



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

PROSECUTOR

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

Arusha, The Hague, 12 December 2023

## **Address of Mr. Serge Brammertz Prosecutor, International Residual Mechanism for Criminal Tribunals to the United Nations Security Council 12 December 2023**

Mr. President, Excellencies,

Thank you for the opportunity to again brief you on my Office's activities and results.

My written progress report provides details about our activities and results during the reporting period. Today, I would like to highlight a few key issues.

Mister President, Excellencies,

I can report today that my Office has completed our important mandate to prosecute the final ICTR and ICTY cases.

On 31 May 2023, the Appeals Chamber issued its judgement in the Stanišić and Simatović case.

The Appeals Chamber accepted my Office's arguments that Stanišić and Simatović are criminally liable as participants in a joint criminal enterprise to ethnically cleanse large areas of Croatia and Bosnia and Herzegovina.

As we have repeatedly proven, the crimes were committed by senior officials at the apex of power who incited hatred and fear, who unleashed unspeakable violence, to achieve their political goals.

This is the lesson we must ensure is remembered.

It's not Serbs, Croats or Bosniaks who are guilty.

International Residual Mechanism for Criminal Tribunals

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Rather, the crimes were the work of individuals. It is these individuals, from all ethnic groups, who we have prosecuted and convicted.

Mister President, Excellencies,

As President Gatti Santana has reported, trial proceedings in the Kabuga case have come to an end.

My Office, and all those who believe in justice, can only feel immense dissatisfaction.

Not with the Judges, whose decision followed past precedent and must be respected.

Rather, our dissatisfaction is a recognition the victims and survivors of Kabuga's crimes did not receive the justice they deserve.

Kabuga will not face judgment for his role in the suffering of the Rwandan people. But it is within our power to ensure other criminals do, particularly those who continue hiding within diaspora communities around the world.

Fulgence Kayishema was arrested on 24 May, and remains in detention in South Africa pending his initial transfer to Arusha. We trust that South African authorities will ensure Kayishema is transferred to our custody without any further delay.

Having further announced the death of Aloys Ndimbati on 14 November, my Office anticipates that we will account for our final two fugitives in the next year.

Mister President, Excellencies,

With the completion of our trials and appeals, my Office is now firmly focused on our remaining residual functions.

The most important of these is the assistance we provide to national authorities continuing the accountability process for crimes committed in Rwanda and the former Yugoslavia. This is how we realize the Security Council's vision that national courts fully take over responsibility from the ICTR and ICTY.

Consistent with the Completion Strategies, this Council instructed my Office that we "shall" respond to requests for assistance from national partners in the investigation, prosecution and trial of crimes under our jurisdiction.

The wisdom of this mandate has become crystal clear.

Rwandan authorities are still seeking to bring to justice more than 1,200 fugitive génocidaires. Likewise, prosecutors in the former Yugoslavia still have more than 1,000 suspected war criminals to investigate



and, where warranted, prosecute. Domestic authorities in third-party Member States, particularly in Europe and North America, also have cases to process.

For the last several years, we have received more than 300 requests for assistance annually. This tangibly demonstrates the great need for our support.

National prosecutors have consistently reinforced this message. In recent months, I again visited Rwanda and the former Yugoslavia for consultations about domestic justice processes and the support that is needed from my Office.

In Rwanda, interlocutors, including in particular the Minister of Justice and the Prosecutor General, have emphasized their focus on bringing to justice those who committed crimes during the 1994 Genocide against the Tutsi. To achieve their objective, they have requested intensified support from my Office, particularly in light of the upcoming 30th anniversary commemoration.

Similarly, in the former Yugoslavia, all war crimes prosecutors from the region and my Office recently held our annual conference to discuss the implementation of their national war crimes strategies and solutions for how to overcome challenges. They emphasized again that they depend on continued assistance from my Office.

Broadly, we are providing upon request three forms of assistance to our national partners.

First, we provide access to evidence and information contained within our evidence collection, which totals more than 11 million pages, thousands of hours of audio-visual material and physical artefacts. Our evidence collection is a unique resource representing the most thorough and comprehensive repository of evidence concerning crimes committed in Rwanda and the former Yugoslavia.

Second, utilizing our developed expertise, we provide assistance across a broad range of legal, evidentiary, prosecutorial and strategic matters. One important aspect of this work is the preparation of investigative dossiers for national prosecutors concerning priority accountability gaps that are related to ICTR, ICTY and Mechanism cases.

Third, we offer expert support upon request to national prosecutors concerning fugitives from justice in Rwanda and the countries of the former Yugoslavia. This involves direct operational and diplomatic support to our national partners on these fugitive files.

We trust that in this, we will enjoy the full support of the Security Council, Member States and the United Nations.

We owe nothing less to the survivors and victims of the crimes in Rwanda and the former Yugoslavia.

Mister President, Excellencies,



My Office looks forward to the Council's upcoming biennial review of the Mechanism's work that will commence in the coming months. We again welcome the opportunity for in-depth engagement with the Council on the residual functions and other important matters, including at yesterday's meeting of the Informal Working Group.

At the Council's request, OIOS is in the process of finalizing their evaluation of the Mechanism's methods and work, which will form part of the review process.

This year, OIOS's evaluation will focus on the Mechanism's cooperation with Member States, including in particular how we respond to Member States' needs and contribute to domestic justice processes. With the Mechanism's transition to a purely residual institution, this evaluation focus is particularly appropriate.

As always, my Office has transparently provided OIOS access to our records and staff, while also providing all other support and assistance requested. We welcome OIOS' constructive feedback and await its report and recommendations.

Mister President, Excellencies,

By way of conclusion, this month marks the 75th anniversary of the adoption of the Genocide Convention. The Convention's adoption, spurred by the horrors of the Holocaust, was a landmark development.

The ad hoc tribunals successfully prosecuted genocide crimes committed in Rwanda and the former Yugoslavia, significantly advancing the punishment of this crime.

We proved beyond reasonable doubt the facts of what occurred, including that the perpetrators acted with the intent to destroy protected groups in whole or in part. We also greatly developed the jurisprudence of this crime, notably by recognizing that crimes against women and girls, including rape and forcible transfer, can be integral to genocidal plans.

There is no expiration date for the international community's obligation to prosecute genocide crimes. While international trials for the crimes in Rwanda and the former Yugoslavia have now concluded, with our support national prosecutors are continuing the work in their courts.

And with thousands of perpetrators from Rwanda and the former Yugoslavia still to be prosecuted, every Member State has the responsibility and opportunity to play their part by providing full cooperation and effective support.

We must also recognize that denial is the last resort of genocide ideology. Denial seeks to erase both the victims and the crimes.

So as much as we must continue to seek out and punish the perpetrators, it also falls to us to ensure that the truth is defended and promoted.



This is the ultimate responsibility that the Genocide Convention places on us, if we are to truly prevent and repress the “crime of crimes”.

My Office remains grateful for the continued support of this Council in all our efforts.

Thank you for your attention.

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