



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)

Address to the United Nations Security Council Judge Graciela Gatti Santana President, International Residual Mechanism for Criminal Tribunals 11 June 2024

Thank you very much, Mr President.

Allow me first to congratulate you on assuming the Presidency of the Security Council and to express my deep gratitude for the Council's support to the International Residual Mechanism for Criminal Tribunals. It is a privilege to address you on behalf of the Mechanism, which stands proudly on the legacy of its predecessors, the International Criminal Tribunals for Rwanda and the former Yugoslavia.

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

This year marks *Kwibuka*30 – the 30th Commemoration of the 1994 Genocide against the Tutsi in Rwanda. This solemn act of remembrance brings focus not only to the 100 days of horror that beset Rwanda. It reveals that genocide is not spontaneous and that the seeds of ethnic division that grew into genocidal violence had been sown long before. Just as the preconditions for genocide and other atrocity crimes are numerous and grow in force over time, the justice cycle needed to confront the resulting violence and atrocities is also long and requires sustained support. These lessons will resonate anew as next year marks the 30th anniversary of genocide in Srebrenica.

The Security Council took a leading role in initiating justice for Rwanda and the former Yugoslavia through its establishment of dedicated international criminal tribunals in response to the atrocities committed there. With the Security Council's enduring support, these ad hoc Tribunals authoritatively interpreted and gave concrete effect to the Genocide Convention and international humanitarian law. They held accountable those most responsible for genocide, war crimes, and crimes against humanity committed in Rwanda and the former Yugoslavia, through trials and appeals adhering to the highest standards of fairness.

Justice, however, is not a process that concludes with the issuance of a final judgement. This fact is well known to all of you gathered in this room. This Council had the foresight to create the Mechanism to continue the mandates of the ad hoc Tribunals and, importantly, complete the residual functions that necessarily follow the end of trial and appeal proceedings. While these efforts do not garner the same attention as verdicts, they are no less important. In fact, concluding this justice cycle with the same



diligence, humanity, and fairness ensures the credibility of the judicial process the Security Council set in motion. It is key to the deterrence so foundational to this collective exercise of accountability.

I am proud to share that, as presented in our Fifth Review Report, the past biennium featured a significant milestone for the Mechanism: active proceedings in the final core crime cases have ended and the Mechanism has completed its transition into a truly residual institution. Moreover, as discussed in the Mechanism's May Progress Report, another function has now concluded with the Mechanism's Prosecutor confirming that all fugitives indicted by the ICTR have been accounted for. We are steadily advancing on the path of completion.

Mr President,

Following the last biennial review of the progress of its work, the Mechanism committed itself to implementing the Council's request in Resolution 2637 to provide clear and focused projections of completion timelines for all Mechanism activities and options regarding the transfer of its remaining activities. The initial priorities of my Presidency were drawn from this instruction. Once the Mechanism's core crimes cases concluded, I focused on delivering to this Council a framework document that would guide the Mechanism's future-planning for its other mandated residual activities.

This priority has now been realized, following my transmission in April of the Framework of Operations to Complete Functions. This detailed document reflects scenario-based workforce planning, incorporates the inputs of key stakeholders, and provides a range of options and recommendations concerning the potential transfer of the Mechanism's functions. The Mechanism appreciates the careful consideration given to the Framework by the Council's Informal Working Group on International Tribunals, as well as its collaborative approach towards finding the most appropriate and just way to conclude the Mechanism's work. The Framework is a dynamic document, and the Mechanism will monitor developments and adapt its plans in line with your guidance and future circumstances.

In addition to this achievement, the Office of Internal Oversight Services has positively evaluated the relevance, effectiveness, and coherence of the Mechanism's residual activities over the past biennium. The Mechanism welcomes the concrete recommendations of OIOS aimed at further improvement, and is already taking steps to implement them.

As an institution established to ensure accountability, the Mechanism is cognizant that it, too, must remain accountable to the Security Council's vision that it "should be a small, temporary and efficient structure, whose functions and size will diminish over time, with a small number of staff commensurate with its reduced functions". In adherence to this vision, the Mechanism's budgetary requirements over the past two years have fallen by more than 25%. In September 2024, our organizational footprint will be further reduced by the closure of the Kigali field office. By December, the Mechanism will also have eliminated just under half of all posts, when compared to our staffing figures from two years earlier.

In the meantime, we continue to streamline our work, including through refining our processes on the supervision of the enforcement of sentences and external relations. We also continue to outsource numerous administrative functions to other permanent UN entities capable of absorbing them. Moreover, in February of this year, the Judges of the Mechanism removed a resource-intensive declassification procedure from the Rules of Procedure and Evidence because it was not essential to providing access to confidential material and could not be concluded within a reasonable timeframe.



Mr President,

In this new, truly residual phase, the Mechanism still has important work to do and requires sufficient resources to do it. The breadth of this work is substantial and unprecedented among international and internationalized tribunals. The Mechanism has inherited the continuous responsibilities that follow from indicting more than 250 individuals. The resulting cases received evidence from more than 6800 witnesses, approximately 3200 of whom were subject to protective measures, and generated records that already stretch more than 4 kilometres and are projected to reach 9.

In this context, the Mechanism remains mandated to supervise the enforcement of sentences, with 41 convicted persons currently serving their sentences in 12 States and another 7 persons under our jurisdiction. In the near term, it is expected that the work related to this function will increase, as more prisoners reach the threshold for consideration for early release. Sufficient support during this phase will be critical. However, this work will wind down and the Mechanism will adapt its resource requirements accordingly, while nevertheless ensuring that the conditions of imprisonment adhere to international standards.

The Mechanism also remains tasked with managing, preserving, and facilitating access to the archives of the ad hoc Tribunals and the Mechanism. This function is closely connected with one of my key priorities, namely to consolidate the rich legacy of these courts, which can serve as a powerful resource for combatting denial and revisionism. Linked to this responsibility, the Mechanism continues to receive and adjudicate requests for access to confidential evidence maintained in the archives and for variation of witness protective measures. Article 28 of our statute mandates the Mechanism to respond to requests for assistance from national authorities. This task allows us, with proper judicial oversight, to share critical information with domestic courts that continue the work of accountability at local levels and has a multiplying effect on the justice cycle. In its recent evaluation, OIOS focused on this activity and, following the positive feedback from Member States and other stakeholders, it concluded that the Mechanism effectively supported investigations and judicial proceedings in a range of jurisdictions.

Under Article 24 of the statute, the Mechanism is additionally invested with the competence to review a conviction should a new fact emerge demonstrating that a verdict may be unsafe. In the case concerning Gérard Ntakirutimana, which is now before the Appeals Chamber, fresh information has been presented indicating that a witness may have provided false evidence that was critical to some of Mr Ntakirutimana's convictions. Consequently, the Appeals Chamber has authorized narrowly tailored review proceedings to determine whether any miscarriage of justice may have occurred. The right to request review under our statute, which flows from rights guaranteed by the International Covenant on Civil and Political Rights, is fundamental. There are no time limits on such applications, and although it has been rare to grant such requests, the potential exercise of this jurisdiction must remain available to protect fundamental rights and ensure the integrity of our judgements and legacy.

The Mechanism further continues to offer support to protected victims and witnesses who were indispensable to the international judicial process. Relatedly, the Mechanism retains jurisdiction over conduct that interferes with its administration of justice and for false testimony given before it or the ad hoc Tribunals. Nevertheless, it is mindful of the statutory obligation to consider the transfer of such cases to national jurisdictions before proceeding to trial. This is evident from the recently referred *Šešelj et al.* contempt case and the pending consideration by a Single Judge of whether to refer the *François Ngirabatware* contempt case. The Mechanism's continued jurisdiction over these offences provides a



deterrent effect for interfering with justice and is an important part of protecting witnesses and the integrity of the judicial process.

Mr President,

Our ability to render justice is, as always, dependent on the cooperation of States. In this regard, the role of cooperation, as set out in the statute, is twofold. It comprises an obligation for the Mechanism to assist national jurisdictions by responding to requests for assistance, but also includes a duty for States to cooperate with the Mechanism in the investigation and prosecution of persons charged with crimes under its jurisdiction. The Prosecutor's recent announcement that the final ICTR fugitives have all been accounted for speaks for the success of such efforts. On the other hand, the continued refusal of Serbia to cooperate in the contempt case concerning Petar Jojić and Vjerica Radeta constitutes a persistent obstacle to the Mechanism's discharge of its mandated functions, hampering our ability to try those accused for the better part of a decade.

However, as noted previously, the justice cycle does not end with the delivery of a judgement. Functions related to the enforcement of sentences, set in motion following the pronouncement of a final judgement, form an integral part of this cycle. In order to fulfill this aspect of its mandate, the Mechanism still requires the full and sustained cooperation of States. The Mechanism is fully aware of the efforts undertaken by a number of States in this area and expresses its sincere appreciation for their ongoing cooperation. Nevertheless, enforcement States have yet to be designated for a handful of convicted persons as well as for the provisional release of Félicien Kabuga. In this respect, the role of every Member of this Council is essential.

The situation of the acquitted or released persons relocated to Niger is, regrettably, at an impasse and forms a sad reminder that obstacles persist in the area of cooperation. I renew my call for Member States to intervene so that a durable solution can be found as soon as possible. The Mechanism continues to do its utmost but this dilemma can only be resolved through a joint effort with the international community.

Sustained support from States and other stakeholders is essential to guarantee the efficient functioning of the justice process. Without it, the credibility of international justice as a whole is in jeopardy. The Mechanism must not, and cannot, carry this burden alone.

Mr President,

In closing, the Mechanism, with the Council's continued support, will deliver on the promise made in this very hall that impunity will not prevail, but will be addressed through a durable judicial process committed to humanity and fairness. The work of the Mechanism and its predecessors has contributed to justice on two continents, produced an extensive body of international criminal jurisprudence, and created an important reservoir of lessons learned for future courts. The monumental task of safeguarding this legacy remains. It is a responsibility with ongoing significance for victims and witnesses, convicted persons, States which rely on our cooperation, and for the preservation of history and memory. Having now transitioned to our purely residual functions, we have reduced in size and streamlined operations, but remain determined to conclude the final stages of the mandate you have entrusted to us. The Mechanism exists as the embodiment of this Council's commitment to justice and stands ready to continue that pursuit to its conclusion.



I thank you for your kind attention.
