



UNITED NATIONS

International Residual Mechanism for Criminal Tribunals

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)

New York, 13 December 2021

Address to the United Nations Security Council Judge Carmel Agius, President, International Residual Mechanism for Criminal Tribunals 13 December 2021

**Mr. President,
Excellencies,
Ladies and Gentlemen,**

A very good morning to you all. I am most honored to appear before you to present the nineteenth progress report of the International Residual Mechanism for Criminal Tribunals (Mechanism). It is a particular privilege to be able to do so under the Presidency of the Republic of Niger, for reasons I will explain during my address.

In June 2020, following its third review of the progress of the work of the Mechanism, this esteemed Council adopted resolution 2529 (2020). Since that time, we at the Mechanism have kept the resolution present in our minds as we go about our daily work, whether within Chambers, the Office of the Prosecutor, or the Registry. The document serves as a tool by which we can gauge our performance, and we constantly strive to fulfill the requests of the Security Council contained therein. We also take heart from the support shown by the Council in the text through its various calls on States to cooperate with, and render all necessary assistance to, the Mechanism.

I am pleased that, during the reporting period and in the weeks since the submission of our report, resolution 2529 (2020) has largely been implemented. I can assure you that we will keep advancing this process as we prepare for the next two-yearly review by the Council in 2022. Already we have been actively engaged – indeed fully immersed – in the related evaluation of the Mechanism's methods and work by the Office of Internal Oversight Services (OIOS).

Allow me to draw your attention to certain aspects of the resolution. I would be remiss not to start by mentioning **paragraph 6**, which echoes part of resolution 1966 (2010) in emphasizing inter alia that the Mechanism was established to be a "small, temporary and efficient structure". This language could be said to constitute the very touchstone for how the Council intended the Mechanism to operate as a residual institution, and paragraph 6 requests the Mechanism to be guided by these elements.



Mr President,

The strong progress set out in the report before you evinces our unyielding commitment to realizing the Security Council's vision of the Mechanism in this regard and to completing all functions as efficiently and effectively as possible, while at the same time bearing in mind the overriding principles of due process and fundamental rights that must determine the Mechanism's conduct as an independent court of law.

Most notably, during the reporting period the Mechanism was able to deliver on time all three judgements that had been projected for June of this year: namely, the appeal judgement in the *Mladić* case, as well as trial judgements in the *Stanišić & Simatović* case and the *Nzabonimpa et al.* contempt case. This achievement is striking not only in the number of judgements, but also because of the remarkable efforts made by the Mechanism's Judges, staff and Defence teams to conclude the proceedings on schedule, despite obstacles that could have derailed the cases were it not for their determination. At the same time, the Mechanism can be very proud that its performance compares favorably to the progress made by other international criminal courts and tribunals during the pandemic.

As a result, the core driver of the Mechanism's activities – its pending judicial caseload – has further diminished and we have entered a new chapter in our operations. Currently on the docket are appeal proceedings in the latter two cases I mentioned, as well as the trial against Félicien Kabuga, which at present remains in the pre-trial phase due to the health situation of the accused. It should be noted that the appeal case arising from the *Nzabonimpa et al.* trial judgement is now called *Fatuma et al.*, given that the issues raised on appeal only concern four of the parties to the trial.

While these cases and the Mechanism's other mandated functions will continue for the durations indicated in the progress report, unless the Council decides otherwise, the change in the active caseload is significant. This is because reductions in staffing and resources are a necessary consequence of the conclusion of key activities, owing to the Mechanism's nature as a downsizing and temporary institution.

Mr President,

Resolution 2529 (2020) also incorporates the views and recommendations of the Informal Working Group on International Tribunals, which, in line with **paragraph 9**, we have taken into account and thoroughly addressed with a view to further enhancing efficiency and effective and transparent management. In particular, we have been working hard towards full implementation of the outstanding recommendations of OIOS. A primary focus in this respect was the adoption of an internal concept note for the Mechanism's scenario-based workforce plan, reflecting the combined strategic thinking of the three organs on the future of the Mechanism's numerous remaining functions. Another example of enhanced management is the ongoing collaboration between the Principals and organs concerning the Mechanism's response to the COVID-19 pandemic, including our efforts to ensure a safe full return to the office.

Next, in **paragraph 10**, the Council sets out specific reporting requirements. Its request to provide details on staffing, workload, related costs, and projections of the duration of residual functions, has been well and truly answered in the report before you and in the Mechanism's two previous six-monthly reports. As you can see, the Mechanism prepares these documents with painstaking attention, in an effort to provide information that is both thorough and relevant. Although this is time-consuming, the



Mechanism is comforted by the fact that the reporting process ensures transparency. And the more transparent we are, the more accountable we are to our governing body, while also being able to showcase the tangible achievements of our Judges and staff.

With respect to **paragraph 11**, the Mechanism has continued to do its utmost to safeguard the rights of all persons detained on its authority in accordance with applicable international standards, including those related to health care. This is exemplified by the COVID-19 measures in place at the Mechanism's detention unit in The Hague, where all five of our current detainees – namely Messrs Brđanin, Kabuga, Mladić, Simatović and Stanišić – are carefully monitored, as well as the vigilance of the Trial Chamber in determining matters related to Mr Kabuga's health condition. Separately, in line with my own orders, I have continued to receive updates from enforcement States on the pandemic-related situation in prisons where the Mechanism's 48 convicted persons are serving their sentences. On behalf of the Mechanism, I express sincere gratitude to each of these States for so conscientiously meeting their obligations in this area.

In discharging the mandate alluded to in **paragraph 12**, as President I have also devoted much time and attention to applications for pardon, commutation of sentence or early release of persons convicted by the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the former Yugoslavia. During the reporting period, I disposed of three such matters and issued six ancillary orders in relation to other pending applications, to ensure consultation with a wide range of stakeholders and collection of the fullest information. In addition, regarding a topic that I note is of specific interest to the Council, the Mechanism's approach to conditional early release was further developed during the reporting period. My work in relation to the enforcement of sentences continues apace and just the week before last, I rendered a decision disposing of one more early release application.

Mr President,

Finally, I move to an issue that has long weighed heavily on not just the Mechanism and its predecessor the ICTR, but also on the Security Council itself. A situation that has seemed, at times, almost impossible to resolve and is referenced in no less than 10 Council decisions, as well as numerous reports. I refer to **paragraph 4** of resolution 2529 (2020), relating to the nine acquitted or released persons living in a safe house in Arusha. Here, the Council emphasized the importance of finding expeditious and durable solutions and called upon all States to cooperate with and render all necessary assistance to the Mechanism.

I am delighted to report that, thanks to the truly exceptional efforts of the Mechanism's Registrar, Mr Abubacarr Tambadou, who is with us today, and the exemplary cooperation of your country Mr President, the Republic of Niger, there has been a major breakthrough. I wish to share with Council Members that, on 15 November 2021, a milestone agreement between the Government of the Republic of Niger and the United Nations, on the relocation of persons acquitted or released by the ICTR or the Mechanism, was signed. The agreement indicates that the Republic of Niger has accepted for relocation on its territory all nine acquitted or released persons, and I can confirm that the agreement has already been implemented with respect to eight of them. It is auspicious to announce this development here today, under Niger's Presidency.



Mr President,

Allow me to express, on behalf of the entire Mechanism, our deepest and most heartfelt gratitude to you and your Government for your outstanding assistance and demonstrated commitment to international justice. I also wish to commend and praise Registrar Tambaou in the highest terms, and to acknowledge his crucial role in securing this outcome, along with his many other accomplishments since taking office in July of last year.

The Republic of Niger's willingness to engage meaningfully with the Mechanism, and more importantly to take action, epitomizes the type of State cooperation that will prove critical to the Mechanism's ability to fulfill other mandated functions; cooperation that the Security Council itself has called for. While **paragraph 3** of the resolution urges intensified cooperation and assistance to achieve the arrest and surrender of the remaining ICTR fugitives, let us not forget **paragraph 2**, wherein the Council more generally urges States to cooperate fully with the Mechanism. In this context, the Mechanism once more calls on the Republic of Serbia to fulfill its international obligations by arresting and transferring to the Mechanism Petar Jojić and Vjerica Radeta.

Mr President,

The report before you provides ample evidence of the Mechanism's determination to keep achieving results that defy these challenging times we are all passing through. Moreover, when the progress made is considered in light of resolution 2529 (2020), the Mechanism's resolve to do everything within its power towards the optimal fulfillment of its mandate cannot be doubted.

You have my word that we will proceed with the same dedication in the coming reporting periods. We will, in turn, once more rely on the good faith of Member States and other stakeholders, as well as the valuable guidance of the Security Council, the Informal Working Group on International Tribunals, the Office of Legal Affairs and OIOS.

In the meantime, and in closing, again I wish to thank you, Mr. President and your Government, as well as all States and partners who continue to robustly support the mission entrusted to the Mechanism.
