursuant to Chapter VII of the Charter of the United Nations. The Mechanism is dependent upon the cooperation of States.

108. The arrest and surrender of the remaining fugitives are a priority of the Mechanism. The Mechanism requires the full cooperation of States in relation to the ongoing fugitive-tracking operations conducted by the Prosecutor and it continues the practice of the International Criminal Tribunal for Rwanda by calling for the assistance of relevant States in that respect. The Mechanism further relies on the cooperation of States for the enforcement of sentences and the resettlement of the acquitted and released persons currently living in Arusha, as discussed above. In addition, the Mechanism will require the cooperation of States in relation to the arrest, detention and transfer of the accused in the *Jojić and Radeta* case.

109. During the reporting period, the Mechanism continued to promote communication and cooperation with the Governments of Rwanda and the States of the former Yugoslavia. The Mechanism will continue to discuss matters of mutual interest with the Rwandan authorities, including means by which the cooperation with the Government of Rwanda can be enhanced, in line with paragraph 23 of Security Council resolution 2256 (2015). In that regard, the Mechanism's Kinyarwanda Unit, established at the beginning of 2016, has continued to translate judgments of the International Criminal Tribunal for Rwanda into Kinyarwanda. During the reporting period, the Kinyarwanda Unit completed the translation of two further judgments and a number of decisions, as well as monitoring reports concerning three cases referred to Rwanda that are discussed below.

110. Representatives of the Mechanism, up to and including the level of the principals, also met with victims' groups and engaged with government officials from Rwanda and the States of the former Yugoslavia during the reporting period.

111. After the closure of the International Tribunal for the Former Yugoslavia, the Mechanism assumed the remaining responsibilities of that Tribunal with regard to facilitating the establishment of information and documentation centres in the region of the former Yugoslavia, in accordance with paragraph 15 of Security Council resolution 1966 (2010). The first such information centre was opened on 23 May 2018 in Sarajevo, with the support of the Mechanism. The Mechanism is available, within its budgetary constraints, to provide further support to the information centre and to other stakeholders in the former Yugoslavia who seek to establish similar information centres in the region. Representatives of the Mechanism continued to engage in dialogue with relevant authorities in that regard during the reporting period.

112. As at January 2019, the European Union and the Mechanism are partnering in a legacy project focused on informing affected communities and younger generations in the former Yugoslavia about the International Tribunal for the Former Yugoslavia and the ongoing work of the Mechanism and on facilitating access to the Tribunal and Mechanism archives. The Mechanism wishes to thank the European Union and its member States for their generous support.

## **XI. Assistance to national jurisdictions**

113. In accordance with article 28 (3) of the statute of the Mechanism, the Mechanism shall respond to requests for assistance from national authorities in relation to the investigation, prosecution and trial of those responsible for serious violations of international humanitarian law in the countries of the former Yugoslavia and Rwanda.

114. The Mechanism routinely receives requests from national authorities or parties to national proceedings for assistance in relation to domestic proceedings concerning

individuals allegedly implicated in the genocide in Rwanda or the conflicts in the former Yugoslavia. During the reporting period, the Mechanism also received and considered requests to vary the protective measures for witnesses and disclose their testimony and evidence, as discussed earlier. Comprehensive information and guidance for those who wish to request assistance are available on the Mechanism's website.

115. The data concerning requests for assistance submitted to both branches of the Mechanism continued to be centralized into one repository. The branches also continued to exchange best practices for the development of policies and training programmes with a view to maximizing operational efficiency and ensuring that the Mechanism provides effective assistance to national jurisdictions.

116. During the reporting period, the Registry processed 63 requests for assistance from national jurisdictions and provided more than 275,604 documents. This represents a drastic increase compared with the 28,235 documents provided during the previous reporting period. As a result of this increase and the expenditure reduction plan, delays in providing access to records in response to requests from national jurisdictions have occurred.

117. It is expected that activities linked to requests for assistance from national jurisdictions will continue concomitant to the investigation and prosecution of cases related to the genocide in Rwanda and the conflicts in the former Yugoslavia in domestic jurisdictions. The high number of requests for assistance is expected to continue over the coming years.

## **XII. Cases referred to national jurisdictions**

118. Pursuant to article 6 (5) of its statute, the Mechanism is responsible for monitoring cases referred to national courts by the two Tribunals and the Mechanism, with the assistance of international and regional organizations and bodies.

119. The cases of three individuals indicted by the International Criminal Tribunal for Rwanda and subsequently apprehended, Jean Uwinkindi, Bernard Munyagishari and Ladislav Ntaganzwa, were previously referred to Rwanda. The cases of *Prosecutor v. Jean Uwinkindi* and *Prosecutor v. Bernard Munyagishari* are currently at the appeal stage. Trial proceedings are ongoing in the case of *Prosecutor v. Ladislav Ntaganzwa*. Two additional individuals indicted by the International Criminal Tribunal for Rwanda, Laurent Bucyibaruta and Wenceslas Munyeshyaka, had their cases referred to France for trial. In the case of *Prosecutor v. Laurent Bucyibaruta*, the Public Prosecutor filed his final submission asking for partial discharge and transfer of that case to the Criminal Court of Paris. In that same submission, the Public Prosecutor further requested that the investigating judge issue an order for an indictment against Mr. Bucyibaruta. In the case of *Prosecutor v. Wenceslas Munyeshyaka*, on 21 June 2018, the Investigative Chamber of the Paris Court of Appeals upheld the decision to dismiss the proceedings on the basis of insufficient evidence to prosecute Mr. Munyeshyaka. Several appeals have been filed against that decision.

120. Consistent with Security Council resolution [2256 \(2015\)](#), the Mechanism continued to monitor the *Uwinkindi* case, the *Munyagishari* case and the *Ntaganzwa* case in Rwanda with the pro bono assistance of monitors from the Kenyan section of the International Commission of Jurists, pursuant to a memorandum of understanding concluded on 15 January 2015 and subsequently amended on 16 August 2016. An interim monitor continued to monitor the two cases referred to France.

121. The Mechanism also continued to follow the status of the case of *Prosecutor v. Vladimir Kovačević*, which was referred to Serbia by the International Tribunal for the Former Yugoslavia in March 2007.

122. The Mechanism's activities in relation to cases referred to national jurisdictions are expected to continue for the duration of those cases. While each case is different, the experience with referred cases to date is instructive as to potential timelines. The *Ntaganzwa* case is currently at trial, three years after the accused was transferred to Rwanda. Mr. Uwinkindi was transferred to Rwanda for trial in 2012 and Mr. Munyagishari was transferred for trial in 2013. Both the *Uwinkindi* case and the *Munyagishari* case are currently at the appeal stage. If any of the five remaining fugitives whose cases have been referred to Rwanda for trial are arrested, the estimate for the continuation of the Mechanism's monitoring function with respect to Rwanda will need to be assessed at that time. The two cases referred to France have been at the investigative/pretrial phase for more than 10 years and, as set forth above, remain ongoing. Further estimates for the continuation of the Mechanism's monitoring function with respect to France will depend on decisions of the French judicial authorities in those cases.

### **XIII. Archives and records**

123. In accordance with article 27 of its statute, the Mechanism has responsibility for the management, including preservation and access, of the archives of the Mechanism and the two Tribunals, which are co located with the respective branches of the Mechanism. The management of the archives includes responsibility for the preservation, arrangement and description of records, their security and the provision of access thereto.

124. The archives include records concerning: investigations, indictments and court proceedings; the protection of witnesses; the detention of accused persons; and the enforcement of sentences. The archives also include documents from States, other law enforcement authorities, international and non-governmental organizations and other stakeholders. The records exist in both digital and physical formats and consist of documents, maps, photographs, audiovisual recordings and objects. The Mechanism Archives and Records Section has been tasked with preserving those records and facilitating the widest possible access to them, while ensuring the continued protection of confidential information, including that concerning protected witnesses.

125. The Mechanism Archives and Records Section is currently responsible for the management of more than 2,000 linear metres of physical records and 1.2 petabytes of digital records of both the International Criminal Tribunal for Rwanda and the Mechanism's Arusha branch and more than 2,400 linear metres of physical records and approximately 1.5 petabytes of digital records from the International Tribunal for the Former Yugoslavia and the Mechanism's branch in The Hague.

126. The Mechanism Archives and Records Section is also responsible for the periodic disposition of the records that have temporary value, in accordance with established retention policies. During the reporting period, that entailed the authorized destruction of 79.4 linear meters of records at the Arusha branch and 42 linear meters of records at the branch in The Hague. The Mechanism will remain responsible for the management of records of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia that have been designated for permanent retention, as well as for records of archival value generated by the Mechanism.

127. During the reporting period, the preservation of audiovisual recordings currently stored on obsolete physical media at the branch in The Hague commenced. This project was initially delayed as a result of the expenditure reduction plan. Approximately 7,000 physical audiovisual records were assessed to determine preservation needs. In addition, all of the audiovisual recordings from the trial case against Ratko Mladić, amounting to approximately 1,400 records, have been digitized.

128. The digital records of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia continue to be incorporated into the Mechanism's digital preservation system to safeguard their long-term integrity, reliability and usability, in accordance with the Mechanism's policy on retention and preservation of documents. During the reporting period, a total of 36,464 gigabytes of digital records were ingested, including more than 28,036 files in a variety of formats. In the coming year, both branches will continue the work of strengthening the Mechanism's digital preservation programme by continuing to develop institutional capacity and capability for digital preservation.

129. The uploading of records to the public databases of the two Tribunals and the Mechanism continued throughout the reporting period. More than 350,000 judicial records, including approximately 23,000 hours of audiovisual recordings, are currently available to the public through these interfaces and the records were accessed by 13,274 users during the reporting period. In addition, the interface for the Judicial Records and Archives Database, which provides access to the judicial records of the International Criminal Tribunal for Rwanda and the Mechanism, underwent a technical upgrade in January 2019 and now offers, inter alia, new search parameters, thereby further improving access to those records.

130. The Mechanism received and responded to 79 requests for access to records under the Mechanism's access policy during the reporting period. Many of the requests were for copies of audiovisual recordings of courtroom proceedings.

131. The Mechanism Archives and Records Section continued its programme of exhibitions and events to draw attention to the Mechanism's archives. A standing exhibition entitled "ICTR: Looking Back", marking the twenty-fifth anniversary of the founding of the International Criminal Tribunal for Rwanda, was presented at both branches of the Mechanism and featured selected materials from the Tribunal's archives.

#### **XIV. External relations**

132. The core tasks of the External Relations Office, which has staff at both branches of the Mechanism, include informing the public about the Mechanism's work through the Mechanism's website and social media channels and by responding to media inquiries, organizing public events, developing and implementing external relations activities in relation to various stakeholders and producing informational materials.

133. During the reporting period, the External Relations Office at the Arusha branch facilitated the attendance of the general public and the media at the two status conferences in the *Turinabo et al.* case.

134. At the branch in The Hague, the External Relations Office continued to facilitate the attendance of the general public and the media at a number of public judicial hearings during the reporting period, including at the ongoing trial in the *Stanišić and Simatović* case and status conferences in the *Karadžić* case and the *Mladić* case. The hearings in those cases were attended by more than 400 visitors, while the online streaming of the respective court sessions received more than 5,000 views.



Furthermore, on 20 March 2019, the External Relations Office in The Hague facilitated the attendance of more than 100 journalists and more than 160 representatives of victims' groups, the diplomatic community and civil society at the pronouncement of the appeal judgment in the *Karadžić* case. The streaming of the judgment received nearly 18,000 views and posts on social media reached more than 86,000 people. Several mainstream television networks in the countries of the former Yugoslavia broadcast the pronouncement of the judgment and the event was widely covered in international and regional print and digital media.

135. During the reporting period, the External Relations Office supported the initiative of the President in organizing two diplomatic briefings, on 7 February 2019 in The Hague and on 8 March 2019 in Dar-es-Salaam, United Republic of Tanzania. The briefing in The Hague was attended by more than 100 representatives of the diplomatic community and international organizations based in The Hague. In Dar-es-Salaam, the briefing was attended by more than 20 representatives of the diplomatic community and international organizations based in the United Republic of Tanzania. The External Relations Office also assisted in organizing the Mechanism's events marking International Women's Day on 8 March 2019, outlined above.

136. In addition to visitors attending special events or court proceedings, the Mechanism continued to welcome visitors to its premises and to provide library services at both branches. The Arusha branch welcomed 776 visitors during the reporting period, including members of the diplomatic community, researchers and members of the public from the Great Lakes region and beyond. The Arusha library processed a total of 2,409 enquiries, including research requests and loans. In The Hague, the External Relations Office welcomed 2,135 visitors during the reporting period, and the library of the branch in The Hague processed 757 research requests and loans.

## **XV. Reports of the Office of Internal Oversight Services**

137. During an earlier reporting period, OIOS completed an evaluation of the methods and work of the Mechanism. In the OIOS evaluation report of 8 March 2018, OIOS assessed the relevance, efficiency and effectiveness of the methods and work of the Mechanism in implementing its mandate during the period 2016–2017, with a focus on its consolidation, coordination and organizational arrangements in becoming a self-standing institution across two branches. OIOS observed that the Mechanism had made significant progress towards establishing itself as a small, temporary and efficient structure, whose functions and size would diminish over time, with the capacity to respond to varying workloads and to balance immediate demands against longer-term priorities and that the Mechanism had achieved much of what the Security Council envisaged in resolution 1966 (2010) (see S/2018/206). As previously reported, OIOS nonetheless made six recommendations, which the Mechanism is taking seriously. Three of the recommendations were closed during the reporting period, and work continues on implementing the remaining recommendations, including in relation to the Mechanism's Unified Judicial Database project.

138. During the reporting period, the Mechanism also continued to benefit from regular audits by OIOS and the implementation of its recommendations. Two audit reports were issued, one relating to the Unified Judicial Database project and the other relating to the management of legal aid and defence matters. An additional audit regarding the management of security at the Mechanism's Arusha branch and Kigali field office is currently ongoing.

139. The audit of the Unified Judicial Database project was initiated at the request of the Registrar. OIOS issued its audit report on 5 March 2019 and found that the Mechanism "... needs to harmonize the work processes, revise the functional and technical requirements and strengthen project management in order to implement the project successfully".<sup>3</sup> OIOS issued four recommendations, one of which the Mechanism had already implemented by the time the final audit report was issued. With regard to the other three recommendations, implementation work is under way: inter alia, the processing of judicial records is being harmonized across the two branches, and work to facilitate stakeholder review of functional and technical requirements has been initiated.

140. In particular, the President is fully committed to making operational the overdue Unified Judicial Database, building on the best and most efficient practices of both the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and taking into account the recommendations made in both the OIOS evaluation report of 8 March 2018 and the OIOS audit report of 5 March 2019. A functioning Unified Judicial Database with integrated electronic procedures will contribute to higher degrees of efficiency and reduced human error in processing and maintaining records and will solidify the legacies of the two Tribunals. The President is working closely with the Registrar in that regard to deliver results as soon as possible.

141. The OIOS report on the audit of the management of legal aid and defence matters was issued on 31 December 2018. It found that, overall, controls over the management of legal aid and defence matters were adequate: counsel was assigned according to established procedures; procedures to determine potential conflicts in assigning and remunerating defence teams were adequate; lump sum allotments were consistent with the applicable policies and adequately monitored; assessment of work accounted for and reported by lead defence counsel was adequate; payments of claims during court recess in 2017 were made in accordance with accounting standards; and coordination between the Mechanism's two branches on legal aid and defence matters was adequate.<sup>4</sup> Accordingly, OIOS did not issue any recommendations.

142. With regard to the recommendations made in earlier OIOS audits, the Mechanism implemented and successfully closed all five recommendations relating to the audit of the management of the resources of the Prosecution tracking team.<sup>5</sup> In addition, it continued to diligently follow up on and implement the other remaining recommendations. Actions taken in that respect include consultations with the Office of Legal Affairs and the Procurement Division of the Secretariat concerning the appropriate recovery of costs arising from delays regarding the Arusha premises, continuing the remediation work to correct technical defects in the Arusha archives building and engaging in ongoing efforts to review historical education grant data to ensure its accuracy.

## XVI. Conclusion

143. Under the leadership of its new President, Judge Carmel Agius, the Mechanism is committed to building upon its strengths and identifying areas in which further improvements can be made, in order to fulfil its mandate as efficiently and effectively

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<sup>3</sup> Office of Internal Oversight Services (OIOS), Audit of the Unified Judicial Database project at the International Residual Mechanism for Criminal Tribunals, report 2019/009, 5 March 2019, Executive summary.

<sup>4</sup> OIOS, Audit of management of legal aid and defence matters at the International Residual Mechanism for Criminal Tribunals, report 2018/149, 31 December 2018.

<sup>5</sup> The audit report has been classified by OIOS as strictly confidential.

as possible and ensure a fully unified, harmonized institution. In this way, the Mechanism is dedicated to completing all residual work in a timely manner and to further strengthening the legacies of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia. Mindful of the current challenges to the international rule of law, the Mechanism is proud to stand firm, together with other international courts and tribunals, in its pursuit of justice and accountability and its efforts to combat impunity.

144. The Mechanism wishes to thank all those who have contributed to its progress during the reporting period and, indeed, since its inception in 2012. In particular, the Mechanism expresses its sincere gratitude to the outstanding host States, the United Republic of Tanzania and the Netherlands, as well as to Rwanda and the States of the former Yugoslavia, the States Members of the United Nations, the European Union and the Office of Legal Affairs and Department of Management of the Secretariat, for their ongoing cooperation and support of the Mechanism's crucial mission. Lastly, the Mechanism wishes to pay special tribute to all of the dedicated judges and staff who work tirelessly to carry out its mandate day in and day out. Without their exceptional service, none of the Mechanism's progress and success would be possible.

## Enclosure 1

**International Residual Mechanism for Criminal Tribunals: staffing\***

Table 1  
**Number of staff by branch and organ**

<i>Category</i>	<i>Arusha branch</i>	<i>The Hague branch</i>	<i>Chambers<sup>1</sup></i>	<i>Office of the Prosecutor</i>	<i>Registry<sup>2</sup></i>	<i>Mechanism overall</i>
All staff	184	332	40	92	384	516
Staff on continuous posts	112	56	9	24	135	168
Staff on general temporary assistance positions	72	276	31	68	249	348
International (Field Service, Professional and above)	104	143	31	63	153	247
Local (General Service)	80	189	9	29	231	269

<sup>1</sup> Chambers staffing data include the Office of the President and exclude judges.

<sup>2</sup> Registry staffing data include: Immediate Office of the Registrar; Archives and Records Section; Witness Support and Protection; Court Support Services; Language Support Services; External Relations; Office for Legal Aid and Defence; Judicial Records Unit; Administration; and Security, including at the United Nations Detention Facility and the United Nations Detention Unit.

Table 2  
**Geographical representation, by regional group**

	<i>Arusha branch</i>	<i>The Hague branch</i>	<i>Mechanism overall/ (percentage)</i>
<b>Nationalities</b>	35	59	70
All staff			
Africa	139	19	158 (30.6)
Asia-Pacific	7	23	30 (5.8)
Eastern Europe	3	83	86 (16.7)
Latin America and the Caribbean	3	7	10 (1.9)
Western Europe and other States	33	199	232 (45.0)
International staff (Field Service, Professional and above)			
Africa	59	7	66 (26.6)
Asia-Pacific	7	8	15 (6.0)
Eastern Europe	3	36	39 (15.7)
Latin America and the Caribbean	3	3	6 (2.4)
Western Europe and other States	33	89	122 (49.2)
Local (General Service)			
Africa	80	12	92 (34.3)
Asia-Pacific	0	15	15 (5.6)
Eastern Europe	0	47	47 (17.5)
Latin America and the Caribbean	0	4	4 (1.5)
Western Europe and other States	0	110	110 (41.0)

(Footnotes on following page)

(Footnotes to Table 2)

**African Group:** Algeria, Burkina Faso, Burundi, Cameroon, Democratic Republic of the Congo, Egypt, Ghana, Kenya, Lesotho, Liberia, Madagascar, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Sudan, Uganda, United Republic of Tanzania, Zambia and Zimbabwe.

**Asia-Pacific Group:** China, Cyprus, Fiji, India, Indonesia, Iraq, Lebanon, Nepal, Pakistan, Philippines, Republic of Korea and Thailand.

**Eastern European Group:** Bosnia and Herzegovina, Bulgaria, Croatia, Czechia, Latvia, North Macedonia, Poland, Romania, Russian Federation, Serbia and Ukraine.

**Latin American and Caribbean Group:** Brazil, Cuba, Guatemala, Haiti, Jamaica and Mexico.

**Western European and Other States Group:** Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Malta, Netherlands, New Zealand, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland and United States of America.

Table 3  
**Gender representation**

	<i>Arusha branch</i>	<i>Kigali field office</i>	<i>The Hague branch</i>	<i>Sarajevo field office</i>	<i>Mechanism overall/ (percentage)</i>
Professional staff (all levels)	100	4	139	4	247
Male	66	3	51	3	123 (50)
Female	34	1	88	1	124 (50)
Professional staff (P-4 and above)	20	0	51	0	71
Male	15	0	19	0	34 (48)
Female	5	0	31	1	37 (52)
General Service (all levels)	68	12	185	4	269
Male	53	9	110	2	174 (65)
Female	15	3	75	2	95 (35)
All staff	168	16	324	8	516
Male	119	12	161	5	297 (58)
Female	49	4	163	3	219 (42)

Table 4  
**Staff by organ**

	<i>Arusha branch</i>	<i>The Hague branch</i>	<i>Mechanism overall</i>
Chambers (including the Office of the President)	6	34	40
Office of the Prosecutor	33	59	92
Registry	145	239	384
Immediate Office of the Registrar	15	11	26
Archives and Records Section	20	13	33
Witness Support and Protection	11	15	26
Court Support Services	0	5	5
Language Support Services	9	42	51
External Relations	2	12	14
Office for Legal Aid and Defence	0	4	4
Judicial Records Unit	0	6	6

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	<i>Arusha branch</i>	<i>The Hague branch</i>	<i>Mechanism overall</i>
Administration	32	81	113
Security (including United Nations Detention Facility and United Nations Detention Unit)	56	50	106

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## Enclosure 2

### International Residual Mechanism for Criminal Tribunals: revised appropriations and expenditures for the biennium 2018–2019

Table 1

#### Revised appropriations for the biennium 2018–2019 (net of staff assessment)

(United States dollars)

		Chambers	Office of the Prosecutor	Registry	<i>Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals</i>	Mechanism
Arusha	Post		5 302 400	19 470 200		24 772 600
	Non-post <sup>1</sup>	769 800	4 773 400	22 384 900	4 915 350	32 843 450
	<b>Subtotal</b>	<b>769 800</b>	<b>10 075 800</b>	<b>41 855 100</b>	<b>4 915 350</b>	<b>57 616 050</b>
The Hague	Post		2 963 100	11 776 400		14 739 500
	Non-post	4 257 700	13 422 100	78 835 800	4 915 350	101 430 950
	<b>Subtotal</b>	<b>4 257 700</b>	<b>16 385 200</b>	<b>90 612 200</b>	<b>4 915 350</b>	<b>116 170 450</b>
New York <sup>2</sup>	Post			410 500		410 500
	Non-post					
	<b>Subtotal</b>			<b>410 500</b>		<b>410 500</b>
Office of Internal Oversight Services <sup>3</sup>	Post			168 800		168 800
	Non-post			325 100		325 100
	<b>Subtotal</b>			<b>493 800</b>		<b>493 900</b>
Overall	Post		8 265 500	31 825 900		40 091 400
	Non-post	5 027 500	18 195 500	101 545 700	9 830 700	134 599 400
	<b>Total</b>	<b>5 027 500</b>	<b>26 461 000</b>	<b>133 371 600</b>	<b>9 830 700</b>	<b>174 690 800</b>

<sup>1</sup> Non-post includes all commitment items other than posts, such as general temporary assistance, travel and rental of premises.

<sup>2</sup> Included in the allotment for the branch in The Hague in the biennium 2016–2017.

<sup>3</sup> Included in the budget for the International Tribunal for the Former Yugoslavia in the biennium 2016–2017.

Table 2  
**Expenditures (net of staff assessment) as at 1 May 2019 (per Umoja)**

(United States dollars)

		<i>Chambers</i>	<i>Office of the Prosecutor</i>	<i>Registry</i>	<i>Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals</i>	<i>Mechanism</i>
Arusha	Post		3 063 817	12 178 055		15 241 872
	Non-post	406 207	1 984 390	13 866 322	2 608 291	18 865 211
<b>Subtotal</b>		<b>406 207</b>	<b>5 048 208</b>	<b>26 044 376</b>	<b>2 608 291</b>	<b>34 107 082</b>
The Hague	Post		1 664 541	6 925 642		8 590 183
	Non-post	2 265 636	8 484 453	49 708 577	3 139 307	63 597 973
<b>Subtotal</b>		<b>2 265 636</b>	<b>10 148 994</b>	<b>56 634 219</b>	<b>3 139 307</b>	<b>72 188 156</b>
New York	Post			228 841		228 841
	Non-post					
<b>Subtotal</b>				<b>228 841</b>		<b>228 841</b>
Office of Internal Oversight Services	Post			128 132		128 132
	Non-post			136 784		136 784
<b>Subtotal</b>				<b>264 916</b>		<b>264 916</b>
Overall	Post		4 728 358	19 460 670		24 189 028
	Non-post	2 671 843	10 468 844	63 711 683	5 747 598	82 599 968
<b>Total</b>		<b>2 671 843</b>	<b>15 197 202</b>	<b>83 172 352</b>	<b>5 747 598</b>	<b>106 788 996</b>



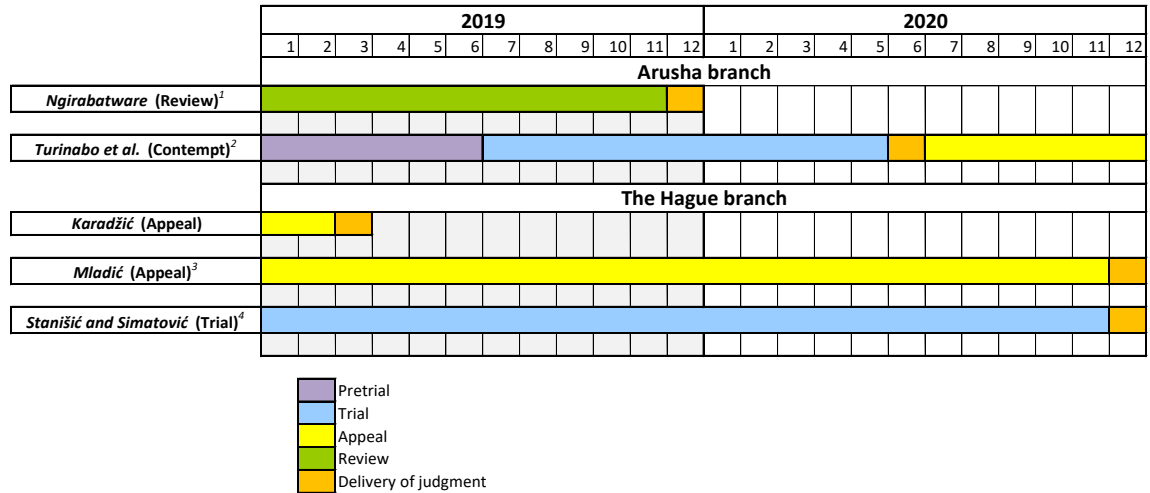
Table 3  
**Percentage of biennial budget expended as at 1 May 2019**

		<i>Chambers</i>	<i>Office of the Prosecutor</i>	<i>Registry</i>	<i>Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals</i>	<i>Mechanism</i>
Arusha	Post		57.8	62.5		61.5
	Non-post	52.8	41.6	61.9	53.1	57.4
<b>Subtotal</b>		<b>52.8</b>	<b>50.1</b>	<b>62.2</b>	<b>53.1</b>	<b>59.2</b>
The Hague	Post		56.2	58.8	58.3	
	Non-post	53.2	63.2	63.1	63.9	62.7
<b>Subtotal</b>		<b>53.2</b>	<b>61.9</b>	<b>62.5</b>	<b>63.9</b>	<b>62.1</b>
New York	Post			55.7		55.7
	Non-post					
<b>Subtotal</b>				<b>55.7</b>		<b>55.7</b>
Office of Internal Oversight Services	Post			75.9		75.9
	Non-post			42.1		42.1
<b>Subtotal</b>				<b>53.6</b>		<b>53.6</b>
Overall	Post		57.2	61.1		60.3
	Non-post	53.1	57.5	62.7		61.4
<b>Total</b>		<b>53.1</b>	<b>57.4</b>	<b>62.4</b>	<b>58.5</b>	<b>61.1</b>

**Enclosure 3**

**International Residual Mechanism for Criminal Tribunals: status of trial, appeal and review proceedings, 2019–2020**

*(On the basis of information available as at 15 May 2019 and subject to change)*



<sup>1</sup> The review hearing is expected to take place in September 2019.

<sup>2</sup> The trial is expected to commence in the second half of 2019 and conclude by June 2020. Subject to the outcome of the trial judgment, an appeal may follow.

<sup>3</sup> The appeal is expected to be concluded and the appeal judgment delivered in the second half of 2020.

<sup>4</sup> The trial is expected to be concluded and the trial judgment delivered in the second half of 2020. Subject to the outcome of the trial judgment, an appeal may follow.

## Annex II

[Original: English and French]

### **Progress report of the Prosecutor of the International Residual Mechanism for Criminal Tribunals, Serge Brammertz, for the period from 16 November 2018 to 15 May 2019**

#### **I. Overview**

1. The Prosecutor submits this fourteenth progress report pursuant to Security Council resolution 1966 (2010), covering developments between 16 November 2018 and 15 May 2019.
2. During the reporting period, the Office of the Prosecutor of the Mechanism continued to focus on its three priorities: (a) the expeditious completion of trials and appeals; (b) locating and arresting the eight remaining fugitives indicted by the International Criminal Tribunal for Rwanda; and (c) assisting national jurisdictions prosecuting international crimes committed in Rwanda and the former Yugoslavia. The Office relies on the full cooperation of States to carry out its mandate successfully in those areas.
3. The Office of the Prosecutor continued to engage in intense trial and appeal work during the reporting period. At the Arusha branch, on 7 December 2018, the single judge decided not to refer the case of *Turinabo et al.* to Rwanda and ordered that the case be conducted by the Mechanism. Since that time, the Prosecution has been engaged in intense pretrial litigation and the preparation of its case. At The Hague branch, on 20 March 2019, the Appeals Chamber delivered its judgment in the *Karadžić* case, largely confirming the convictions entered at trial, granting the Prosecution's appeal of the sentence and sentencing Radovan Karadžić to life imprisonment. In the *Stanišić and Simatović* case, the Prosecution completed its case-in-chief on 21 February 2019, and on 4 April the Trial Chamber dismissed the motion filed by the Simatović Defence for acquittal under rule 121 of the Rules of Procedure and Evidence of the Mechanism. The Prosecution completed its written appeal arguments in the *Mladić* case on 29 November 2018. As previously reported, in addition to the trial and appeal activity in Arusha and The Hague, at both branches the Office processed a high volume of other litigation arising from completed cases.
4. The Office of the Prosecutor continued its efforts to locate and track the remaining eight fugitives indicted by the International Criminal Tribunal for Rwanda. As previously reported, the Office has been pursuing actionable leads generated from its intelligence, analysis and investigative activities. Some prior leads have been closed, while additional leads are being developed regularly. The cooperation of national authorities is essential for the Office to successfully obtain information in order to close, further follow up on or operationalize such leads. During the reporting period, the Office faced a number of challenges in obtaining the necessary cooperation, which in turn hampered its efforts to locate, track and arrest fugitives. The Office underscores that full and timely cooperation is needed from Member States and other relevant authorities in order to bring the fugitives to justice.
5. Regarding national prosecutions of war crimes committed in Rwanda, the Office of the Prosecutor, within existing resources, continued to monitor cases referred to the Rwandan and French authorities, provide national justice sectors with access to the Mechanism's evidence collection and to support national accountability for those crimes. With particular regard to the twenty-fifth anniversary of the Rwandan genocide, the Office underscores that more justice is still urgently needed and that a

high number of suspects have yet to be prosecuted. The Office calls upon Member States to continue to fully support the accountability process, whether in the courtrooms of the Mechanism, Rwanda or third-party States.

6. Regarding national prosecutions of war crimes committed in the former Yugoslavia, the Office of the Prosecutor continued to support the further implementation of the completion strategy of the International Tribunal for the Former Yugoslavia. With the closure of the Tribunal, further accountability for the crimes now depends fully on national judiciaries in the countries of the former Yugoslavia. At the request of Governments and stakeholders in the region, the Office continued to provide assistance during the reporting period, in particular by providing access to its evidence and expertise.

7. In managing its work, the Office of the Prosecutor continued to be guided by the views and requests of the Security Council, as set forth in, inter alia, paragraphs 18 to 20 of resolution [2256 \(2015\)](#) and paragraphs 7 and 8 of resolution [2422 \(2018\)](#).

## II. Trials and appeals

8. During the reporting period, the Office of the Prosecutor worked on one case at the pretrial stage (*Turinabo et al.*), one trial (*Stanišić and Simatović*) and two appeals proceedings (*Karadžić* and *Mladić*).

9. This judicial activity is temporary in nature, and the Office of the Prosecutor is taking all steps under its control to expedite the completion of the proceedings.

### A. Update on the progress of trials

#### 1. *Stanišić and Simatović*

10. On 15 December 2015, the Appeals Chamber of the International Tribunal for the Former Yugoslavia reversed the trial judgment in the *Stanišić and Simatović* case and ordered the case to be retried on all counts. Pursuant to the statute and transitional arrangements of the Mechanism, the retrial is being conducted by the Mechanism. Trial proceedings in the case commenced on 13 June 2017.

11. During the reporting period, the Prosecution completed the presentation of its case-in-chief on 21 February 2019. Oral submissions on the motion filed by the Simatović Defence for acquittal under rule 121 of the Rules of Procedure and Evidence of the Mechanism were heard on 26 and 28 February, and on 4 April the Trial Chamber dismissed the motion in full.

12. In the Prosecution's presentation of its case-in-chief, from June 2017 to February 2019, the Prosecution led the evidence of 51 witnesses in court, the majority of whom were cross-examined by the Defence. The Prosecution also tendered and the Chamber admitted the written evidence of 50 witnesses. The Chamber admitted 3,753 Prosecution exhibits totalling 75,131 pages. The Prosecution filed and litigated 85 motions for the admission of evidence and responded to 55 motions filed by the Defence in the case.

13. The pre-defence conference is scheduled for 29 May 2019, shortly after the end of the reporting period. It is currently anticipated that the presentation of the defence cases will commence on 18 June 2019.

## 2. *Turinabo et al.*

14. Under article 14 of the statute of the Mechanism, the Office of the Prosecutor is mandated to investigate and prosecute contempt of court offences under article 1 (4) of the statute. 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 Mechanism, the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia.

15. On 24 August 2018, the single judge confirmed the indictment in the case *Prosecutor v. Turinabo et al.* and issued warrants of arrest. The indictment charges four Rwandan nationals – Maximilien Turinabo, Anselme Nzabonimpa, Jean de Dieu Ndagijimana and Marie Rose Fatuma – with contempt of court in an effort to overturn Augustin Ndirabatware’s conviction. It is alleged that they directly, and through intermediaries, interfered with witnesses who had given evidence in Ndirabatware’s trial and interfered with witnesses in the related *Ndirabatware* review proceeding. In addition, the indictment charges Dick Prudence Munyeshuli, an investigator on Ndirabatware’s former defence team, and Turinabo with violation of court orders protecting witnesses. On 7 December 2018, the single judge decided not to refer the *Turinabo et al.* case to Rwanda and ordered that it be conducted by the Mechanism.

16. During the reporting period, the Prosecution engaged in intense pretrial preparation and litigation. As *Turinabo et al.* is the first major contempt case prosecuted before the Mechanism, and with five accused, the pretrial litigation has been notably demanding, with many significant issues of law and a wide range of procedural issues involved. From the date of arrest to the end of the reporting period, the defence teams made 221 filings, while the Prosecution submitted 133 filings. There have been 107 orders and decisions by the single judge, 16 orders and decisions by the Appeals Chamber and 36 orders and decisions by the President. There have also been 95 filings by the Registry or parties from other cases. The Prosecution has had to respond to 65 items of correspondence from the defence teams and has already disclosed over 500 items of evidence. It is expected that litigation will remain at a high level throughout the pretrial and trial phases of the case.

## B. Update on the progress of appeals

### 1. *Karadžić*

17. On 20 March 2019, the Appeals Chamber of the Mechanism affirmed the conviction of Radovan Karadžić for genocide, crimes against humanity and war crimes. The Appeals Chamber largely dismissed Karadžić’s appeal, except in relation to a few incidents charged. The Appeals Chamber granted the Prosecution’s appeal against the sentence imposed by the Trial Chamber and entered a sentence of life imprisonment, while dismissing the Prosecution’s other grounds of appeal.

18. Accordingly, the Appeals Chamber confirmed Karadžić’s individual criminal responsibility for: (a) crimes against humanity and war crimes, including persecution, murder, sexual violence, deportation and forcible transfer, committed pursuant to an overarching criminal plan to ethnically cleanse Bosnian Muslims and Bosnian Croats from part of Bosnia and Herzegovina between October 1991 and November 1995, the so-called “overarching joint criminal enterprise”; (b) crimes against humanity and war crimes committed pursuant to a campaign of sniping and shelling in Sarajevo, the primary purpose of which was to spread terror among the civilian population of the city; (c) the war crime of hostage-taking for his role in the detention of United Nations peacekeepers and military observers in May and June 1995 in order to compel the

North Atlantic Treaty Organization (NATO) to cease air strikes on Bosnian Serb military targets; and (d) genocide, the crimes against humanity of persecution, extermination, murder and forcible transfer, and the war crime of murder, committed after the fall of Srebrenica in July 1995.

19. The Office of the Prosecutor is satisfied with the confirmation of the Trial Chamber's convictions and the sentence of life imprisonment imposed by the Appeals Chamber. As the record of the trial and appeal demonstrate beyond reasonable doubt, Karadžić is guilty of genocide, crimes against humanity and war crimes. He abused his political and military authority, together with other senior leaders, to unleash unimaginable campaigns of crimes, commit unspeakable atrocities and destroy a country. The Office calls upon responsible officials from all countries of the former Yugoslavia to promote acceptance of the facts established in the case as the foundation for reconciliation. The denial of crimes and glorification of war criminals cannot be tolerated.

20. Karadžić was among the first individuals indicted by the International Tribunal for the Former Yugoslavia, only two years after its establishment by the Security Council. He was one of the world's most wanted fugitives for almost 13 years, until his arrest by the Serbian authorities on 21 July 2008. The completion of his trial and appeal is an important milestone in international criminal justice and vividly demonstrates what has been achieved in the implementation of Council resolution [827 \(1993\)](#). Justice was delayed by Karadžić's flight, but because the international community did not waver in its commitment, the victims of his crimes ultimately saw him held to account. The Office of the Prosecutor expresses its gratitude to the Council, Member States, the United Nations and partners, including the European Union, for the long-standing support that made it possible to bring Karadžić and other senior leaders to justice.

## 2. *Mladić*

21. On 22 November 2017, a Trial Chamber of the International Tribunal for the Former Yugoslavia unanimously convicted Ratko Mladić of genocide, terror, persecution, extermination, murder, unlawful attacks on civilians, deportation, inhumane acts and hostage-taking, and sentenced him to life imprisonment. On 22 March 2018, the Office of the Prosecutor filed its notice of appeal against the trial judgment. The Office identified two grounds of appeal, both of which related to the acquittal for genocide in relation to events in 1992. On the same date, the Defence also filed its notice of appeal, in which nine grounds of appeal were set out.

22. During the reporting period, the Office of the Prosecutor completed the preparation of its written appellate briefings with the submission of its reply to the Defence appeal on 29 November 2018. In addition to that work, the Office also litigated a high volume of other matters in the case, including five Defence motions for the admission of new evidence on appeal. The Office has further commenced preparations for the oral appeals hearing in the case, which has not yet been scheduled.

## C. Other proceedings

23. On 19 June 2017, the Appeals Chamber granted Augustin Ndirabatware's request for review of the appeal judgment in his case. The review hearing, previously scheduled for 24 to 28 September 2018, was postponed at the request of the Defence and has now been rescheduled for September 2019. The Office of the Prosecutor continued its investigations and preparations for the review proceeding in parallel to its efforts in the related case of *Turinabo et al.*

## D. Cooperation with the Office of the Prosecutor

24. The Office of the Prosecutor continues to rely on the full cooperation of States to complete its mandate successfully. Access to documents, archives and witnesses is critical for ongoing trial and appeal proceedings of the Mechanism, as well as in relation to locating and arresting fugitives and witness protection.

25. During the reporting period, cooperation with the Office of the Prosecutor was generally satisfactory, except in relation to fugitives, as discussed in section III of the present report.

26. In relation to Rwanda, with pretrial proceedings in *Turinabo et al.* under way and trial proceedings anticipated to begin in the coming months, there has been an increasing need for assistance from the Rwandan authorities. The Office's requests for assistance have been answered satisfactorily. The Office is grateful for the support provided to date by Rwanda, in particular by the Office of the Prosecutor General.

27. In relation to Serbia, trial proceedings in the *Stanišić and Simatović* case were delayed pending the necessary waiver from Serbia for the final Prosecution witness. The testimony of that witness, nonetheless, was greatly facilitated by the assistance provided by the War Crimes Prosecutor of Serbia and her Office. With the upcoming commencement of the Defence's presentation of its evidence in *Stanišić and Simatović*, the Office of the Prosecutor of the Mechanism will require assistance from Serbia and other countries, and the timely provision of such assistance is necessary in order to prevent any further delays in the proceeding. The Office fully expects that its requests for assistance will be processed promptly and adequately.

28. Cooperation and support from States outside Rwanda and the former Yugoslavia, as well as from international organizations, remain integral to the successful completion of Mechanism activities. The Office of the Prosecutor again acknowledges the support that it received during the reporting period from Member States and international organizations, including the United Nations and its agencies, the European Union, NATO, the Organization for Security and Cooperation in Europe and the International Criminal Police Organization (INTERPOL).

29. The international community continues to play an important role in providing incentives for States to cooperate with the Mechanism and to undertake national prosecutions of war crimes. The policy of conditionality of the European Union, linking membership progress to full cooperation with the International Tribunal for the Former Yugoslavia and with the Mechanism, remains a key tool for ensuring continued cooperation with the Mechanism and consolidating the rule of law in the countries of the former Yugoslavia. Assistance is also increasingly needed to support the national prosecution of war crimes cases in Rwanda and in the countries of the former Yugoslavia.

## E. Conditional early release

30. As reported in its tenth (S/2017/434, annex II), eleventh (S/2017/971, annex II) and twelfth (S/2018/471, annex II) progress reports, the Office of the Prosecutor of the Mechanism proposed in early 2016 to amend rule 151 of the Rules of Procedure and Evidence of the Mechanism in order to establish a programme for conditional early release. The Office is gravely concerned that the vast majority of convicted persons have been released unconditionally upon or soon after serving only two thirds of their sentences. While the Office's proposal to amend rule 151 was not adopted by the plenary of the judges, the Office took note of the Security Council debate on

6 June 2018. The Office also welcomed Council resolution [2422 \(2018\)](#), in which the Council encouraged the Mechanism to consider a conditional early release regime.

31. During the reporting period, in the light of the Council's guidance, the Office of the Prosecutor continued to make submissions opposing the early release of specific convicted persons and requesting the President to consider imposing conditions for any early release he may nonetheless decide to grant. The former President granted early release to one person convicted by the International Criminal Tribunal for Rwanda and one convicted by the International Tribunal for the Former Yugoslavia, although some basic conditions were imposed. The Office will continue to urge consideration of the views of the victims and affected States and communities before granting early release, in particular without conditions, and bring its views and concerns to the attention of the President in response to applications for early release of persons convicted of genocide, crimes against humanity and war crimes.

### **III. Fugitives**

32. As at the end of the reporting period, eight fugitives indicted by the International Criminal Tribunal for Rwanda remained at large. During the reporting period, intelligence, analysis and investigative activities generated some actionable leads, and the Office of the Prosecutor accordingly approached Member States for assistance and cooperation.

33. As previously reported in the thirteenth progress report ([S/2018/1033](#), annex II), the Office of the Prosecutor submitted an urgent request for assistance to South Africa on 16 August 2018 on the basis of a confirmation provided by the INTERPOL National Central Bureau for South Africa. After no response was received, and in the light of further developments, the Office submitted a second urgent request for assistance on 15 March 2019. The Office engaged in intensive efforts to discuss its urgent requests for assistance with the South African authorities, but without a result.

34. The Prosecutor deeply regrets the lack of cooperation on the part of the South African authorities. The tracking efforts of the Office of the Prosecutor have been directly and negatively affected, preventing results from being achieved. The Office reiterates its desire for direct and open communication with the South African authorities to resolve pending cooperation issues and expects South Africa to adhere to its international obligations under the Charter of the United Nations and the resolutions of the Security Council.

35. With respect to Zimbabwe, the Prosecutor visited Harare in 2018 to hold discussions with senior Zimbabwean officials on ways to strengthen cooperation, and it was agreed that the Office of the Prosecutor and the Zimbabwean authorities would establish a joint task force to coordinate further investigative activities. The Zimbabwean authorities have consistently stated their full commitment to cooperation and adherence to the country's international legal obligations.

36. Towards the end of the reporting period, the Office of the Prosecutor met again with the joint task force and was informed that there had been little development. The Office is grateful to the task force for its efforts, which have generated some additional information. As agreed, it is now necessary to further strengthen cooperation and increase the pace of activities. In addition, the Office has identified a number of viable leads that have not yet been fully pursued by the task force. The task force will prepare investigative strategies for specific issues, as jointly agreed, while the Office will identify open matters for the task force to pursue. The Office trusts that the task force will receive full support from the Zimbabwean authorities in pursuing any leads necessary to locate and arrest fugitives.



37. During the reporting period, the Office of the Prosecutor submitted a number of requests for assistance to national authorities, in particular in Africa and Europe, for information relating to open leads that it is actively pursuing. Overall, while the Office recognizes the commitment by Member States to provide cooperation, many responses were received late or not at all, thus preventing the Office from obtaining urgently needed information that is vital to locating fugitives.

38. Although the Office of the Prosecutor established the African and European Task Forces to address such operational challenges, a further strengthening of partnerships is required. Accordingly, the Office is now working with authorities in East Africa and the United Nations Office on Drugs and Crime (UNODC) to develop an East African network of fugitive active search teams to promote rapid cooperation and exchange of information so that intelligence can be quickly actioned and opportunities seized. At the same time, the Office of the Prosecutor has commenced discussions with participants in the European Task Force and the European Network of Fugitive Active Search Teams to benefit from additional mechanisms that, it is hoped, will expedite cooperation.

39. As provided for in the statute of the Mechanism and reinforced by the Security Council in numerous resolutions, most recently in resolution [2422 \(2018\)](#), all Member States have an international legal obligation to provide cooperation to the Office of the Prosecutor in its efforts to locate and apprehend the remaining fugitives. The Office expresses its appreciation to all Member States that support its efforts and looks forward to continuing to work in close cooperation with them. The Office also reiterates that under the War Crimes Rewards Programme of the Government of the United States of America, individuals (except for government officials) who provide information leading to the arrest of a fugitive may be eligible for a monetary reward in an amount of up to \$5 million.

## **IV. Assistance to national war crimes prosecutions**

40. National prosecutions are now essential to achieving greater justice for the victims of war crimes, crimes against humanity and genocide committed in Rwanda and the former Yugoslavia. The Office of the Prosecutor is mandated to assist and support national prosecutions of those crimes, in accordance with the completion strategies of the International Criminal Tribunal for Rwanda and of the International Tribunal for the Former Yugoslavia, Security Council resolution [1966 \(2010\)](#) and the statute of the Mechanism. The effective prosecution of the crimes committed is fundamental to building and sustaining the rule of law, establishing the truth of what occurred and promoting reconciliation in the affected countries. Third-party States are also pursuing prosecutions of suspects who are present in their territory for crimes committed in Rwanda and the former Yugoslavia.

41. The Office of the Prosecutor continued its efforts, within existing resources, to support, monitor and advise national judicial authorities prosecuting war crimes cases arising from the conflicts in Rwanda and the former Yugoslavia. The Office maintains an ongoing dialogue with all relevant counterparts and undertakes a range of initiatives to assist and build capacity in national criminal justice sectors.

### **A. War crimes committed in Rwanda**

#### **1. Completion strategy of the International Criminal Tribunal for Rwanda**

42. The twenty-fifth anniversary of the Rwandan genocide was an important opportunity to commemorate the victims and reflect on the shared commitment to

preventing others from suffering the horrors of genocide. It was also a reminder that the victims of the Rwandan genocide are still waiting for more justice and that the closure of the International Criminal Tribunal for Rwanda was not an end to that process. All those who committed crimes during the Rwandan genocide must be held accountable. The Mechanism and national courts are now responsible for continuing the work of the Tribunal and ensuring the full implementation of its completion strategy by bringing more perpetrators to justice.

43. The Office of the Prosecutor is fully committed to undertaking all efforts to locate and arrest the remaining eight fugitives indicted by the International Criminal Tribunal for Rwanda. As reported above, the Office is generating and pursuing active leads. Full cooperation and support from Member States are urgently needed to enable the Office's efforts to achieve results. The Mechanism continues to monitor the five cases referred by the Tribunal to the national courts of France and Rwanda under rule 11 bis of the Rules of Procedure and Evidence of the Tribunal. The cases against Wenceslas Munyeshyaka and Laurent Bucyibaruta were referred to France in 2007. Jean Uwinkindi, Bernard Munyagishari and Ladislas Ntaganzwa were transferred to Rwanda in 2012, 2013 and 2016, respectively. All proceedings remain ongoing.

44. At the same time, national authorities now bear the primary responsibility for the continued implementation of the completion strategy of the International Criminal Tribunal for Rwanda. The Prosecutor General of Rwanda is currently searching for approximately 500 fugitives. Courts in countries around the world continue to process cases involving crimes committed during the Rwandan genocide. For example, during the reporting period, the Court of Appeal in Sweden confirmed the conviction and sentence to life imprisonment of a Rwandan who had been naturalized as a Swedish citizen, which is the third such conviction and sentence in Swedish courts. In addition to the cases referred by the International Criminal Tribunal for Rwanda, courts in France continue to process a number of additional cases involving those suspected of committing crimes during the Rwandan genocide. In the implementation of "no safe haven" policies, courts in other countries are also pursuing immigration enforcement actions against those suspected of participating in the genocide.

45. Consistent with the principle of complementarity and national ownership of post-conflict accountability, prosecutions by the Rwandan justice sector in accordance with international due process and fair trial standards are, in principle, the most advantageous accountability mechanism. The Office of the Prosecutor encourages the international community to continue its efforts to support and strengthen the Rwandan criminal justice sector by providing financial assistance and capacity-building as needed.

46. It is essential that those who bear individual criminal responsibility for crimes committed during the genocide are prosecuted. Twenty-five years after the genocide, significant steps towards justice have been achieved, but more remains to be done. The Office of the Prosecutor stands ready to provide support and assistance to Rwandan authorities and third-party States prosecuting, in their own domestic courts, Rwandan nationals suspected of genocide. The Office calls upon all Member States, in the spirit of the recent commemoration, to ensure that all possible efforts are undertaken to continue the implementation of the completion strategy of the International Criminal Tribunal for Rwanda and to support more justice for more victims of the Rwandan genocide.

## **2. Genocide denial**

47. In 2006, the Appeals Chamber of the International Criminal Tribunal for Rwanda held that the facts of the genocide committed in Rwanda were established beyond any dispute and thus constituted facts of common knowledge. In particular,

the Appeals Chamber concluded that it was a universally known fact that, between 6 April and 17 July 1994, there was a genocide in Rwanda against the Tutsi ethnic group. Establishing that and other facts about the Rwandan genocide was one of the Tribunal's most important contributions to re-establishing peace and security in Rwanda and promoting reconciliation between the affected communities.

48. However, genocide denial, in all of its forms and manifestations, continues today. Efforts to minimize the scale of the death and destruction or point to other factors to detract attention from the facts of the genocide are intolerable and unacceptable. There are no other facts or circumstances that in any way alter the truth that in the course of just 100 days in Rwanda, hundreds of thousands of innocent people were senselessly murdered, tortured, raped and forced to flee their homes. At the same time, genocide ideology continues to present clear risks to international peace and security. Ideologies of discrimination, division and hate are promoting conflict and crimes around the globe.

49. The Office of the Prosecutor firmly rejects genocide denial and is committed to promoting education and remembrance as key tools in the fight against genocide ideology. In such efforts, the Office will zealously investigate and prosecute all those who interfere with witnesses with the aim of undermining the established facts of the genocide committed in Rwanda. Such contempt of court is a form of genocide denial and must be opposed.

### 3. Cases referred to France

50. Wenceslas Munyeshyaka, an ordained Catholic priest, was indicted by the International Criminal Tribunal for Rwanda in July 2005 on four counts, namely, genocide, rape as a crime against humanity, extermination as a crime against humanity and murder as a crime against humanity. On 20 November 2007, the Tribunal referred the indictment to France for trial. As previously reported, the investigation by the French authorities in the *Munyeshyaka* case has not resulted in charges being brought against the suspect. On the recommendation of the Paris Public Prosecutor, the investigating judge on 2 October 2015 issued a decision to dismiss the case, which the civil parties appealed. The appeal hearing took place before the Investigation Chamber of the Court of Appeals of Paris on 31 January 2018. On 21 June 2018, the Investigation Chamber confirmed the discharge order on the grounds that there was insufficient evidence to prosecute. The proceedings are now before the Court of Cassation, as seven appeals have been lodged by the civil parties.

51. The *Bucyibaruta* case continued to progress in a positive direction. Laurent Bucyibaruta, the Prefect of Gikongoro Prefecture, was indicted by the International Criminal Tribunal for Rwanda in June 2005 on six counts, namely, direct and public incitement to commit genocide, genocide, complicity in genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. On 20 November 2007, the Tribunal referred the indictment to France for trial. The investigation by the French authorities has been completed. On 4 October 2018, the Public Prosecutor filed his final submission, asking for partial discharge and transfer to the criminal court and requesting the investigating judge to order an indictment for genocide, complicity in genocide and complicity in crimes against humanity. On 24 December 2018, the judge issued a decision that the case should proceed to trial, which is subject to appeal.

52. Although the Office of the Prosecutor recognizes the challenges that the French judiciary has faced in processing these cases, the Office trusts that the French authorities will prioritize them and ensure that further decisions are taken expeditiously. The Office hopes to be able to report later in the year regarding the schedule for the commencement of the trial in the *Bucyibaruta* case.

#### **4. Cases referred to Rwanda**

53. Jean Uwinkindi, a pastor in the Pentecostal Church, was indicted by the International Criminal Tribunal for Rwanda in September 2001 on three counts, namely, genocide, conspiracy to commit genocide and extermination as a crime against humanity. He was transferred to Rwanda for trial on 19 April 2012, and the trial commenced on 14 May 2012. On 30 December 2015, the High Court of Rwanda issued its trial judgment, convicting Uwinkindi and sentencing him to life imprisonment. Appeals proceedings are under way.

54. Bernard Munyagishari, a local leader in the Mouvement républicain national pour la démocratie et le développement, was indicted by the International Criminal Tribunal for Rwanda in September 2005 on five counts, namely, conspiracy to commit genocide, genocide, complicity in genocide, murder as a crime against humanity and rape as a crime against humanity. On 24 July 2013, he was transferred to Rwanda for trial. On 20 April 2017, the High Court issued its trial judgment, convicting Munyagishari of genocide and murder as a crime against humanity, acquitting him of rape as a crime against humanity and sentencing him to life imprisonment. Appeals proceedings are under way.

55. Ladislas Ntaganzwa, mayor of Nyakizu commune, was indicted by the International Criminal Tribunal for Rwanda in June 1996, with the amended indictment charging him with five counts, namely, genocide, direct and public incitement to commit genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. On 20 March 2016, he was transferred to Rwanda for trial. Trial proceedings are under way.

56. The Office of the Prosecutor encourages the Rwandan authorities to ensure that these cases are processed as expeditiously as possible.

### **B. War crimes committed in the former Yugoslavia**

#### **1. Completion strategy of the International Tribunal for the Former Yugoslavia**

57. As the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia emphasized in its final completion strategy report (S/2017/1001, annex II), the completion strategy of the Tribunal has always foreseen that the end of the Tribunal's mandate would not be the end of justice for war crimes committed in the former Yugoslavia, but the beginning of the next chapter. With the closure of the Tribunal, further accountability for the crimes now depends fully on national judiciaries in the countries of the former Yugoslavia. The work of the Tribunal has created a solid foundation for national judiciaries to continue to implement the completion strategy and secure more justice for more victims.

58. More than 15 years after the adoption of the completion strategy, national judiciaries have achieved progress in accountability for war crimes, albeit unevenly among different countries. They continue to face a very large backlog of war crimes cases to process, with several thousand cases remaining across the region. Most importantly, much more remains to be done to bring to justice senior- and mid-level suspects who worked together with or were subordinate to senior-level war criminals prosecuted and convicted by the International Tribunal for the Former Yugoslavia.

59. With the closure of the International Tribunal for the Former Yugoslavia, it is essential to ensure that there is continuity in engagement with national war crimes justice and that support to national judiciaries is further strengthened. For national courts to succeed in continuing the implementation of the completion strategy, it is critical that international organizations, including the United Nations and the

European Union, and individual Member States continue to fully support and strengthen their assistance to national war crimes justice.

## 2. Regional judicial cooperation

60. Judicial cooperation between the countries of the former Yugoslavia is essential to ensuring that those responsible for war crimes are held accountable. Many suspects are not present in the territory where they are alleged to have committed the crimes, and it may not be possible to extradite them to the territorial State for prosecution. Over the past several years, the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and the Office of the Prosecutor of the Mechanism have repeatedly called attention to the negative trends in regional judicial cooperation in war crimes justice.

61. As reported in the thirteenth progress report, regional judicial cooperation in war crimes matters between the countries of the former Yugoslavia is at its lowest level in years and faces increasingly immense challenges. Decisive action is needed to reverse the current negative trends and ensure that war criminals do not find safe haven in neighbouring countries. Solutions are available and well known; the commitment and willingness to use them are now required. Tangible results need to be achieved in the next reporting period in order to prevent further regression and start moving in the right direction.

62. In its tenth, twelfth and thirteenth progress reports, the Office of the Prosecutor of the Mechanism reported that judicial cooperation between Serbia and Kosovo<sup>1</sup> in war crimes matters had broken down. That situation has not improved and is emblematic of the situation in the region. Prosecution offices throughout the region report that the majority of requests for assistance to other countries in the region are denied or not answered in a timely manner. Statistics on the number of cases transferred between countries continue to show that far less progress has been achieved than expected and needed, with the ultimate effect that far too many war crimes suspects enjoy impunity.

63. The Office of the Prosecutor continues to engage intensively with prosecution offices and national authorities in the region to promote improved regional judicial cooperation in war crimes matters. The Office is providing its full support and assistance, including in negotiating the transfer of specific cases, following up on specific requests for assistance and promoting solutions. Shortly after the end of the reporting period, the Chief War Crimes Prosecutor of Serbia will convene a regional conference of war crimes prosecutors, the first such conference since the meetings in Brijuni, Croatia, ended in 2016. For prosecutors in the region to demonstrate their commitment to improving judicial cooperation, the conference will have to produce concrete agreements leading to visible results.

64. The Office of the Prosecutor recognizes that results have been achieved in some areas, in particular between Bosnia and Herzegovina and Serbia, as previously recognized in the twenty-third report of the International Tribunal for the Former Yugoslavia (S/2015/342, annex II) and the Office's twelfth progress report. The Office continues to work with the respective Chief War Crimes Prosecutors and national authorities of both countries to build further upon past results and improve their cooperation. Such cooperation is particularly necessary with respect to cases involving senior and mid-level officials, none of which have been transferred between the two countries. The Office expects concrete results in that area in the upcoming reporting period and looks forward to being able to report that Bosnia and

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<sup>1</sup> All references to Kosovo shall be understood as being in full compliance with Security Council resolution 1244 (1999).

Herzegovina and Serbia are providing a positive example for the region in terms of regional judicial cooperation in war crimes matters.

65. The Office of the Prosecutor has also been informed of efforts by Croatia to resolve its challenges to improving cooperation with Bosnia and Herzegovina on the one hand and with Serbia on the other. With respect to Bosnia and Herzegovina, as discussed below, the Croatian position is that war crimes cases should be transferred only through mutual legal assistance, rather than the existing protocols. With respect to Serbia, the authorities are bilaterally negotiating an agreement on a framework for war crimes cases, as well as the continued exchange of lists of suspects between the two countries. Those efforts are a renewed attempt to resolve those issues, which have been pending for a number of years. Both countries report that there is goodwill to finally achieve results. Regrettably, the absence of agreement for so many years has had the effect in practice of blocking meaningful cooperation between the two countries on war crimes matters, although a protocol for cooperation between the respective prosecution offices is in place, as are applicable agreements on the provision of mutual legal assistance. The Office urges the Croatian and Serbian authorities to finalize an agreement as soon as possible so that their justice institutions can swiftly proceed with the transfer of evidence and cases and suspects can be brought to trial.

66. To reverse negative trends in regional judicial cooperation, strong support from the international community will be essential. It will be important to encourage authorities throughout the region to take urgent, concrete steps to remedy the situation.

### **3. Denial and glorification**

67. The Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and the Office of the Prosecutor of the Mechanism have regularly reported that the denial of crimes and the non-acceptance of facts established in the judgments of the Tribunal are widespread throughout the region. Convicted war criminals are often glorified as heroes. Students in different countries, including in Bosnia and Herzegovina itself, are taught widely different and irreconcilable versions of the recent past. The Office of the Prosecutor of the Mechanism has expressed its grave concern in this regard and called for urgent attention to those issues. Unfortunately, developments during the reporting period again demonstrated that the challenge is severe.

68. Public glorification of convicted war criminals continued during the reporting period. In Serbia, General Vladimir Lazarević, who was convicted by the International Tribunal for the Former Yugoslavia for crimes against humanity and war crimes and who continues to deny the crimes and his responsibility, spoke at a public event commemorating Victory Day in Europe that was attended by senior officials. General Nebojša Pavković, who was convicted by the Tribunal for crimes against humanity and war crimes and who continues to deny the crimes and his responsibility, participated by video link from prison in a public event to promote his memoirs, which have been published by the Ministry of Defence. In Montenegro, Radovan Karadžić, convicted by the Mechanism of genocide, crimes against humanity and war crimes, participated through an unauthorized telephone call in a public event hosted by Momčilo Krajišnik, himself convicted by the Tribunal for crimes against humanity and war crimes. In Croatia, Dario Kordić, convicted by the Tribunal for crimes against humanity and war crimes, was invited to give a speech to university students, during which he presented his conviction as illegitimate and unjust.

69. During the Western Balkans Summit held in London in 2018, the Governments of the region underlined the importance of recognizing and respecting the judgments

of international and national courts and rejecting the use of hate speech and the glorification of war criminals. Political leadership at the highest levels is now needed to make that commitment a reality. That war criminals have served their sentences, or that denial and glorification can be found in every country, is not an acceptable excuse for inaction. Government institutions and officials should publicly condemn the denial of crimes and the glorification of war criminals within their countries, regardless of the source. The legacy of the recent past will be overcome only if political, governmental and civil leaders in the region take a firm stand against denial and glorification and promote acceptance of the truth of the crimes that were committed. In this regard, the international community also has an important role to play in condemning instances of denial and glorification and encouraging domestic leaders to do the same.

#### 4. Bosnia and Herzegovina

70. The Office of the Prosecutor continued to enjoy positive discussions with the Chief War Crimes Prosecutor of Bosnia and Herzegovina about continued cooperation in war crimes justice. The Chief War Crimes Prosecutor underlined her desire for even closer cooperation and collaboration with the Office, including through assistance in concrete cases, strategic support and activities to transfer lessons learned. The Office is committed to continuing to support the work of the Prosecutor's Office of Bosnia and Herzegovina, in particular towards the mutual goal of successfully implementing the national war crimes strategy.

71. During the reporting period, the Prosecutor's Office of Bosnia and Herzegovina filed 15 indictments, 9 of which were filed in December 2018. The Prosecutor's Office continued to file important indictments in complex cases against senior and mid-level officials, as well as in cases involving large numbers of victims. One example is the indictment in the *Purić et al.* case for crimes committed in Križančevo Selo against Bosnian Croat civilians by members of the Army of Bosnia and Herzegovina, in which the accused include a brigade commander, a battalion commander and two assistant commanders for security and morale, as well as four subordinates. The Prosecutor's Office is also actively conducting investigations in complex cases, which should result in additional indictments in the upcoming reporting period. The Office of the Prosecutor of the Mechanism further expects progress in the "rules of the road" cases initially reviewed by the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia, which have been jointly identified as an important priority for action. In relation to the category II cases transferred to Bosnia and Herzegovina, trials and appeals in some cases are ongoing.

72. Improved regional judicial cooperation is essential to continue to pursue meaningful accountability for war crimes committed in Bosnia and Herzegovina. The revised national war crimes strategy, which has yet to be adopted, addresses the transfer of cases within Bosnia and Herzegovina and establishes new, very ambitious deadlines. However, for high-priority complex cases to be processed successfully, regional judicial cooperation is equally critical, as evidence must be obtained from and cases will need to be transferred for prosecution to other countries in the region. The Office of the Prosecutor of the Mechanism shares the concerns of victims that the transfer of complex cases from Bosnia and Herzegovina to other countries in the region requires as much attention as the strategy of transferring less complex cases to lower-level courts within the country.

73. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, significant results have been achieved in relation to accountability for war crimes committed in Bosnia and Herzegovina, but it is clear that much more remains to be done. There is a strong foundation for continued justice

in Bosnia and Herzegovina. In recent years, the Prosecutor's Office of Bosnia and Herzegovina has issued a large number of significant indictments in complex cases involving senior- and mid-level suspects. The Office of the Prosecutor of the Mechanism and the Prosecutor's Office of Bosnia and Herzegovina continue to strengthen their cooperation. Yet there remains an enormous backlog of cases, and efforts still need to be further intensified. The Office of the Prosecutor of the Mechanism encourages further positive progress to prevent any regression and will continue to work with the Prosecutor's Office of Bosnia and Herzegovina and other prosecution offices in Bosnia and Herzegovina.

## 5. Croatia

74. As in its eleventh, twelfth and thirteenth progress reports, the Office of the Prosecutor is required to report to the Security Council that the Government of Croatia, by failing to withdraw its 2015 conclusion directing the Ministry of Justice not to provide judicial cooperation in certain war crimes cases, regrettably continues to politically interfere in the justice process. As a result, a large and continually growing number of war crimes cases against former members of Croatian and Bosnian Croat forces are frozen. That policy is having the effect of promoting impunity at the expense of victims throughout the region who deserve justice. No satisfactory explanations have been provided for the maintenance of the policy, and indeed none could be provided, in particular by a State member of the European Union. The Government of Croatia should withdraw the conclusion immediately and allow the justice process to continue without further interference.

75. With respect to the category II case files from Bosnia and Herzegovina to be prosecuted in Croatia, which have previously been discussed in the progress reports of the Mechanism, the Office of the Prosecutor continued its engagement with the Croatian authorities. In one potentially encouraging development, during the reporting period the Croatian authorities made a commitment to the Office that war crimes cases from Bosnia and Herzegovina would be accepted for transfer and could swiftly proceed if they were transmitted officially through mutual legal assistance. That position is not consistent with the protocols that were previously developed under Croatian leadership and have been agreed upon between prosecution offices in the region. It also poses its own challenges, including the lack of trust that victims have in the willingness of Croatia to prosecute those cases independently and impartially after so many years of delay. Nonetheless, with Croatia failing to provide cooperation through the protocol, and on the understanding that cases will be accepted and can finally proceed, the Office committed to raising the proposal with the Prosecutor's Office of Bosnia and Herzegovina. Separately, the *Glavaš* case, a category II case previously referred by the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia to the State Attorney's Office of Croatia, remains at trial following the earlier revocation of a convicting judgment by the Supreme Court of Croatia.

76. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, significant efforts are still needed to show that war crimes justice in Croatia is on the right track. Negative trends are becoming increasingly clear, with fewer cases being prosecuted each year. Many new cases are being prosecuted in absentia and predominantly concern crimes committed by the Yugoslav People's Army or Serb forces. There has been less progress over the past few years in processing cases against suspects who are former members of Croatian or Bosnian Croat forces, in particular cases initiated in neighbouring countries. In addition to other factors, such as those discussed above, evidence suggests that an important reason for the decrease in war crimes justice in Croatia is a lack of sufficient resources. The Office of the Prosecutor of the Mechanism encourages the Croatian



authorities to ensure that an equal level of resources is provided for war crimes justice today as was provided while Croatia was in the process of acceding to the European Union.

## 6. Montenegro

77. At the request of the Montenegrin authorities, the Office of the Prosecutor has developed its assistance to Montenegro over the past few years in relation to justice for war crimes committed in the conflicts in the former Yugoslavia. In January 2019, the Prosecutor visited Podgorica for open and concrete discussions with the President, the Minister for Foreign Affairs, the Minister of Justice and the Supreme State Prosecutor of Montenegro. As requested by the Montenegrin authorities, the Office agreed to significantly strengthen their cooperation in war crimes justice, including through the transfer of evidence, assistance in concrete cases, training and capacity-building. Moving forward, the Montenegrin authorities and the Office will work together closely to improve the processing of war crimes cases in Montenegro.

78. It is well understood that, to date, little justice for war crimes has been achieved in Montenegro. In the four major cases that have been completed, 28 accused were acquitted, and only 4 were convicted. Those cases were marred by a number of problems, including insufficient evidence and inconsistent application of international law. At the same time, the Special State Prosecutor's Office, which is mandated to investigate and prosecute war crimes, faces significant challenges, in particular insufficient resources. Nonetheless, in its action plan for chapter 23, Montenegro committed to addressing identified shortcomings in the domestic handling of war crimes cases and in 2015 adopted a strategy for war crimes investigations.

79. Currently, the Special State Prosecutor's Office is prosecuting one war crimes case at trial (*Zmajević*), which was transferred from the Office of the War Crimes Prosecutor of Serbia. The Office of the Prosecutor of the Mechanism is assisting the Special State Prosecutor's Office with other ongoing investigations, and it was agreed that the Office of the Prosecutor of the Mechanism would review its evidence to identify additional suspects. Additional cases to be transferred to Montenegro from other countries in the region have also begun to be identified, and the Montenegrin authorities have committed to processing such cases once they are transferred.

80. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, war crimes justice in Montenegro is still in its early stages. There has been almost no accountability for Montenegrin citizens who committed crimes during the conflicts. On a more positive note, the Montenegrin authorities accept that far more needs to be done and have requested the assistance of the Office of the Prosecutor of the Mechanism to ensure that Montenegro can achieve far more justice and meet its commitments. The Office is committed to providing the support needed and hopes to be able to report in the future that war crimes justice in Montenegro has begun to produce concrete results.

## 7. Serbia

81. The Office of the Prosecutor held open and concrete discussions with the Minister of Justice and the Chief War Crimes Prosecutor of Serbia about outstanding issues and the continued cooperation of the Serbian authorities with the Mechanism and its Office of the Prosecutor. There is agreement that the Serbian authorities will continue and strengthen cooperation with the Office of the Prosecutor as a means of supporting implementation of the national war crimes strategy, prosecutorial strategy and action plan for chapter 23. It is further agreed that regional judicial cooperation in war crimes matters is not satisfactory and that efforts need to be made to improve

cooperation as an important element in regional relations. The Serbian authorities and the Office of the Prosecutor will continue to work together closely to expedite the processing of war crimes cases in Serbia.

82. During the reporting period, the Office of the War Crimes Prosecutor of Serbia filed and had confirmed three indictments. One case had been transferred from Bosnia and Herzegovina. The second case is against a Bosnian national for crimes committed in Bosnia and Herzegovina, and the third is against an accused from Kosovo for crimes committed in Kosovo. In the three-year period since the adoption of the Serbian national war crimes strategy, the Office of the War Crimes Prosecutor has filed 17 indictments, nearly all of which concern low-level perpetrators.

83. During the reporting period, the High Court in Belgrade also delivered its trial judgment in the *Trnje* case, which involved the highest-level accused to be indicted so far by the Office of the War Crimes Prosecutor of Serbia. As established beyond reasonable doubt by the International Tribunal for the Former Yugoslavia, in March 1999 Yugoslav forces murdered a large number of Kosovo Albanian civilians in the village of Trnje, disposing of the bodies of women and child victims in order to falsely present the victims as having been killed in combat. In 2013, the Office of the War Crimes Prosecutor indicted the commander of the battalion involved, who was alleged to have ordered indiscriminate killings of civilians, and a low-level direct perpetrator of the murders. On 16 April 2019, after a four-year trial, the High Court convicted the low-level perpetrator for 15 murders, while acquitting the commander. The finding and conviction in Serbian courts confirming the murder of civilians in Trnje are welcome. Nonetheless, it is of significant concern that no senior or mid-level official has yet been held accountable in Serbian courts for the ethnic cleansing of 800,000 civilians in Kosovo in March and April 1999. The Office of the Prosecutor of the Mechanism will engage with the Office of the War Crimes Prosecutor to further improve its capacity to successfully investigate and prosecute leadership cases.

84. As reported in the Mechanism's previous progress reports, the Office of the Prosecutor of the Mechanism and the Serbian authorities have had ongoing discussions regarding a number of issues. The Office welcomes the efforts of the Minister of Justice to complete the recruitment of additional deputy prosecutors and legal assistants in the Office of the War Crimes Prosecutor of Serbia, in line with the commitments made in the action plan for chapter 23 and the national war crimes strategy. The Office of the Prosecutor of the Mechanism also welcomes the initiative of the Minister of Justice to incorporate the national war crimes strategy into the action plan in the near future. The Office was further informed that Serbia had received the judgments of the International Tribunal for the Former Yugoslavia and of the Mechanism from its Registry. While the Office considers that national recognition of the judgments of international tribunals established by the Security Council should be unproblematic, the Ministry believes that there is no legal framework in Serbian law for those judgments to be recognized and for the convictions to be entered in domestic criminal records. The Office also discussed regional judicial cooperation, including negotiations with Croatia, as mentioned above, and the ongoing challenges in obtaining cooperation from Kosovo. The *Djukić* case, raised in previous reports of the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and of the Office of the Prosecutor of the Mechanism, remains unresolved, and Novak Djukić, a convicted war criminal, continues to remain free three years after absconding from justice in Bosnia and Herzegovina. Although a court-appointed medical panel concluded that Djukić was medically fit to participate in the proceedings, a court hearing was again postponed after Djukić re-entered the hospital two days before the hearing.

85. Overall, and in the light of the completion strategy of the International Tribunal for the Former Yugoslavia, while few results have been achieved and impunity for

many well-established crimes remains the norm in Serbia, the upcoming reporting period will demonstrate whether war crimes justice in Serbia is heading in the right direction. With the adoption of its prosecutorial strategy and the strengthening of its human resources, it can now only be expected that the Office of the War Crimes Prosecutor of Serbia will begin investigating, processing, indicting and prosecuting more cases, in particular against senior and mid-level officials, at a higher rate and a higher quality. The Office of the War Crimes Prosecutor is currently conducting a number of important investigations, and cases suitable for transfer from other countries in the region have been identified. The Office of the Prosecutor of the Mechanism is committed to continuing to provide the assistance needed, including training and other forms of support, to enable the Office of the War Crimes Prosecutor to meet high expectations.

### **C. Access to information and evidence**

86. The Office of the Prosecutor possesses extensive evidence and invaluable expertise that can greatly benefit national justice efforts. The collection of evidence relating to the former Yugoslavia comprises more than 9 million pages of documents and thousands of hours of audio and video records, most of which were not introduced into evidence in any proceeding of the International Tribunal for the Former Yugoslavia and are thus available only from the Office of the Prosecutor. The collection of evidence related to Rwanda comprises more than 1 million pages of documents. The Office's staff members have unique insight into the crimes and the cases that can assist national prosecutors in preparing and proving their indictments.

87. During the reporting period, the Office of the Prosecutor continued to receive a high volume of requests for assistance from national judiciaries and international organizations.

88. In relation to Rwanda, the Office of the Prosecutor received one request for assistance, which has been processed. In total, the Office handed over 2,455 pages of documentation.

89. In relation to the former Yugoslavia, the Office of the Prosecutor received 129 requests for assistance from five Member States and two international organizations, including 16 requests from the International Committee of the Red Cross (ICRC). Seventy-seven requests for assistance were submitted by the authorities in Bosnia and Herzegovina, 13 came from Croatia and 12 came from Serbia. In total, the Office handed over more than 3,200 documents comprising nearly 67,000 pages of evidence and 42 audiovisual records. In addition, the Office filed one submission in relation to a request for variation of witness protection measures that concerned a proceeding in Bosnia and Herzegovina. The Office continued to receive a large volume of requests for assistance during the reporting period and expects an even larger volume of requests in the future.

90. The joint European Union-Mechanism training project for national prosecutors and young professionals continued during the reporting period. Liaison prosecutors from Bosnia and Herzegovina and Serbia are working with the Office of the Prosecutor to support the transfer of evidence and expertise to their home offices and the national prosecutions of war crimes committed in the former Yugoslavia. Similarly, young professionals from those countries are working as interns at the Office of the Prosecutor and supporting ongoing Mechanism trials and appeals. Unfortunately, the Office of the Prosecutor must report that the participation of Croatia in the project was terminated as a result of European Commission funding rules. The Office is very concerned that the termination will have a negative impact on war crimes justice in Croatia, as the Croatian liaison prosecutor was responsible

for the recent significant increase in requests for assistance from that country. The Office is further worried that the termination of that country's participation will send the wrong message. The Office remains grateful to the European Union for its consistent support for the important project and would welcome the renewed participation of Croatia.

#### **D. Capacity-building**

91. During the reporting period, the Office of the Prosecutor continued its efforts, within existing resources, to build capacity in national judiciaries prosecuting war crimes. The Office's capacity-building efforts are focused on the Great Lakes region, East Africa and the countries of the former Yugoslavia. Strengthening national capacities supports the principle of complementarity and national ownership of post-conflict accountability.

92. In partnership with UNODC, the Office of the Prosecutor delivered a training course on fugitive tracking on 11 and 12 April 2019. The event was built upon a similar three-day training course organized by the Office of the Prosecutor and UNODC in April 2018. The participants, including law enforcement officers from East African Member States, agreed that the training had helped to build their capacities to track and locate fugitives from their own countries, while also enabling them to better support the efforts of the Office. Participants further agreed that much more remained to be done, especially with regard to cross-border and inter-agency cooperation and collaboration, to enable law enforcement and other criminal justice entities in East Africa to achieve successful results in preventing impunity by tracking and arresting fugitives and ensuring that they do not find safe havens abroad. An East African network of fugitive active search teams would be an important element in promoting improved cooperation.

93. At the invitation of the Minister of Justice of Serbia, the Office of the Prosecutor of the Mechanism, the Office of the War Crimes Prosecutor and the Judicial Academy of Serbia jointly delivered an important advanced training course on investigating and prosecuting sexual and gender-based violence for Serbian war crimes prosecutors in Belgrade from 8 to 12 April 2019. Participants, including recently appointed deputy prosecutors and legal assistants, agreed that the course was a unique opportunity to improve practical skills and knowledge by benefiting from the expertise developed by the Office of the Prosecutor of the Mechanism in that critical area. The participants had the opportunity to work through real-world challenges and practise in-court strategies together with their colleagues and Mechanism experts. Much of the curriculum was based on the legacy publication of the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia entitled *Prosecuting Conflict-related Sexual Violence at the ICTY*, which documents the experience over the past two decades in seeking to establish accountability for conflict-related sexual violence crimes. Financial support for the training was generously provided by the European Commission.

94. Within the limits of its operational capacity and existing resources, the Office of the Prosecutor of the Mechanism will continue to engage with training providers and donors to ensure that appropriate practical training on investigative and prosecutorial techniques in war crimes justice is made available. The Office expresses its deep gratitude to partners for providing financial, logistical and other support to enable the Office's capacity-building and training efforts.

## E. Missing persons

95. The search for persons who are still missing as a result of the conflicts in the former Yugoslavia continued to be consistently identified as one of the most important outstanding issues. Significant results have been achieved, with approximately 30,000 missing persons found and identified. Unfortunately, more than 10,000 families still do not know the fates of their loved ones. The search for and exhumation of mass graves and the subsequent identification of the remains need to be accelerated. Further progress on those issues is a humanitarian imperative and fundamental to reconciliation in the countries of the former Yugoslavia. Victims from all sides of the conflicts must be located, identified and returned to their families.

96. During the reporting period, the Office of the Prosecutor and ICRC continued their cooperation pursuant to the memorandum of understanding signed in October 2018. That important agreement enables ICRC to gain access to the Office's collection of evidence to obtain information that may assist in clarifying the fate and whereabouts of persons who are still missing. The Office and ICRC are also working together, in accordance with their respective mandates, to analyse information, identify new leads and provide files to domestic missing persons authorities for action. During the reporting period, the Office responded to 16 requests for assistance from ICRC and handed over 202 documents comprising 11,127 pages, as well as 12 audiovisual records.

## V. Other residual functions

97. During the reporting period, the Office of the Prosecutor continued to carry out its responsibilities in respect of other residual functions, namely, protecting victims and witnesses, investigating and prosecuting offences involving contempt of court and false testimony, enforcing sentences, reviewing judgments and managing records and archives.

98. The volume of litigation before the Mechanism arising from completed cases continues to be higher than anticipated. During the reporting period, the Office of the Prosecutor responded to a large number of requests for variation of protective measures and motions for access to case files. The Office also continued to investigate and litigate the *Ngirabatware* review proceeding at the Arusha branch, while also responding to a number of additional filings in relation to other potential review proceedings. Those developments strained the Office's limited resources. The Office was nonetheless able to address those unforeseen requirements within existing resources, in particular thanks to the "one office" policy. The Office will continue to monitor the volume of review and related motions and will report as appropriate.

## VI. Management

### A. Overview

99. The Office of the Prosecutor is committed to managing its staff and resources in line with the instruction of the Security Council that the Mechanism be a "small, temporary and efficient structure". The Office continues to be guided by the views and requests of the Council, as set forth in, inter alia, paragraphs 18 to 20 of resolution [2256 \(2015\)](#) and paragraphs 7 and 8 of resolution [2422 \(2018\)](#). An important part of those efforts is the Prosecutor's "one office" policy to integrate the staff and resources of the Office across both branches. Under the policy, staff and resources are available to be flexibly deployed at either branch as necessary.

100. During the reporting period, in the first major test of its preparations to manage unexpected ad hoc judicial activity, the Office of the Prosecutor was required to respond quickly to the single judge's decision not to refer the *Turinabo et al.* contempt case and to his order that the trial instead be conducted at the Mechanism. The Office took a number of steps. First, staff in Arusha and The Hague were quickly redeployed from other assignments to work on *Turinabo et al.*, in particular the preparation of the fugitive case files, while other staff were required to take on additional workload to absorb those redeployments. Second, the Office prepared a cost plan, which was approved, and rapidly commenced recruitment exercises. By using internal reassignments, selecting rostered candidates and advertising temporary job openings, the Office was able to recruit sufficient new staff with the necessary skills in a matter of months, while also continuing to rely primarily on existing resources. Third, pursuant to the "one office" policy, the workload relating to the *Turinabo* case was distributed throughout the Office as appropriate, which allowed the trial team to focus its attention on pretrial preparations, while the appeals team took responsibility for the voluminous pretrial litigation. As a result of all those efforts, the Office was able to meet all court-imposed deadlines so that the case could proceed while the Office concurrently recruited additional staff in Arusha for the trial itself.

## B. Audit reports

101. The Office of Internal Oversight Services (OIOS) previously conducted a confidential audit of the management of the resources of the tracking team. OIOS made five recommendations, all of which were accepted. All of the recommendations were closed during the reporting period. The Office of the Prosecutor appreciates the assistance and constructive advice received from OIOS.

102. In its previous report on the evaluation of the methods and work of the International Residual Mechanism for Criminal Tribunals (S/2018/206), OIOS made one recommendation specifically relating to the Office of the Prosecutor. The Office accepted the recommendation to conduct a survey on staff morale, which was delayed by the recruitment of additional staff in Arusha and is anticipated to be completed in the near future.

## VII. Conclusion

103. During the reporting period, the Office of the Prosecutor of the Mechanism engaged in intensive efforts to locate and arrest the remaining eight fugitives indicted by the International Criminal Tribunal for Rwanda. As previously reported, the Office has been pursuing actionable leads generated from its intelligence, analysis and investigative activities. In this regard, the cooperation of national authorities is essential for the Office. During the reporting period, the Office faced a number of challenges in obtaining the necessary cooperation, which in turn hampered the Office's efforts to locate, track and arrest fugitives. The Office underscores that full and timely cooperation is needed from Member States and other relevant authorities in order to bring the fugitives to justice.

104. The Office of the Prosecutor worked on one case at the pretrial stage (*Turinabo et al.*), one trial (*Stanišić and Simatović*) and two appeals proceedings (*Karadžić* and *Mladić*).

105. At the Arusha branch, on 7 December 2018, the single judge decided not to refer the case of *Turinabo et al.* to Rwanda and ordered that the case be conducted by the Mechanism. Since that time, the Office of the Prosecutor has been engaged in intense pretrial litigation and the preparation of its case. In the first major test of its

preparations to manage unexpected ad hoc judicial activity, the Office was able to redeploy resources rapidly and recruit staff quickly so that it could meet its obligations and all court-imposed deadlines.

106. At The Hague branch, on 20 March 2019, the Appeals Chamber delivered its judgment in the *Karadžić* case, largely confirming the convictions entered at trial, granting the Prosecution's appeal of the sentence and sentencing Radovan Karadžić to life imprisonment. The completion of his trial and appeal is an important milestone in international criminal justice and vividly demonstrates what has been achieved in the implementation of Security Council resolution 827 (1993). The Office of the Prosecutor expresses its gratitude to the Council, Member States, the United Nations and partners, including the European Union, for the long-standing support that made it possible to bring Karadžić and other senior leaders to justice.

107. Significant challenges remain with respect to national prosecutions of war crimes in Rwanda and the former Yugoslavia. Regarding war crimes committed in Rwanda, the twenty-fifth anniversary of the Rwandan genocide was an important opportunity to commemorate the victims, but also a reminder that they are still waiting for more justice. All those who committed crimes during the Rwandan genocide must be held accountable. The Mechanism and national courts are now responsible for continuing the work of the International Criminal Tribunal for Rwanda and ensuring the full implementation of its completion strategy. Regarding war crimes committed in the former Yugoslavia, the Office of the Prosecutor of the Mechanism continued its engagement with national authorities that now have full responsibility for continuing the implementation of the completion strategy and securing more justice for more victims. The Office of the Prosecutor remains committed to providing its full support, including by responding to requests for assistance, transferring knowledge gained and lessons learned and providing assistance in concrete cases.

108. In all of its endeavours, the Office of the Prosecutor relies upon and gratefully acknowledges the support of the international community and especially that of the Security Council.

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