



**General Assembly
Security Council**

Distr.: General
28 July 2023

Original: English

**General Assembly
Seventy-eighth session
Item 128 of the provisional agenda*
International Residual Mechanism for Criminal Tribunals**

**Security Council
Seventy-eighth year**

International Residual Mechanism for Criminal Tribunals

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and of the Security Council the eleventh annual report of the International Residual Mechanism for Criminal Tribunals, submitted by the President of the Mechanism in accordance with article 32 (1) of the statute of the Mechanism (see Security Council resolution [1966 \(2010\)](#), annex 1).

* [A/78/150](#).



Letter of transmittal

Letter dated 28 July 2023 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the General Assembly and the President of the Security Council

I have the honour to submit the eleventh annual report of the International Residual Mechanism for Criminal Tribunals, dated 28 July 2023, to the General Assembly and to the Security Council, pursuant to article 32 (1) of the statute of the Mechanism.

(Signed) Graciela **Gatti Santana**
President

Summary

Eleventh annual report of the International Residual Mechanism for Criminal Tribunals

The present annual report outlines the activities of the International Residual Mechanism for Criminal Tribunals from 1 July 2022 to 30 June 2023.

The Mechanism continues to be guided by the Security Council's vision of it as a small, temporary and efficient structure, whose functions and size will diminish over time, with staffing levels commensurate with its reduced functions. The Security Council, in its resolution [2637 \(2022\)](#), specifically requested the Mechanism to take steps to further enhance efficiency and effective and transparent management, and to provide options regarding the transfer of its remaining activities in due course. The Mechanism has therefore continued to streamline and consolidate operations, including by closing the Sarajevo field office and the United Nations Detention Facility in Arusha, United Republic of Tanzania. Furthermore, much of the new President's attention was devoted to carrying out future planning activities and moving forward with the transition from an operational court to a truly residual institution.

The Chambers made considerable progress in the completion of its judicial work. Following the delivery on 31 May 2023 of the appeal judgment in the case of *Prosecutor v. Jovica Stanišić and Franko Simatović*, the final case inherited from the International Tribunal for the Former Yugoslavia, only one core crimes case remains on the Mechanism's docket, namely, the case against Félicien Kabuga. The proceedings in this case are temporarily stayed pending the resolution of the appeals against the Trial Chamber's finding that Mr. Kabuga was unfit for trial and its decision to adopt an alternative finding procedure.

The Office of the Prosecutor remained focused on three priorities: (a) the expeditious completion of trials and appeals; (b) locating and arresting the remaining fugitives indicted by the International Criminal Tribunal for Rwanda; and (c) assisting national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda. The Office achieved significant results during the reporting period, including the arrest of Fulgence Kayishema on 24 May 2023 and the granting in part of its appeal in the *Stanišić and Simatović* case.

The Registry supported the work of the Chambers and the Office of the Prosecutor at both branches, focusing on three main strategic priorities: (a) supporting judicial activity; (b) performing continuous functions; and (c) further cultivating staff development and morale. The implementation of these three priorities was based on enhanced cross-branch coordination and cooperation among sections of the Registry to ensure greater efficiency and the timely provision of administrative and support services, and to further strengthen an organizational culture that fosters a safe and respectful workplace in which all staff have equal access to opportunities.

I. Introduction

1. This report covers the period from 1 July 2022 to 30 June 2023. This period featured solid progress in the various functions of the International Residual Mechanism for Criminal Tribunals and also marked the first year of the presidency of Judge Graciela Gatti Santana, who assumed office on 1 July 2022.

2. The appeal judgment in the case of *Prosecutor v. Jovica Stanišić and Franko Simatović* was pronounced on 31 May 2023, earlier than previous projections. The Mechanism thereby completed the last case involving core crimes originating from the International Tribunal for the Former Yugoslavia, shortly after the thirtieth anniversary of that Tribunal's establishment by Security Council resolution [827 \(1993\)](#). As a result, only one core crimes case, originating from the International Criminal Tribunal for Rwanda, remains.

3. The proceedings in the case of *Prosecutor v. Félicien Kabuga* are temporarily stayed pending the resolution of the appeals against the Trial Chamber's finding that Mr. Kabuga was unfit for trial and its decision to adopt an alternative finding procedure. These appeals are extremely complex and involve novel legal issues that could potentially have a major impact on the future workload and size of the Mechanism.

4. On 24 May 2023, Fulgence Kayishema was arrested in a joint operation by the fugitive tracking team of the Office of the Prosecutor and South African authorities. Following the Prosecution's confirmation of the death of Protais Mpiranya and Phénéas Munyarugarama, proceedings against them were terminated on 14 September 2022 and 16 December 2022, respectively. There are now only three fugitives remaining, all of whose cases have been referred to Rwanda for trial.

5. The Office of the Prosecutor continued to monitor, support and advise national judicial authorities prosecuting war crimes cases arising from the conflicts in Rwanda and the former Yugoslavia.

6. The Mechanism continued to face three major challenges in relation to cooperation and the fulfilment of its mandate. The first concerned the unresolved situation of the acquitted or released persons relocated to the Niger in December 2021, who remain under de facto house arrest in violation of the agreement reached with the United Nations. The second was the rise in the number of enforcement States unable to continue serving in that capacity and the Mechanism's difficulties in finding new enforcement States. The third was the threat to the work and legacy of the ad hoc Tribunals and the Mechanism posed by genocide denial, revisionism and the glorification of convicted war criminals.

II. Activities of the Mechanism

A. Organization

7. In its resolution [1966 \(2010\)](#), the Security Council decided that the Mechanism would operate for an initial period of four years from 1 July 2012. It subsequently decided that the Mechanism would continue to operate for periods of two years following periodic reviews of the progress of the Mechanism's work, including in completing its functions, unless decided otherwise by the Council.

8. In accordance with article 3 of its statute, the Mechanism comprises two branches. Its branch in Arusha, United Republic of Tanzania, assumed functions derived from the International Criminal Tribunal for Rwanda and commenced operations on 1 July 2012. Its branch in The Hague, the Kingdom of the Netherlands,

assumed functions derived from the International Tribunal for the Former Yugoslavia and commenced operations on 1 July 2013. In accordance with article 4 of the statute, the Mechanism consists of three organs: (a) the Chambers; (b) the Prosecutor; and (c) the Registry.

9. Each of the organs is headed by a full-time principal common to both branches. The President is based in The Hague and the Prosecutor and Registrar are based in Arusha. During the reporting period, the Principals were President Graciela Gatti Santana (Uruguay), Prosecutor Serge Brammertz (Belgium) and Registrar Abubacarr Tambadou (Gambia). The terms of all three Principals run until 30 June 2024.

10. Under article 8 of the statute, the Mechanism has a roster of 25 independent judges who, insofar as possible and as decided by the President, exercise their functions remotely. Mechanism judges are not remunerated for being on the judicial roster, but rather receive compensation only for the days on which they exercise their functions, as assigned by the President. In addition, pursuant to article 12 (2) of the statute, the President continued to assign duty judges at the Arusha branch.

11. The reporting period was marred by the passing on 5 January 2023 of Judge Elizabeth Ibanda-Nahamya (Uganda), who was a member of the Trial Chamber in the *Kabuga* case and had served with distinction as a Judge of the Mechanism since 2018. The Secretary-General appointed Judge Lydia Mugambe (Uganda) to serve the remainder of the term of office of Judge Ibanda-Nahamya, effective 26 May 2023. The number of female judges on the Mechanism's roster thus remains at 8 out of 25.

12. At the end of the reporting period the judicial roster comprised (in order of precedence): Judge Graciela Gatti Santana, President (Uruguay), Judge Jean-Claude Antonetti (France), Judge Joseph E. Chiondo Masanche (United Republic of Tanzania), Judge William Hussein Sekule (United Republic of Tanzania), Judge Lee G. Muthoga (Kenya), Judge Carmel Agius (Malta), Judge Alphons M. M. Orié (Kingdom of the Netherlands), Judge Burton Hall (Bahamas), Judge Florence Rita Arrey (Cameroon), Judge Vagn Joensen (Denmark), Judge Liu Daqun (China), Judge Prisca Matimba Nyambe (Zambia), Judge Aminatta Lois Runeni N'gum (Gambia/Zimbabwe), Judge Seon Ki Park (South Korea), Judge José Ricardo de Prada Solaesa (Spain), Judge Ivo Nelson de Caires Batista Rosa (Portugal), Judge Seymour Panton (Jamaica), Judge Yusuf Aksar (Türkiye), Judge Mustapha El Baaj (Morocco), Judge Mahandrisoa Edmond Randrianirina (Madagascar), Judge Claudia Hoefler (Germany), Judge Iain Bonomy (United Kingdom of Great Britain and Northern Ireland), Judge Fatimata Sanou Touré (Burkina Faso), Judge Margaret M. deGuzman (United States of America) and Judge Lydia Mugambe (Uganda).

13. From 28 to 30 November 2022, the Mechanism held its first in-person plenary of judges since March 2019. This successful event took place at the Hague branch and allowed for confidential, in-depth exchanges between the judges on a number of issues, including a proposed amendment to the Rules of Procedure and Evidence. Notably, they agreed to establish a panel on judicial functions to assess the outlook for the Mechanism's judicial functions and judicial roster. The panel presented its report to the President just after the end of the reporting period.

B. Legal and regulatory framework

14. The Mechanism's activities are governed by a legal and regulatory framework comprising the Mechanism's statute, its Rules of Procedure and Evidence, as well as other rules, regulations, practice directions and internal policies.

15. On 25 May 2023, after consultation with the President and pursuant to rule 31 (C) of the Rules, the Registrar issued a practice direction on judicial records

to further harmonize cross-branch procedures that reflect current best practices. This replaces the previous practice direction on filings and updates the Mechanism's management of filings, transcripts, exhibits and audiovisual recordings.

C. Rules Committee

16. The Mechanism's Rules Committee submits an annual report, which includes proposals for amendments to the Rules. Following the appointment of Judge Gatti Santana as President of the Mechanism, the Rules Committee is made up of Judge Hall (Chair), Judge Park, Judge Rosa and the President as an ex officio member, together with the non-voting members, who are representatives of the Prosecutor, the Registrar and the Association of Defence Counsel Practicing before the International Courts and Tribunals.

D. Mechanism Coordination Council

17. As laid down in rule 25, the Mechanism Coordination Council consists of the President, the Prosecutor and the Registrar and meets regularly to coordinate the activities of the three organs of the Mechanism. During the reporting period, the Council, chaired by the President, met to discuss cross-cutting topics, including budgetary issues, downsizing and planning for the future. The Council has functioned as a useful and effective forum to further enhance systematic thinking and a shared vision of the Mechanism's management, as recommended by the Office of Internal Oversight Services (OIOS).

E. Planning for the future

18. With the core crimes cases nearing their conclusion, the Mechanism has shifted its focus towards meticulous planning for the future and is preparing to enter the next phase of its lifespan. As part of this process, the Mechanism is developing a scenario-based workforce plan that includes possibilities for the transfer of its mandated residual functions in accordance with paragraph 11 of Security Council resolution [2637 \(2022\)](#). These long-term functions, in addition to continuous judicial activity (articles 1 (4), 6 (6), 7, 17, 24, 26 and 28 (2) of the statute), include the monitoring of cases referred to national jurisdictions (article 6 (5)), witness protection (article 20), the enforcement of sentences (article 25), management of the archives (article 27) and the provision of assistance to national jurisdictions (article 28 (3)).

19. The scenario-based workforce plan will be submitted in time for the fifth Security Council review of the progress of the Mechanism's work, which will be conducted in the first half of 2024. The plan will include, to the extent possible, projections regarding the duration of all remaining functions. These projections are intrinsically linked to the transferability of the Mechanism's residual functions, which will be decided by the Council.

20. Separately, OIOS has initiated a new evaluation of the methods and work of the Mechanism, as part of which the scenario-based workforce plan originally recommended by that Office in 2018 will be considered. The evaluation covers the period from January 2021 to December 2023 and is being conducted simultaneously with the Mechanism's efforts to prepare for the future.

F. Relocation of acquitted or released persons

21. Despite the extensive diplomatic efforts of the Mechanism to find a durable solution for the acquitted or released persons who were relocated from Arusha to the Niger in December 2021, the situation remains unresolved.

22. On 9 June 2023, the Mechanism was informed of the passing of one of the relocated persons, Tharcisse Muvunyi. The Mechanism is in the process of obtaining information about the circumstances of his death.

23. The Registrar continued to encourage the Niger to abide by the terms of the relocation agreement concluded with the United Nations on 15 November 2021. In parallel, the Registrar and his Office collaborated with the counsel and families of the relocated persons in assessing, identifying and approaching other potential States for relocation in the event that the Mechanism's diplomatic efforts with the Niger remain fruitless. To this end, the Registry has contacted 39 Member States and held virtual meetings with national authorities to provide further information on the situation. These endeavours are without prejudice to the relocated persons' own efforts to find States in which to settle.

24. The President raised this matter in numerous bilateral meetings with Member States, as well as with the Security Council and its Informal Working Group on International Tribunals. To increase the transparency of all endeavours, the President ordered the Registrar, in December 2022, to file reports on the steps taken to resolve the situation on a bimonthly basis. Accordingly, reports were filed on 3 January, 7 March and 8 May 2023.

25. Following a single judge's order on 12 January 2023, the Registrar provided each relocated person with an additional lump sum of \$10,000 to support their daily living expenses.

26. The Mechanism emphasizes that it cannot resolve this situation alone. It recalls in this regard resolution [2637 \(2022\)](#), in which the Security Council reiterated its call to all States to cooperate with and render all necessary assistance to the Mechanism.

III. Activities of the President and the Chambers

A. Principal activities of the President

27. The President is the institutional head and highest authority of the Mechanism, responsible for the overall execution of its mandate. In accordance with rule 23 (A), he or she coordinates the work of the Chambers, presides over the Appeals Chamber, supervises the activities of the Registry and carries out other functions specified in the statute and the Rules.

28. During the reporting period, President Gatti Santana remained committed to the three priorities of her presidency, namely: (a) to focus on the efficient, effective and fair conclusion of the remaining trial and appeal proceedings; (b) to lead efforts in developing a comprehensive strategy to guide the Mechanism's continuing transition from an operational court to a truly residual institution, including by exploring options regarding the transfer of activities to other bodies, as appropriate, with due regard for judicial independence and the rights of persons under the Mechanism's care; and (c) to consolidate the achievements of the ad hoc Tribunals and the Mechanism, while further enhancing inter-organ and inter-branch coordination and collaboration.

29. With regard to her first priority, President Gatti Santana, in her capacity as pre-appeal and presiding judge of the Appeals Chamber in the *Stanišić and Simatović* case, together with her colleagues, ensured that the projected timeline for the delivery of the appeal judgment could be met. She also provided the necessary support to the judges of the Trial Chamber seized of the *Kabuga* case.

30. In addition, the President coordinated the work of the Chambers in collaboration with the leadership of the Chambers Legal Support Section to enhance the timely and cost-effective functioning of the Chambers more generally. She continued to assign the judicial workload through equitable distribution, making the best use of judges' diverse backgrounds and expertise.

31. In furtherance of her second priority, the President guided the Mechanism towards the next phase of its lifespan, thereby responding to the relevant parts of Security Council resolution 2637 (2022). Specifically, the President spearheaded the preparation of a draft scenario-based workforce plan by an internal cross-organ working group, established the above-mentioned panel on judicial functions to assess the outlook for the Mechanism's judicial functions and judicial roster, and held informal exchanges with representatives of other international courts and tribunals to discuss lessons learned with regard to the residual functions of those institutions.

32. Regarding her third priority, the President discussed with various stakeholders the dangers posed by the rise in genocide denial, revisionism and the glorification of war criminals, and ways to address them. In this context, she emphasized the critical importance of making the public records of the ad hoc Tribunals and the Mechanism more accessible, including by ensuring widespread access to the unified court records database, completing the translations of all judgments of the ad hoc Tribunals and establishing information centres in the countries most affected by the Mechanism's work.

33. In addition, the President, together with the other Principals, held in-person town hall meetings in Arusha, Kigali and The Hague to engage directly with staff and address specific issues relating to the respective duty station. President Gatti Santana also met regularly with the Staff Union.

34. The President engaged with the Governments and people of Rwanda and the countries of the former Yugoslavia. She participated in the twenty-seventh commemoration of the genocide in Srebrenica, in July 2022, and in the thirtieth commemoration of the crimes committed in Ahmići, in April 2023. That same month, the President attended the twenty-ninth commemoration of the genocide against the Tutsi in Rwanda. In addition, she met with the President of the International Committee of the Red Cross in Geneva.

35. Pursuant to article 32 of the statute, the President reported to the Security Council and the General Assembly as appropriate. She submitted the Mechanism's tenth annual report to the General Assembly and the Security Council on 28 July 2022 (A/77/242-S/2022/583) and gave a briefing to the Assembly in October 2022. The twenty-first and twenty-second six-monthly reports on the Mechanism's progress were submitted to the Council in November 2022 (S/2022/866) and May 2023 (S/2023/357), respectively. In addition, the President gave briefings to the Council and its Informal Working Group on International Tribunals in December 2022 and in June 2023.

36. Supervising the enforcement of sentences remained a central area of responsibility for the President in accordance with article 25 (2) of the statute. Having consulted with other judges as required under rule 150, the President issued four decisions on applications for early release or commutation of sentence, and numerous related orders. The President also issued decisions concerning requests for transfer

from enforcement States and the designation of States in which convicted persons are to serve their sentence.

37. The President continued to receive regular reports related to the coronavirus disease (COVID-19) pandemic from enforcement States, in accordance with an order issued on 1 August 2022. Under an order of 19 May 2023, the President vacated the monitoring regime following the announcement by the World Health Organization that the pandemic no longer constituted a public health emergency of international concern. The Mechanism reiterates its gratitude for the reports received from enforcement States and their efforts to ensure the safety of the convicted persons.

B. Trials and appeals

38. In the *Kabuga* case, the trial commenced at the Hague branch on 29 September 2022. The bench was originally composed of Judge Bonomy, presiding, Judge Ibanda-Nahamya and Judge Gatti Santana. Following the appointment of Judge Gatti Santana as President of the Mechanism and the sad passing of Judge Ibanda-Nahamya, the bench is now composed of Judge Bonomy, presiding, Judge El Baaj, Judge deGuzman and Judge Rosa as reserve judge.

39. To date, the Trial Chamber has heard the complete evidence of 23 prosecution witnesses in court. Witnesses have appeared in The Hague and from Arusha and Kigali by videoconference link. The evidence of 47 other prosecution witnesses was admitted at the start of the trial exclusively in written form. A total of 31 prosecution witnesses remain to be heard in court, including 1 whose direct evidence has been presented but who has yet to be cross-examined. On 12 December 2022, an independent panel of experts, appointed by order of the Trial Chamber to monitor Mr. Kabuga's health, filed a report in which it indicated that, at the time it examined Mr. Kabuga, he was not fit for trial and that it recommended a reassessment within three months to see whether the decline was temporary or permanent. The Trial Chamber ordered a follow-up medical report but declined to immediately stay proceedings until after considering the next report.

40. On 6 March 2023, the Registry filed the follow-up report of the independent panel of experts, in which the panel indicated that Mr. Kabuga had further declined since its report of December 2022 and was not fit for trial. Subsequently, the Trial Chamber temporarily suspended the presentation of the Prosecution's evidence. The Trial Chamber and the parties examined each of the three experts in hearings held on 15 to 17, 23 and 29 March 2023. The Trial Chamber heard the parties' oral submissions on the issue of Mr. Kabuga's fitness on 30 March. On 25 April, the Trial Chamber ordered the parties to file submissions concerning the consequences of a decision that Mr. Kabuga is unfit for trial, in order to enable the Trial Chamber to issue a comprehensive decision on Mr. Kabuga's fitness and the next stages of the proceedings if he were found to be unfit.

41. In a decision issued on 6 June 2023, the Trial Chamber held, by majority, that, on the basis of the unanimous opinion of the three medical experts, Mr. Kabuga was not fit for trial and was very unlikely to regain fitness. Consequently, the Trial Chamber, by majority, decided that it should conduct an alternative finding procedure, closely resembling a trial, in which the Prosecution would be required to prove both the *mens rea* and the *actus reus* of each charge beyond a reasonable doubt. Although this procedure cannot result in a conviction, it provides an opportunity for acquittal and therefore the best means of ensuring Mr. Kabuga's fair trial rights and the goals of the Mechanism. Both parties requested certification to appeal on 13 June, and the Trial Chamber granted the parties' requests on 16 June.

42. On 23 June 2023, the parties filed their respective appeals challenging the Trial Chamber's finding that Mr. Kabuga was not fit for trial and its decision to proceed with an alternative finding procedure. On the same day, the President assigned Judge Agius, Judge Hall, Judge Liu, Judge N'gum and Judge de Prada Solaesa to the bench of the Appeals Chamber seized of the case. The matter is pending before the Appeals Chamber.

43. In the *Stanišić and Simatović* case, the appeal proceedings were concluded during the reporting period. Following her appointment as President of the Mechanism, Judge Gatti Santana smoothly replaced Judge Agius as pre-appeal and presiding judge of the Appeals Chamber without requiring additional time to familiarize herself with the case and was committed to keeping the original projections in place. The bench seized of this case was composed of Judge Gatti Santana, Judge Muthoga, Judge N'gum, Judge Aksar and Judge Hoefler. Judge Gatti Santana held status conferences on 22 September 2022 and on 19 January and 17 May 2023 to allow Mr. Stanišić and Mr. Simatović to raise issues in relation to their detention and health.

44. Among the orders and decisions issued in connection with the case during the reporting period, the Appeals Chamber, on 20 and 21 December 2022, notably denied requests from Mr. Stanišić and the Office of the Prosecutor to admit additional evidence on appeal under rule 142. The hearing of the appeals was held in The Hague before the Appeals Chamber on 24 and 25 January 2023 as initially projected, notwithstanding circumstances that prevented Mr. Stanišić's counsel from travelling to The Hague to attend the hearing. To avoid a delay, the Appeals Chamber, with the consent of Mr. Stanišić, exceptionally authorized his counsel to appear remotely by secure videoconference link.

45. On 31 May 2023, earlier than previous projections, the Appeals Chamber rendered its judgment. The Appeals Chamber dismissed the appeals of Mr. Stanišić and Mr. Simatović against their convictions of aiding and abetting and their sentences of 12 years of imprisonment. The Appeals Chamber granted in part the appeal of the Prosecutor, finding both Mr. Stanišić and Mr. Simatović criminally liable as participants in a joint criminal enterprise, and increased both of their sentences to 15 years of imprisonment. The conclusion of the case, which the Mechanism inherited from the International Tribunal for the Former Yugoslavia, represented the conclusion of all the core crimes proceedings brought before that Tribunal. The *Stanišić and Simatović* case was also one of only three cases in the history of the ad hoc Tribunals and the Mechanism in which a retrial was ordered, and is the only case whose original trial and retrial proceedings spanned two institutions.

C. Other judicial activities

46. In relation to the former Yugoslavia, the Mechanism deeply regrets that there have been no developments in the contempt case against Petar Jojić and Vjerica Radeta, with Serbia purposefully refusing to arrest and surrender the accused. Another possible contempt case in a separate matter is pending confirmation of the indictment.

47. In relation to Rwanda, two possible contempt matters remain under consideration. In the first, which came to light during the trial in the case of *Prosecutor v. Anselme Nzabonimpa et al.*, the amicus curiae, appointed on 25 October 2021, filed the report on his investigation on 13 March 2023, and, pursuant to a judicial order, a supplement was filed on 13 June. The second concerns the submission of forged documents and arose during proceedings before a single judge with regard to frozen assets linked to Mr. Kabuga. The amicus curiae, appointed on 23 May 2022, filed the report on his investigation on 6 April 2023.

48. In relation to activities of single judges, 11 judges on the judicial roster were assigned to applications arising at either branch. The applications concerned assistance to national jurisdictions, access to confidential information, variation of protective measures, *non bis in idem* issues, allegations of contempt and false testimony, changes in the classification of filings, termination of proceedings due to the deaths of fugitives, and requests for assistance and relocation of acquitted or released persons. Collectively, 69 decisions and orders were issued by single judges during the reporting period and, as at 30 June 2023, single judges were seized of six pending matters.

IV. Activities of the Office of the Prosecutor¹

A. Introduction

49. The Office of the Prosecutor continued to focus on three strategic priorities: (a) the expeditious completion of trials and appeals; (b) locating and arresting the remaining fugitives indicted by the International Criminal Tribunal for Rwanda; and (c) assisting national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda.

50. During the reporting period, the Office achieved notable successes. On 24 May 2023, the Office, working in close cooperation with South African authorities, arrested Mr. Kayishema in South Africa. Mr. Kayishema was the Office's most wanted fugitive and had been at large for more than two decades. Separately, on 31 May, the Office's appeal in the *Stanišić and Simatović* case was granted in part by the Appeals Chamber. The Appeals Chamber accepted the Office's arguments that Mr. Stanišić and Mr. Simatović were criminally liable as participants in a joint criminal enterprise for a significant number of horrific crimes and increased their sentences to 15 years of imprisonment each. These results bring the Office closer to the completion of its ad hoc residual functions.

51. The Office continued to carry out its other mandated residual functions. In particular, the Office provided extensive support and assistance to national authorities investigating and prosecuting international crimes committed in Rwanda and the former Yugoslavia. While continuing to respond to a very large volume of requests for access to evidence, during the reporting period the Office also prepared and handed over to national prosecutors two important investigative dossiers concerning 11 suspects in total. All the Office's efforts in accordance with article 28 (3) of the statute to assist national prosecutions are highly valued and produce meaningful results.

52. In managing its work, the Office is guided by the views and requests of the Security Council as set forth in, among other places, resolutions [2256 \(2015\)](#), [2529 \(2020\)](#) and [2637 \(2022\)](#). The Office continued to implement its one-office policy to further streamline operations and reduce costs.

B. Trials and appeals

53. During the reporting period, the Office of the Prosecutor completed appeal proceedings in one case and continued to effectively litigate one trial. As ordered by a single judge, the Office also completed one investigation and submitted indictments against a number of persons for contempt of court crimes.

¹ The present section reflects the views of the Prosecutor of the Mechanism.

54. On 31 May 2023, the Appeals Chamber issued its judgment in the *Stanišić and Simatović* case. The Appeals Chamber accepted some of the Prosecution's arguments and granted the Prosecution's appeal in part, while dismissing the Defence's appeals in full. The Appeals Chamber agreed with the Prosecution that Mr. Stanišić and Mr. Simatović were criminally liable as participants in a joint criminal enterprise. The Appeals Chamber confirmed that the joint criminal enterprise comprised, in addition to Mr. Stanišić and Mr. Simatović, many senior Serbian, Croatian Serb and Bosnian Serb political, military and police leaders. The purpose of the joint criminal enterprise was to forcibly and permanently remove, through the commission of the crimes of persecution, murder, deportation and inhumane acts (forcible transfers), the majority of non-Serb civilians, predominantly Croats, Bosnian Muslims and Bosnian Croats, from large areas of Bosnia and Herzegovina and Croatia. The Appeals Chamber accordingly entered additional convictions for crimes committed in 1992 in Bijeljina, Zvornik, Bosanski Šamac, Doboj and Sanski Most and for crimes committed in 1995 in Trnovo and Sanski Most. Lastly, the Appeals Chamber increased the sentences of Mr. Stanišić and Mr. Simatović to 15 years of imprisonment.

55. In the *Kabuga* case, the Prosecution commenced and significantly advanced the presentation of its evidence. The Prosecution presented its opening statement on 29 September 2022 and called its first witness on 5 October. During the reporting period, the Prosecution presented the evidence of 24 witnesses in total, with 7 witnesses testifying in The Hague, 12 in Arusha and 5 in Kigali. The Prosecution utilized 15 hours of courtroom time, while the Defence utilized 41 hours. The Prosecution has 30 witnesses remaining.

56. The Prosecution also litigated the fitness of the accused to stand trial. The Prosecution examined three witnesses and made 13 filings on the matter during the reporting period. Following the Trial Chamber's finding of 6 June 2023 that Mr. Kabuga was not currently fit to stand trial and its decision to order an alternative finding procedure, the Prosecution filed an appeal, as did the Defence. A decision by the Appeals Chamber is expected shortly after the end of the reporting period.

57. During the reporting period, the Office completed its investigation into suspected contempt of court crimes, as ordered by a single judge of the Mechanism. The Prosecution submitted indictments for confirmation against a number of persons pursuant to article 1 (4) (a) of the statute and rule 90 (A). The Office's investigation uncovered evidence of the publication of a large volume of confidential information, as well as breaches of Mechanism judicial orders. The publications included information that reveal the identities of dozens of protected witnesses. The large-scale, systematic and ongoing breach of confidentiality measures taken by the International Tribunal for the Former Yugoslavia is regrettably part of continued efforts to undermine the judgments of that Tribunal and the Mechanism.

58. The Office remains committed to taking all steps to expedite the completion of all proceedings in accordance with the directives of the respective Chambers. The Office also remains committed to flexibly deploying its limited resources to efficiently handle all responsibilities within its mandate.

C. Fugitives

59. During the reporting period, the Office of the Prosecutor achieved a significant result in its efforts to account for the remaining fugitives indicted by the International Criminal Tribunal for Rwanda. On 24 May 2023, the Office's fugitive tracking team arrested Mr. Kayishema in Paarl, South Africa. Mr. Kayishema, who had been a fugitive since 2001, is alleged to have orchestrated the killing of approximately 2,000 Tutsi refugees – women, men, children and older persons – at the Nyange Catholic

church during the genocide against the Tutsi in Rwanda. His arrest was a signal moment in international justice and underscored the strength of the international community's commitment to ensuring that genocide is repressed and punished, no matter how long it may take.

60. The arrest, conducted jointly with South African authorities, followed an intensive international investigation by the Office. Many Member States, particularly in southern Africa, played a critical role. Eswatini, Mozambique, Rwanda and South Africa made enormous contributions to this success by providing direct operational cooperation that ultimately enabled the Office to locate Mr. Kayishema and quickly secure his arrest.

61. There are now only three fugitives remaining. During the reporting period, the Office made important progress in all three cases. Consistent with proven practices, the Office has developed, based on credible, reliable and multi-source evidence, narratives for the movement and activities of each fugitive. Persons of interest have been identified who have information about the fugitives' past and current whereabouts. The Office fully anticipates that it will achieve further successful results in the coming period.

62. The Office reiterates its gratitude to the many Member States that provide support and assistance to the Office's efforts to account for the remaining fugitives. The arrest of Mr. Kayishema demonstrated the important results that can be achieved through international and national cooperation in law enforcement.

D. Assistance to national jurisdictions

63. National prosecutions remain essential to achieving greater justice for the victims of war crimes, crimes against humanity and genocide committed in Rwanda and the former Yugoslavia. In line with the completion strategies of the ad hoc Tribunals, Security Council resolutions [1966 \(2010\)](#) and [2256 \(2015\)](#), and the statute, the Office of the Prosecutor is mandated to assist and support national prosecutions of those crimes. In the affected countries, 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. Third-party States are also undertaking prosecutions against suspects who are present in their territories for crimes committed in Rwanda and the former Yugoslavia.

64. The Office has continued its efforts, within existing resources, to monitor, support 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 its counterparts and takes a range of initiatives to assist and build capacity in national criminal justice sectors. The joint European Union-Mechanism project to support domestic accountability for war crimes continued. 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.

65. During the reporting period, the Office continued to provide national authorities with access to evidence and information in response to a high volume of requests. In relation to Rwanda, the Office received and processed 19 requests for assistance from six Member States. In total, the Office handed over more than 4,000 documents comprising more than 425,000 pages of evidence. In addition, the Office handed over to the Prosecutor General of Rwanda an investigative dossier regarding nine individuals suspected of genocide and other international crimes, which included 206 documents comprising 8,883 pages of evidence. In relation to the former Yugoslavia, the Office received 226 requests for assistance from seven Member States and two international organizations. A total of 116 requests for assistance were submitted by

authorities in Bosnia and Herzegovina, 5 by Croatia, 1 by Montenegro and 14 by Serbia. In total, the Office handed over more than 7,478 documents comprising more than 205,000 pages and 36 audiovisual records. In addition, the Office responded to 25 direct case assistance requests from five national authorities and handed over to the Serbian War Crimes Prosecutor's Office an investigative dossier regarding two individuals suspected of crimes against humanity and war crimes. As part of these activities, the Office transferred 898 documents comprising more than 24,000 pages of evidence, eight audiovisual records and two analytical reports. The Office also held 13 technical meetings with national authorities in relation to direct case assistance requests. Lastly, the Office filed 10 submissions in relation to requests for variation of witness protective measures and 2 submissions in relation to confirmation of witness protective measures, while also facilitating contact with 22 witnesses by national authorities.

66. There has been a significant rise in recent years in the number of requests for assistance received by the Office. The continued high volume of requests demonstrates the importance of the support provided by the Office to national prosecutions. It is also a positive sign of national commitments to achieve more justice for more victims of war crimes, crimes against humanity and genocide committed in the former Yugoslavia and Rwanda. In Rwanda, there are more than 1,000 fugitives to be prosecuted, while national prosecutors in the former Yugoslavia still have several thousand cases to handle. The vital assistance that the Office provides as mandated under article 28 (3) of the statute helps national prosecutors to achieve better results and deliver justice at the local level.

V. Activities of the Registry

67. Pursuant to rule 31, the Registrar, under the authority of the President, is responsible for the administration and servicing of the Mechanism. Accordingly, the Registry continued to provide judicial support services, as well as other administrative, budgetary, legal, policy and diplomatic support for Mechanism operations.

A. Budget, administration, staffing and facilities

68. In its resolution [77/261](#), the General Assembly endorsed the recommendations of the Advisory Committee on Administrative and Budgetary Questions made in [A/77/488](#) and [A/77/626](#) and decided to appropriate to the special account for the Mechanism a total of \$81,945,300 gross for 2023.

69. The Mechanism implemented the decision of the General Assembly and continued to actively limit its overall expenditure to that essential to fulfil its mandated functions. The Mechanism will be in a position to fully support the remaining judicial activities in 2023 as outlined above, within its approved budgetary resources. At the time of submission of the present report the Mechanism was in the process of preparing its 2024 budget proposal.

70. On 30 June 2023, the Mechanism had a total of 367 staff on continuous posts and in general temporary assistance positions: 155 at the Arusha branch, including the Kigali field office, and 212 at the Hague branch. The Mechanism's staff comprises nationals of 68 Member States. At the Professional level and above, 51 per cent are women and 49 per cent men, consistent with the Secretary-General's gender parity goals. If General Services staff is taken into account, the average percentage of female staff is lower. The Mechanism remains committed to achieving a greater gender balance at all levels and equitable geographical representation.

71. Regarding the Arusha premises, the Mechanism, with the support of the host State, is addressing a contractual dispute submitted by the general contractor for the construction of the premises. In addition, progress has been made in the procurement solicitation process aimed at selecting a contractor to address issues with the heating, ventilation and air-conditioning system in the archives building. The project is expected to be completed by the fourth quarter of 2023.

72. Concerning the Hague premises, the host State has asked the Mechanism to consider a permanent move to alternative premises, because the current building requires substantial refurbishment. Efforts to identify suitable premises are ongoing with the support of the host State. The host State has informed the Mechanism that it anticipates that such premises would be ready for occupation in 2026 or 2027.

73. In order to further consolidate its operations, the Mechanism closed its Sarajevo field office effective 1 April 2023. The Mechanism sincerely appreciates the unwavering and crucial assistance provided by Bosnia and Herzegovina throughout the 28 years of the field office's operations, and eagerly anticipates ongoing collaboration with national authorities and other local stakeholders.

74. The Mechanism is also deeply grateful to its host States, the Kingdom of the Netherlands and the United Republic of Tanzania, for their long-standing commitment and invaluable support.

B. Support for judicial activities

75. The Registry continued to provide support for the Mechanism's judicial activities at both branches.

76. Both branches and the Kigali field office supported pretrial and trial proceedings in the *Kabuga* case. The Registry ensured that all three duty stations were trial-ready by the end of September 2022. The support provided included facilitating status conferences, processing and translating filings into French and Kinyarwanda, and training court participants in the use of the e-Court system. For the conduct of trial proceedings, the Registry ensured a videoconference connection between the courtrooms in Arusha and The Hague and the Kigali field office, which enabled witnesses to be heard and parties to participate from all three locations, with the Trial Chamber sitting at The Hague.

77. In relation to the *Stanišić and Simatović* case, the Registry at the Hague branch provided support during the hearing of the appeals and for the delivery of the appeal judgment on 31 May 2023.

78. During the reporting period, the Judicial Records Unit processed 1,624 judicial filings, amounting to 14,527 pages. As at 30 June 2023, more than 369,891 public judicial records were available through the unified court records database, which was accessed more than 70,000 times during the reporting period.

79. The language support services continued to provide interpretation services, particularly in the *Kabuga* and the *Stanišić and Simatović* cases, and made significant progress on translations of judgments and other documents into and from Bosnian/Croatian/Serbian, English, French, Kinyarwanda and other languages, as required. Of particular note were the translations into Kinyarwanda of eight appeal judgments of the International Criminal Tribunal for Rwanda and one of the Mechanism, and into French of the final three appeal judgments of the International Criminal Tribunal for Rwanda. In addition, the last Mechanism trial judgment in a case inherited from the International Tribunal for the Former Yugoslavia was translated into Bosnian/Croatian/Serbian. Lastly, the appeal judgment in the *Ntaganzwa* case, which was referred to Rwanda, was translated into both English and French.

80. Furthermore, the Registry provided administrative assistance to an average of 64 remunerated and pro bono defence and amici curiae teams, comprising approximately 90 team members.

81. Pursuant to article 15 (4) of the statute, and consistent with the Mechanism's commitment to efficiency, the Registry maintains rosters of qualified candidates to ensure that staff can be recruited expeditiously to react to changes in the workload.

C. Support for other mandated activities

1. Witness support and protection

82. Approximately 3,200 witnesses who have appeared before the ad hoc Tribunals or the Mechanism currently benefit from protective measures.

83. The Witness Support and Protection Units at both branches ensure the security of witnesses by making threat assessments and coordinating responses to security-related requirements, including those related to relocated witnesses. The Units implemented 13 judicial orders related to protected witnesses and other witness-related matters, and provided comprehensive witness-related information to the President regarding early-release applications.

84. Furthermore, the Units at both branches facilitated the testimony of all Rwanda-based and other witnesses appearing in the *Kabuga* trial, including 7 fact witnesses and 3 medical expert witnesses who testified in The Hague, 12 witnesses who appeared by videoconference link from Arusha, and 5 witnesses who testified by videoconference link from the Kigali field office. The Unit at the Arusha branch also assisted in the certification of written statements or transcripts of 14 witnesses in lieu of oral testimony in the *Kabuga* case pursuant to rule 110.

85. The medical clinic at the Kigali field office continues to provide medical, nutritional and psychosocial assistance to witnesses, with a focus on those who are survivors of sexual or gender-based violence during the genocide against the Tutsi in Rwanda.

86. The Unit at the Hague branch implemented strategies to ensure ongoing support for witnesses following the closure of the Sarajevo field office. Such strategies included maintaining contact with the witnesses in the region and allocating sufficient financial resources to related missions.

2. Detention facilities

87. During the reporting period, the United Nations Detention Facility housed 10 detained witnesses, who provided testimony from the Arusha branch in the *Kabuga* case. In February 2023, the Registry conducted a three-day training course for approximately 30 senior-level Tanzanian prison correctional officers, including 5 women, at the Mechanism premises in view of the impending closure of the facility. On 28 February, following the completion of the hearing of detained witnesses and their subsequent return to Rwanda, the United Nations Detention Facility was formally returned to the host State. Should the Mechanism require detention capacity at the Arusha branch in the future, appropriate arrangements will be made in consultation with the host State.

88. As at 30 June 2023, the United Nations Detention Unit in The Hague housed five detainees: Mr. Kabuga, who remains detained at the Hague branch pursuant to an order handed down by the Trial Chamber on 13 June 2022; Stojan Župljanin, who has been returned temporarily to the United Nations Detention Unit from an enforcement State pending the finalization of arrangements for his transfer to another State, where

he will serve the remainder of his sentence; and three other convicted persons, Ratko Mladić, Mr. Stanišić and Mr. Simatović, who are awaiting transfer to States for the enforcement of their sentences. In September 2022, Radoslav Brđanin was granted conditional early release on account of compelling humanitarian reasons and passed away shortly afterwards. In April 2023, Goran Jelisić, who had been returned from an enforcement State that was no longer able to enforce his sentence, was transferred to Belgium to serve the remainder of his sentence.

3. Enforcement of sentences

89. The Mechanism relies significantly on the cooperation of States for the enforcement of sentences. As at 30 June 2023, the Mechanism was overseeing the enforcement of the sentences of 45 individuals in 13 enforcement States. Four convicted persons are currently awaiting the designation of enforcement States.

90. A total of 27 persons convicted by the International Criminal Tribunal for Rwanda were serving their sentences in three States, while 18 persons convicted by the International Tribunal for the Former Yugoslavia were serving their sentences in 10 States.

91. Subject to rule 128, which provides that the Security Council may designate another body to supervise the enforcement of sentences after the Mechanism has legally ceased to exist, supervision of the enforcement of sentences will continue until the last prison sentence has been served.

92. The Mechanism greatly appreciates the assistance of the Member States in which convicted persons are serving their sentences and would not be able to fulfil its mandate without their crucial support.

4. Assistance to national jurisdictions

93. During the reporting period, the Registry processed 38 requests for assistance by national authorities or parties to national proceedings in connection with national proceedings related to the genocide against the Tutsi in Rwanda or the conflicts in the former Yugoslavia.²

5. Monitoring of referred cases

94. Pursuant to article 6 (5) of the statute, the Mechanism continued to monitor cases referred to national jurisdictions. In Rwanda, the Mechanism monitored the case against Ladislav Ntaganzwa, with pro bono assistance from the Kenyan Section of the International Commission of Jurists. The appeal judgment, which confirms the trial judgment in this case, was delivered on 3 March 2023, with the written judgment issued on 28 March. Mr. Ntaganzwa filed a notice for review of the appeal judgment on 31 March. Depending on the outcome, the Mechanism's monitoring obligations for this case may cease.

95. The Mechanism also monitored the case against Laurent Bucyibaruta, referred to France. This case is at the appellate stage, with an appeal hearing not expected before 2025.

96. Lastly, the Mechanism is in the process of establishing monitoring arrangements for the case of Mr. Kayishema, in accordance with the referral decision issued on 22 February 2012.

² For further information regarding assistance to national jurisdictions, see also part IV.D above.

6. Archives and records management

97. The Mechanism Archives and Records Section is currently responsible for the management of approximately 4,000 linear metres of physical records and approximately 2.7 petabytes of digital records generated by the ad hoc Tribunals and the Mechanism.

98. As part of its preservation activities, the Section continued to feed digital records into the digital preservation system. Thus far, 362.3 terabytes of digital records, including 287,014 files in a variety of formats, have been processed. The Section also continued to preserve audiovisual recordings currently stored on obsolete physical media and those still in analogue form. In The Hague, more than 1,545 physical audiovisual records were assessed to determine preservation needs. The Arusha branch carried out work to digitize the audio recordings of the International Criminal Tribunal for Rwanda stored on analogue audio cassettes. A total of 1,508 recordings, equivalent to 1,219 hours, were digitized.

99. The Section responded to 90 enquiries about and requests for access to the archives during the reporting period and continued work on developing a publicly accessible catalogue containing descriptions of the archives, which is expected to be launched in the fourth quarter of 2023.

7. External relations and information-sharing

100. The External Relations Office produced social media campaigns and online exhibitions, organized in-person meetings for more than 1,000 visitors and facilitated public attendance at court hearings. To enhance the accessibility of public judicial records, a large number of audiovisual recordings of court proceedings in the *Kabuga* case were uploaded to the Mechanism's website, in addition to the existing selected case documents.

101. At the Hague branch, work on educating affected communities and young people in the former Yugoslavia about the legacy of the ad hoc Tribunal and the Mechanism, and on facilitating access to the archives continued with the support of the European Union.

VI. Conclusion

102. Thanks to the dedication of its judges and staff, the Mechanism has, since 2012, concluded proceedings in five high-profile core crimes cases inherited from the ad hoc Tribunals. At the end of the current reporting period, only one core crimes case remained. In addition, of the nine fugitives at large in 2012, only three are still unaccounted for, and their cases have been referred to Rwanda. With these achievements, the Mechanism is close to being ready to transition to its next operational phase, in which its daily responsibilities will be more closely aligned with its intended purpose.

103. To ensure an orderly and efficient transition of the Mechanism to a truly residual institution, the President is leading collaborative efforts to develop a comprehensive plan for the future. The Mechanism wants to seize the momentum by working constructively with OIOS to identify its strengths and areas for improvement, as well as with the Security Council during the review of the progress of its work.

104. However, it is important to note that, while the Mechanism is dedicated to streamlining and downsizing, it is not yet closing down. Numerous long-term and continuous residual responsibilities will require the Mechanism's attention until the Security Council decides otherwise.