



The International Residual Mechanism for Criminal Tribunals ("Mechanism") was established on 22 December 2010 by the United Nations Security Council to continue the jurisdiction, rights, obligations and essential functions of the International Criminal Tribunal for Rwanda ("ICTR") and the International Criminal Tribunal for the former Yugoslavia ("ICTY") which closed in 2015 and 2017, respectively

STATEMENT

PRESIDENT

(Exclusively for the use of the media. Not an official document)

The Hague, 14 December 2020

Address to the United Nations Security Council Judge Carmel Agius President, International Residual Mechanism for Criminal Tribunals 14 December 2020

Mr President,

Excellencies,

Ladies and Gentlemen,

It is my sincere pleasure to address you once more, to present the seventeenth progress report of the International Residual Mechanism for Criminal Tribunals. While I regret that we are again unable to gather in person, I am very honoured to meet with you today, on the eve of an auspicious occasion for the Mechanism and also for this Council.

Next Tuesday, 22 December 2020, marks ten years since the Security Council issued resolution 1966 (2010), by which the Council established the Mechanism. Although the Mechanism did not commence operations until 1 July 2012, in respect of the remaining functions of the ICTR, and until 1 July 2013 regarding those of the ICTY, its inception in 2010 was a truly significant moment.

Resolution 1966 (2010) acknowledged the vital contributions made by the two *ad hoc* Tribunals to international criminal justice, accountability, and the rule of law, and sought to build upon them. It symbolised the determination of the international community to continue fighting impunity for serious violations of international humanitarian law, and to see the work of the ICTR and the ICTY through until the very end, thereby ensuring that their precious legacies would be strengthened, and safeguarded.

On that day almost exactly ten years ago, the Members of the Security Council therefore came together to take the bold step of creating a new kind of judicial institution, which was unique in its purpose, scope, and structure, and which would help to close the impunity gap after the *ad hoc* Tribunals had gone. While it was not the first-ever residual court, this brand new Mechanism was the first entrusted to complete the substantive judicial caseload of its predecessors, and to ensure that a number of remaining fugitives would be brought to justice. Remarkably, it was mandated to do so from two branches on different continents, and with a roster of 25 independent Judges working predominantly



from their own countries. Other institutions have been established that mirror the Mechanism in certain respects. However, back in 2010 this was a novel approach within the United Nations system and more generally.

Mr President,

It is particularly special for the Mechanism to reach this anniversary during a year marking the United Nations' own seventy-fifth birthday. Milestone events such as these remind us of our *raison d'être* and allow us to take stock of the progress we have made, as well as how much more remains to be done. By doing so, they encourage us to reaffirm the values that unite us and underlie our daily work, thereby providing fresh impetus for renewed efforts and further refinements. The Mechanism is, as always, proud to form a small part of the bigger story of the United Nations, and to be able to contribute to its broader aims. On this occasion, too, the Mechanism examines its own record of performance, especially in view of the Council's favourable review of its progress this year, which culminated during the reporting period in the issuance of resolution 2529 (2020).

From the early days of transitional arrangements and double-hatting, to navigating the closure of the *ad hoc* Tribunals, to finding its feet as a stand-alone institution, the Mechanism has certainly covered much territory over the years. In addition, we have managed a considerable workload and consolidated the best practices of two disparate institutions. Throughout, we remained mindful of the imperative to continually strive for better, more harmonised, more efficient, ways of operating within the parameters of our specific mandate. Let me assure this distinguished Council that our quest for improvement will not cease.

There is also some satisfaction in marking the Mechanism's tenth birthday at the end of 2020; a year that has tested us more than any other, and which has allowed us to demonstrate our dedication, our resilience, and that intrinsic aspect of our nature I have already mentioned: innovation.

Indeed, the Mechanism recognised at the outset of the COVID-19 pandemic that, as a court of law with fundamental responsibilities to accused, detained and convicted persons, as well as victims and witnesses, it was essential to keep functioning. While in-court proceedings were initially affected, work on the cases continued around the clock and the Mechanism prepared for the various pandemic-related scenarios that could unfold. It responded by identifying creative solutions that utilise, and expand upon, the distinctive features built into its legal framework – such as our familiarity with remote working methods, and provisions allowing for hearings by remote participation of Judges, parties, or witnesses. This flexible approach enabled the Mechanism to stay operational and to smoothly resume in-court proceedings once certain restrictions were eased, leading to a number of significant results during the reporting period. That the Mechanism was able to effectively overcome the many challenges of 2020 is testament to its maturation as an institution, as well as the outstanding commitment of its Judges and staff, whom I thank sincerely.

Mr President,

The report before you provides ample evidence of the progress made in relation to the Mechanism's judicial caseload, despite the ongoing global health crisis.



Notably, the appeal hearing in the case against Ratko Mladić was held at the Mechanism's Hague premises in late August, with four of the five Judges of the Appeals Chamber participating by video-conference from their own countries. Judicial deliberations and judgement preparation have since continued apace, and the case is expected to conclude in May 2021. Soon afterwards, in September, in-court proceedings resumed in the case against Jovica Stanišić and Franko Simatović, with the Trial Chamber hearing the final five witnesses for the Simatović Defence. The evidentiary hearings concluded in October and judgement is likewise expected by the end of May 2021, once final trial briefs have been filed and closing arguments made. At the Arusha branch, the trial in the case against Maximilien Turinabo and others was finally able to commence on 22 October following similar preparations, and the presentation of witnesses for the Prosecution has now concluded. The Defence phase will commence in the first part of 2021, with the trial judgement also expected in May.

I wish to alert you also to a very recent update in another case. Last week, on 8 December, the Single Judge seised of the contempt case against Petar Jojić and Vjerica Radeta issued a public decision, reiterating the previous request to Serbia to comply with its obligation to transfer the accused to the seat of the Mechanism in The Hague without delay. The Single Judge decided to remain seised of the matter, with a view to ascertaining Serbia's compliance with his decision within 90 days.

In addition to this activity in the existing cases, important events took place in relation to fugitives indicted by the ICTR. New pre-trial proceedings have commenced in the case against Félicien Kabuga, who was transferred to the United Nations Detention Unit in The Hague in October following his arrest earlier in the year. His initial appearance took place on 11 November, during which a plea of not guilty was entered on his behalf. Further, the case against fugitive Augustin Bizimana was formally closed during the reporting period, following the filing in October of a Prosecution motion to terminate the proceedings based on proof of the accused's death. Now, only six ICTR fugitives remain, and one of them is expected to be tried by the Mechanism. As you will later hear from Prosecutor Serge Brammertz, the search for these individuals continues to be a top priority.

Following these developments, the Mechanism is poised to conclude a significant proportion of its pending judicial caseload by the end of May next year. It is almost with a sense of *déjà vu* that I say this, because, were it not for COVID-19, the Mechanism would have been able to conclude the existing proceedings in 2020, as anticipated last December. Nevertheless, rather than wish for something different, we must continue to mitigate the challenges as best we can and proactively address the reality of our present circumstances. I can confirm that the Mechanism is prepared for what lies ahead. Our Judges and staff are aware that the coming months are critical, and have been spurred on by the achievements of the reporting period. We are ready to exert all efforts to ensure completion of the relevant cases by the projected dates, with full regard for the rights of our accused persons.

Mr President,

Related to this last point, I wish to emphasise that the Mechanism continues to do its utmost to ensure the safety and well-being of all persons under its supervision – including those in the United Nations detention facilities here in The Hague and in Arusha, as well as the 50 convicted persons serving sentences in 15 Member States. As can be seen in the report before you, the Mechanism takes these responsibilities extremely seriously, and it has during the reporting period maintained a system of heightened vigilance due to the COVID-19 pandemic.



Under the excellent stewardship of our new Registrar, Mr Abubacarr Tambadou, the strict measures in place at our detention facilities have been effective thus far in protecting our detained persons from exposure to the virus. Such measures are of course a supplement to the medical care already available, and our facilities are subject to inspections by independent monitoring bodies such as the International Committee of the Red Cross. In addition, detainees are free to avail themselves of the Mechanism's comprehensive detention-related complaints procedure, and to raise concerns before the Chamber seized of the relevant proceedings.

Separately, in order to ensure that the Mechanism's responsibilities vis-à-vis convicted persons continue to be optimally fulfilled, during the reporting period I issued three further orders for COVID-19 updates from enforcement States. The most recent of these extended the reporting period from every 14 days to every month, unless urgent circumstances require otherwise, in recognition of the potential burden of having to provide fortnightly updates during a time when resources are already stretched. I take the opportunity to express the Mechanism's wholehearted gratitude to each of the enforcement States, for their conscientious responses to the pandemic-related orders, as well as their generous cooperation and support to this core mandated activity more generally. In particular I would like to praise Belgium, which became our fifteenth enforcement State in September. The Mechanism looks forward to being able to share further news in the near future regarding other enforcement-related developments.

Mr President,

The enforcement of sentences is but one area where the Mechanism has benefitted immensely from the active cooperation of States since it commenced operating. It has been said before, but bears repeating: the support of Member States is crucial to the Mechanism's ability to effectively discharge its functions, and we will continue to rely on your valuable assistance in the months and years to come. Not only in relation to enforcement-related activities, but in other areas as wide-ranging as the tracking of remaining fugitives, or securing a viable budget that will allow us to conclude our work. A further issue I have highlighted on previous occasions is the relocation of the nine acquitted and released persons who are still waiting in a safe house in Arusha.

While the Mechanism will do everything within its power, it is only with the continued help of Member States that such matters will be resolved in a way that furthers the Mechanism's, and thereby the Security Council's, aims. In this respect, the arrest of Félicien Kabuga by the French authorities was an invigorating example of what the Mechanism can achieve with the collaboration and committed efforts of States and other stakeholders. Following on from this breakthrough, the Mechanism was also most gratified to note the terms of resolution 2529 (2020), wherein the Council urged all States to intensify their cooperation with and render all necessary assistance to the Mechanism regarding the remaining ICTR fugitives, as well as the protracted situation of the nine individuals in Arusha.

Mr President,

The Mechanism is deeply thankful to the Security Council not only for this most recent expression of support, but for all the support provided since the Mechanism was brought into being ten years ago. It is mindful that the Mechanism owes its very existence to the Members of this Council. With the continued backing of Member States, and with our dedicated Judges and staff ready to meet the challenges of



these times, the Mechanism has every reason to be hopeful that it will make important headway during the coming reporting period, and ultimately succeed in fulfilling its mandate.

I thank you sincerely for your attention.
