



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)

Arusha, The Hague, 08 June 2021

Address to the United Nations Security Council Judge Carmel Agius President, International Residual Mechanism for Criminal Tribunals 8 June 2021

Mr. President,
Excellencies,
Ladies and Gentlemen,

It is my great pleasure to brief you once again on the progress of the International Residual Mechanism for Criminal Tribunals in the implementation of its mandate, and to do so under the Presidency of Estonia. Estonia has a distinguished record of supporting the rule of law and the Mechanism in particular, and I wish it every success during its Presidency.

A few hours ago, the Mechanism's Appeals Chamber pronounced its Judgement in the high-profile case against Mr. Ratko Mladić.

In brief, the Appeals Chamber dismissed Mr. Mladić's appeal and affirmed his convictions for genocide; for persecution, extermination, murder, deportation, and other inhumane acts (forcible transfer) as crimes against humanity; and for murder, terror, unlawful attacks on civilians, and hostage-taking as violations of the laws or customs of war.

The Appeals Chamber also dismissed the Prosecution's appeal, and affirmed the Trial Chamber finding's that Mr. Mladić is not guilty of genocide in relation to crimes committed in certain municipalities in Bosnia and Herzegovina.

The Appeals Chamber affirmed Mr. Mladić's sentence of life imprisonment.

I invite you to read the Judgement, which includes both the majority position and dissenting opinions, and is publicly available on the Mechanism's website.

On this occasion, I wish to thank the Judges of the Bench, as well as the assigned Chambers team, for their tireless efforts to ensure that any delays in the conduct of the case and the delivery of the Judgement were kept to a minimum. This was a remarkable achievement, given that the appeal process was complex from the beginning. I recall that issues pertaining to the disqualification of Judges on the Bench had to be addressed early on in the proceedings, and that the health situation of Mr. Mladić



required a postponement of the appeal hearing originally scheduled for March 2020. Then the COVID-19 pandemic struck, and travel restrictions and social distancing requirements caused progress to be further impeded. Finally, we had the unexpected and tragic passing of a member of the Bench in this case, Judge Gberdao Gustave Kam of Burkina Faso, in February of this year. The Mechanism and I personally still deeply mourn his loss.

I take the opportunity to honour Judge Kam and his impressive contributions to international criminal justice. He was not only an excellent Judge with a brilliant legal mind, but also a kind and enthusiastic colleague, who was valued and respected by his fellow Judges and staff alike. In this sad moment, the Mechanism was fortunate that Judge Mustapha El Baaj of Morocco agreed to be appointed to the Bench on short notice in Judge Kam's place. I sincerely commend Judge El Baaj for taking on the substantial responsibilities involved in joining this case at a late stage. Thanks to his diligence and unrelenting efforts, deliberations and Judgement preparation could continue. In the end, the Appeals Chamber was able to pronounce its Judgement shortly after the previously projected date.

With today's delivery, the Mechanism has made another tremendous step towards the finalisation of its core judicial work. This case is also a testament to what can be achieved through international justice processes, when States have the will to cooperate and overcome geopolitical roadblocks. I recall in this regard that, while Mr. Mladić was indicted by the International Criminal Tribunal for the former Yugoslavia (ICTY) as early as 1995, it was thanks to the persistence of the ICTY Prosecutor, together with the support of the international community, that 15 years later his arrest was eventually secured. The issuance of the final Judgement sends a strong message to victims of atrocities committed in the former Yugoslavia and elsewhere, that perpetrators of such heinous crimes will ultimately be brought to justice, regardless of their position or how powerful and untouchable they consider themselves to be. While Judgements such as this cannot bring back loved ones, or heal the wounds or trauma endured, it is my hope that victims and their families will take some measure of solace from seeing justice being done, and history being recorded.

Mr. President,

Today's events leave us with two more Judgements to be issued this month.

First, I am pleased to inform you that the Judgement in the *Stanišić & Simatović* retrial is expected to be delivered by 30 June 2021. The proceedings have progressed extremely efficiently during the reporting period, with closing arguments held in April despite various challenges, and intensive deliberations continuing apace. I commend the Trial Chamber for having kept things on track throughout. Following the conclusion of the retrial, any appeal proceedings in this case will be heard at the Hague branch.

Second, at the Arusha branch, the contempt case against Mr. Anselme Nzabonimpa *et al.*, formerly Turinabo *et al.*, is also nearing its conclusion. Notwithstanding pandemic-related obstacles that impacted the parties' ability to prepare their cases for trial, and the unfortunate passing of co-accused Mr. Maximilien Turinabo, the Defence phase was completed by 7 May 2021. The closing arguments are scheduled from 21 to 23 June 2021 and the Trial Judgement is expected before the end of the month. Any appeals from the Judgement will be heard at the Arusha branch.

With regard to other proceedings related to the International Criminal Tribunal for Rwanda (ICTR), I take the opportunity to provide an update on the case against Mr. Félicien Kabuga, who remains detained in The Hague following his transfer to the United Nations Detention Unit in October 2020. At a Status



Conference held on 1 June 2021, the parties discussed progress made with regard to case preparation and other relevant issues, and following this a pre-trial work plan was announced. Furthermore, an independent medical expert has been assigned to examine Mr. Kabuga's health, including his fitness to stand trial and ability to travel to the Arusha branch. A report on these questions is expected later in June.

Mr. President,

While most of our cases involving in-court proceedings are winding down, I recall that the Mechanism is, of course, mandated to carry out many other residual functions. Among them is the supervision of the enforcement of sentences imposed by the ICTR, the ICTY, and the Mechanism. I again express my deepest appreciation for the invaluable contribution of the 15 United Nations Member States in Africa and Europe that, in currently enforcing the sentence of one or more convicted persons, continue to assume significant additional responsibilities. I fully recognise that this has been more challenging during the pandemic.

Your country, Mr. President, as well as France, Norway and the United Kingdom present here today, together with the Mechanism's other enforcement States, have gone above and beyond in enabling us to carry out our mandate. I praise each of you for taking the necessary measures to keep our convicted persons safe, and for regularly reporting to the Mechanism with regard to their wellbeing and the COVID-19 situation within the relevant prisons.

Bearing in mind the paramount importance of securing the continued enforcement of sentences, I sincerely hope that additional States will step forward and enter into enforcement agreements with the United Nations for this purpose. This would allow the Mechanism to expand its enforcement capacity and to alleviate the burden on those States who have already supported us in this regard for many years.

Turning to a separate matter, I note that the report before you is in fact the twenty-third report of the Mechanism raising the situation of the acquitted and released persons in Arusha. It is of fundamental importance that these individuals, who were either acquitted by the ICTR or have served their sentence, be resettled. Regrettably, a sustainable solution is yet to be found. However, I laud the efforts made by our Registrar, Mr. Abubacarr Tambadou, to keep exploring new possibilities despite the difficulties created by the ongoing global health crisis. As you are all aware, we depend on the international community's assistance in resolving this long-standing challenge, which impacts on the Mechanism's ability to complete its mandate. This Council's continued leadership, and the cooperation and support of Member States, are essential in tackling this situation once and for all.

Mr. President,

I now refer to my letter of 11 May 2021 informing the Members of this august body of the Republic of Serbia's continued failure to comply with its international obligations to arrest Mr. Petar Jojić and Ms. Vjerica Radeta and surrender them to the Mechanism. Upon the request of Judge Liu Daqun, the Single Judge seised of the case, I exercised my duty to notify the Security Council of Serbia's non-cooperation with the Mechanism. It has been over six years since Serbia was first requested by the ICTY to execute arrest warrants in relation to these accused persons, and this is the third time that Serbia's failure to cooperate, despite endless opportunities to do so, has been reported to the Council. Serbia's inaction



not only undermines the effective administration of justice before the Mechanism, but also defies the international community by challenging the Security Council's authority and the United Nations Charter.

Mr. President,

We have come a long way since the Security Council's pioneering decisions to establish the ICTY and the ICTR, and later the Residual Mechanism itself. Equipped with a legacy of unparalleled achievements in international criminal justice thanks to the *ad hoc* Tribunals, the Mechanism has been able to further close the impunity gap. Since it commenced operating it has rendered landmark judgements, tracked the remaining ICTR fugitives, overseen the enforcement of sentences, continued to protect witnesses and victims, safeguarded the precious archives, and assisted and monitored national proceedings for international crimes. No other institution is endowed with such a versatile and demanding mandate. However, our accomplishments are not to be assessed in a void; nor should they be taken for granted.

As is evident from what I have shared with you today, our progress in ensuring accountability and strengthening the rule of law is very much dependent upon States staying the course. Indeed, the backbone of the Mechanism's success is your support and that of the international community at large. It is our symbiotic relationship with Member States that has brought fugitives to justice, and ensured that those convicted can serve their sentences. Without States' willingness to assist and cooperate, the efforts of the Mechanism cannot materialise; without their ongoing trust the Security Council's vision, as expressed in the creation of the *ad hoc* Tribunals and the Residual Mechanism, will never come to its full fruition.

On behalf of the Principals, Judges, and dedicated staff, I would like to convey our deep gratitude in particular to our Host States, our enforcement States, and all Security Council Members for their unwavering support. Your robust commitment is admirable. I encourage others to follow suit so that the Mechanism lives up to its potential and that international criminal justice delivers on its promise.

Thank you for your attention.
