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**International Residual Mechanism for Criminal Tribunals**

**Security Council**  
**Seventy-seventh year**

## **International Residual Mechanism for Criminal Tribunals**

### **Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly and of the Security Council the tenth annual report of the International Residual Mechanism for Criminal Tribunals, submitted by the President of the Mechanism in accordance with article 32 (1) of the statute of the Mechanism (see Security Council resolution [1966 \(2010\)](#), annex 1).

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\* [A/77/150](#).



## **Letter of transmittal**

### **Letter dated 28 July 2022 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the General Assembly and the President of the Security Council**

I have the honour to submit the tenth annual report of the International Residual Mechanism for Criminal Tribunals, dated 28 July 2022, to the General Assembly and to the Security Council, pursuant to article 32 (1) of the statute of the Mechanism.

*(Signed)* Graciela **Gatti Santana**  
President

## Summary

### **Tenth annual report of the International Residual Mechanism for Criminal Tribunals**

The present annual report outlines the activities of the International Residual Mechanism for Criminal Tribunals from 1 July 2021 to 30 June 2022 and marks its tenth year of operations since the opening of the Arusha branch in 2012.

The Mechanism was established by the Security Council in its resolution [1966 \(2010\)](#) to carry out the essential residual functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, which closed in 2015 and 2017, respectively.

The Mechanism continues to be guided by the Security Council's vision of it as 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.

During the reporting period the Mechanism underwent the fourth review of the progress of its work by the Security Council in line with resolution [1966 \(2010\)](#) and the statement issued by the President of the Council on 31 March 2022 ([S/PRST/2022/2](#)). The Security Council considered the report of the Office of Internal Oversight Services dated 23 February 2022 on its review of the methods and work of the Mechanism ([S/2022/148](#)). The report was notably focused on the implementation of open recommendations following two prior evaluations and did not contain any new recommendations. The review process culminated in Security Council resolution [2637 \(2022\)](#), adopted on 22 June 2022, in which the Council reappointed the Prosecutor for a two-year period.

The resolution coincided with a change in leadership, as President Carmel Agius announced his decision to step down after the expiration of his mandate. The Secretary-General appointed Judge Graciela Gatti Santana as his successor effective 1 July 2022. The Secretary-General also extended the terms of office of the judges on the judicial roster and the Registrar.

The Mechanism significantly advanced its core judicial work. The appeal proceedings in the contempt case of *Prosecutor v. Fatuma et al.* were concluded and the appeal proceedings in the case of *Prosecutor v. Jovica Stanišić and Franko Simatović* remain on track for completion by June 2023. This leaves only the case against Félicien Kabuga, in which pretrial preparations have essentially been completed and, pending a decision on appeal, the trial is expected to commence in September 2022.

The Office of the Prosecutor remained focused on three priorities: (a) the expeditious completion of trials and appeals; (b) locating and arresting the remaining fugitives indicted by the International Criminal Tribunal for Rwanda; and (c) assisting national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda. Particular progress was made in relation to fugitives, with the confirmation of the death of the last fugitive to be tried before the Mechanism, *Kabuga* will be the final core case to be heard.

In accordance with its mandate, the Registry supported the work of the Chambers and the Office of the Prosecutor at both branches, focusing on two main strategic priorities: support for ad hoc judicial activity and continuous functions. The implementation of these two priorities was based on enhanced cross-branch coordination and cooperation among sections of the Registry to ensure greater efficiency and a timely provision of administrative and support services.

## I. Introduction

1. The present report covers the period from 1 July 2021 to 30 June 2022.
2. In accordance with its mandate, the International Residual Mechanism for Criminal Tribunals is responsible for a wide range of residual judicial functions derived from the ad hoc Tribunals, including conducting trials, appeals or reviews of judgments, and contempt cases. The Mechanism is also tasked with supervising the enforcement of sentences; monitoring cases referred to national jurisdictions; locating and arresting the remaining fugitives indicted by the International Criminal Tribunal for Rwanda; protecting victims and witnesses; providing assistance to national jurisdictions; and managing and preserving the archives.
3. The coronavirus disease (COVID-19) pandemic continued to affect the Mechanism's operations for the first part of the reporting period, but its impact gradually subsided thereafter.
4. The Mechanism has made tremendous progress with regard to the finalization of its core judicial work. The appeal proceedings in the contempt case of *Prosecutor v. Fatuma et al.* concluded with the delivery of the judgment on 29 June 2022, and the appeal case in *Prosecutor v. Jovica Stanišić and Franko Simatović* continued apace with the proceedings on track for completion by June 2023. Finally, with the Trial Chamber's finding that the Defence had not established that Mr. Kabuga was unfit for trial, the pretrial phase in the case against him is coming to a close. Notwithstanding the pending defence appeal against that decision, the pretrial conference is scheduled for 18 August 2022 and the start of trial is envisaged for September 2022.
5. In addition, the Mechanism made headway with the tracking of the remaining fugitives of the International Criminal Tribunal for Rwanda. Notably, the Prosecution confirmed the death of two fugitives. Of those two, Protais Mpiranya was the last fugitive expected to be tried before the Mechanism. He had been indicted by the Tribunal in 2000. Pending judicial termination of the case, his death closes the door to future trials on core cases and leaves only the trial in the *Kabuga* case.
6. The Office of the Prosecutor continued to monitor, support and advise national judicial authorities prosecuting war crimes cases arising from the conflicts in Rwanda and the former Yugoslavia.
7. Solid progress was made in other residual functions, too, particularly the supervision of the enforcement of sentences and the monitoring of cases referred to national jurisdictions.
8. The greatest challenge faced by the Mechanism concerned the fate of the eight acquitted or released persons previously residing in a safe house in Arusha, who were relocated to the Niger. Shortly after their relocation, the Niger issued an order expelling them in violation of its applicable relocation agreement with the United Nations. The individuals currently remain in the Niger and the matter is as yet unresolved.

## II. Activities of the Mechanism

### A. Organization

9. In its resolution [1966 \(2010\)](#), the Security Council decided that the Mechanism would operate for an initial period of four years starting 1 July 2012. It further decided that it would conduct periodic reviews of the progress of the Mechanism's work, including in completing its functions, and that the Mechanism would continue to operate for subsequent periods of two years following each such review, unless decided otherwise by the Council.

10. During the reporting period, the Security Council conducted its fourth such review, in line with the statement issued by the President of the Council on 31 March 2022 (S/PRST/2022/2). In connection with that process, the Office of Internal Oversight Services undertook an evaluation of the methods and work of the Mechanism and issued its report on 23 February 2022 (S/2022/148). The Mechanism subsequently submitted its fourth review report to the Security Council on 14 April 2022 (see S/2022/319).

11. In accordance with article 3 of its statute, the Mechanism comprises two branches. Its branch in Arusha, United Republic of Tanzania, assumed functions derived from the International Criminal Tribunal for Rwanda and commenced operations on 1 July 2012. The branch in The Hague, the Netherlands, assumed functions derived from the International Tribunal for the former Yugoslavia and commenced operations on 1 July 2013. In accordance with article 4 of the statute, the Mechanism consists of three organs that serve both branches of the Mechanism: (a) the Chambers, from which single judges can be appointed and trial and appeal benches formed as needed; (b) the Prosecutor; and (c) the Registry.

12. Each of the organs is headed by a full-time principal common to both branches. The President is based in The Hague and the Prosecutor and Registrar are based in Arusha. During the reporting period, the Principals were President Carmel Agius (Malta), Prosecutor Serge Brammertz (Belgium) and Registrar Abubacarr Tambadou (Gambia). The terms of all three Principals ran until 30 June 2022.

13. On 22 June 2022, following the above-mentioned fourth review of the Mechanism's mandate, the Security Council adopted resolution 2637 (2022), reappointing Mr. Brammertz as Prosecutor for another term of two years. Subsequently, the Secretary-General renewed the terms of office of the judges and the Registrar.

14. The end of the reporting period brought a change in leadership. Following the decision of President Agius to step down as President effective 1 July 2022, the Secretary-General appointed Judge Graciela Gatti Santana (Uruguay) as his successor. The Mechanism greatly welcomes the appointment of its first female President.

15. Under article 8 of the statute, the Mechanism has a roster of 25 independent judges who, insofar as possible and as decided by the President, exercise their functions remotely. Mechanism judges are not remunerated for being on the judicial roster, but rather receive compensation only for the days on which they exercise their functions, as assigned by the President.

16. In addition, at the President's discretion under article 12 (2) of the statute, he continued to assign duty judges at the Arusha branch. By assigning on an alternating basis three judges who reside in the United Republic of Tanzania, the President maximized efficiency and reduced costs.

17. The reporting period saw a number of changes in the judicial roster. First, the Secretary-General appointed Judge Fatimata Sanou Touré (Burkina Faso) to serve the remainder of the term of office of the late Judge Gberdao Gustave Kam, effective 12 August 2021. Then, effective 17 November 2021, Judge Theodor Meron (United States of America) resigned from his duties as a judge at the Mechanism, and Judge Margaret deGuzman (United States) was appointed in his place, effective 22 December 2021. Those two appointments bring the number of female judges on the Mechanism's roster to 8 out of 25. This, together with the appointment of Judge Gatti as the first female President, is a positive step on the way to gender parity at the highest levels, and the Mechanism strongly encourages nominating States to remain on this path.

18. At the end of the reporting period the judicial roster comprised (in order of precedence): Judge Carmel Agius, President (Malta), Judge Jean-Claude Antonetti (France), Judge Joseph E. Chiondo Masanche (United Republic of Tanzania), Judge

William Hussein Sekule (United Republic of Tanzania), Judge Lee G. Muthoga (Kenya), Judge Alphons M. M. Orié (Netherlands), Judge Burton Hall (Bahamas), Judge Florence Rita Arrey (Cameroon), Judge Vagn Joensen (Denmark), Judge Liu Daqun (China), Judge Prisca Matimba Nyambe (Zambia), Judge Aminatta Lois Runeni N'gum (Gambia/Zimbabwe), Judge Seon Ki Park (South Korea), Judge José Ricardo de Prada Solaesa (Spain), Judge Graciela Susana Gatti Santana (Uruguay), Judge Ivo Nelson de Caires Batista Rosa (Portugal), Judge Seymour Panton (Jamaica), Judge Elizabeth Ibanda-Nahamya (Uganda), Judge Yusuf Aksar (Türkiye), Judge Mustapha El Baaj (Morocco), Judge Mahandrisoa Edmond Randrianirina (Madagascar), Judge Claudia Hoefler (Germany), Judge Iain Bonomy (United Kingdom of Great Britain and Northern Ireland), Judge Fatimata Sanou Touré (Burkina Faso) and Judge Margaret M. deGuzman (United States). As at 1 July 2022, the new President assumed seniority and Judge Agius moved to the sixth position.

19. Due to ongoing pandemic-related travel restrictions, which again did not allow for an in-person plenary, the Mechanism held its first-ever virtual plenary of judges on 28 and 29 September 2021. The event was held successfully, with live interactions between the judges using a secure platform developed in house by the Mechanism's Information Technology Services Section. The Mechanism plans to hold an in-person plenary in The Hague in November 2022.

## **B. Legal and regulatory framework**

20. The Mechanism's activities are governed by a legal and regulatory framework comprising the Mechanism's statute, its Rules of Procedure and Evidence, as well as other rules, regulations, practice directions and internal policies.

21. Under article 13 of the statute, the judges of the Mechanism may decide to adopt amendments to the Rules, with any such amendments taking effect upon adoption by the judges unless the Security Council decides otherwise. During the above-mentioned virtual plenary, the judges decided against a proposed amendment.

22. On 11 April 2022, the Registrar issued a policy on occupational safety and health for the International Residual Mechanism for Criminal Tribunals, which guides the establishment and implementation of an occupational safety and health management system at the Mechanism.

## **C. Rules Committee**

23. Once a year, the Mechanism's Rules Committee submits to the President a report that includes proposals for amendments to the Rules. The Rules Committee is made up of Judge Hall (Chair), Judge Park, Judge Gatti Santana and the President as an ex officio member, together with the non-voting members, who are representatives of the Prosecutor, the Registrar and the Association of Defence Counsel Practising before the International Courts and Tribunals.

## **D. Mechanism Coordination Council**

24. As laid down in rule 25 of the Rules of Procedure and Evidence, the Mechanism Coordination Council consists of the President, the Prosecutor and the Registrar and meets on an ad hoc basis to coordinate the activities of the three organs of the Mechanism. During the reporting period, the Council, chaired by the President, met regularly to discuss cross-cutting topics, including budgetary issues, downsizing and the management of the pandemic. The Council functioned as a useful and effective

forum to further enhance systematic thinking and a shared vision of the Mechanism's management. This was acknowledged, together with the improvement in cross-organ communication and coordination, in the 2022 report of the Office of Internal Oversight Services on the review of the methods and work of the Mechanism.

## **E. Relocation of acquitted or released persons**

25. On 15 November 2021, the Mechanism's efforts to find a solution for the nine acquitted or released persons who had been residing in a safe house in Arusha for several years resulted in the signing of a relocation agreement between the United Nations and the Niger. On 6 December 2021, eight were relocated under the agreement. The ninth did not consent and remained in the United Republic of Tanzania. In May 2022, he passed away.

26. On 27 December 2021, the Niger unexpectedly issued an expulsion order against the eight, citing diplomatic reasons. Since then, the Mechanism has taken numerous steps, in both the judicial and diplomatic spheres, to address the matter. In addition, the President has sought the support of the Security Council (see [S/2022/36](#)). While the eight currently remain in the Niger, their movement is restricted and the threat of expulsion remains.

27. The situation triggered intense litigation before the Mechanism, which is ongoing. On 27 May 2022, the Appeals Chamber urged the United Nations to actively continue its efforts to resolve the matter and dismissed appeals against a decision of 8 March 2022 of the duty judge, who had determined that all appropriate and available judicial relief had been extended to the relocated persons and that the primary avenue for redressing this crisis lay in political, diplomatic and administrative efforts.

28. The Mechanism, in coordination with the Office of Legal Affairs, continues to seek a durable solution to this untenable situation and to engage with the Niger on the need to abide by the agreement. At the same time, efforts continue to find another State willing to accept these individuals. The Mechanism is grateful for and welcomes the continued support of the Security Council in resolving this predicament.

## **III. Activities of the President and the Chambers**

### **A. Principal activities of the President**

29. The President is the institutional head and highest authority of the Mechanism, responsible for the overall execution of its mandate. He or she coordinates the work of the Chambers, presides over the Appeals Chamber, supervises the activities of the Registry and carries out other functions as specified in the statute and Rules.

30. During the reporting period, President Agius continued to oversee the work and progress of the Mechanism with a specific focus on the fair, efficient and timely conclusion of judicial activities, the harmonization of practices and procedures between the two branches and the fostering of high staff morale and performance.

31. In furtherance of his third priority and cognizant of the need to keep staff informed of important developments, the President held three town hall meetings, together with the other two Principals. The first, held in February 2022, was conducted by video teleconference; the other two were held in person following the full return of all staff to premises. In addition, President Agius regularly consulted with the Staff Union. The Registrar held information sessions relating to budget and the administration.

32. With the easing of pandemic-related travel restrictions, President Agius travelled to Bosnia and Herzegovina, Croatia and Rwanda during the reporting period. While in Bosnia and Herzegovina, he participated in official events commemorating the thirtieth anniversary of the siege of Sarajevo.

33. Pursuant to the statute, President Agius reported to the Security Council and General Assembly as appropriate. He submitted the Mechanism's ninth annual report to the General Assembly and the Security Council on 31 July 2021 ([A/76/248-S/2021/694](#)) and gave a briefing to the Assembly in October 2021. The nineteenth and twentieth six-monthly reports on the Mechanism's progress were submitted to the Council in November 2021 ([S/2021/955](#)) and May 2022 ([S/2022/404](#)), respectively. In addition, President Agius gave a briefing to the Council and its Informal Working Group on International Tribunals in December 2021 and in June 2022. At those briefings, the President held numerous bilateral meetings with representatives of Member States and high-level officials of the United Nations.

34. In addition, President Agius submitted the Mechanism's fourth review report to the Security Council on 14 April 2022 (see [S/2022/319](#)), pursuant to Council resolution [1966 \(2010\)](#) and in accordance with the procedures set out in the statement by the President of the Council of 31 March 2022 ([S/PRST/2022/2](#)). The report provided a comprehensive overview of the progress of the Mechanism in completing its functions during the period from mid-April 2020 to mid-April 2022. It also addressed the report of the Office of Internal Oversight Services on the methods and work of the Mechanism ([S/2022/148](#)).

35. The President continued to coordinate the work of the Chambers and assign judicial functions to judges with a view to ensuring an efficient and broad distribution of work and making the best use of the judges' diverse judicial expertise. He worked closely with the leadership of the Legal Support Section of the Chambers to enhance the timely and cost-effective functioning of the Chambers more generally. He did so in full consideration of fair trial rights and the previously-anticipated timelines for case completion. The Office of Internal Oversight Services found its recommendation that the Chambers provide clear and focused projections of completion timelines for judicial activities to be implemented in all respects, and stated that the steps taken reflected a focus on operationalizing the mandate of the Security Council.

36. Supervising the enforcement of sentences remained a central area of responsibility for the President in accordance with article 25 (2) of the statute. Having consulted with other judges as required under rule 150, President Agius issued 14 decisions on applications for early release or commutation of sentence, and numerous related orders. The President also issued decisions concerning requests for transfer from enforcement States and the designation of enforcement States in which convicted persons are to serve their sentence.

37. Alongside that activity, the President continued to monitor the situation of convicted persons in respect of the pandemic. The Mechanism is grateful for the reports received from enforcement States and the efforts made to ensure the safety of the convicted persons, in particular considering the additional burden the related reporting has created for those States.

## **B. Principal activities of single judges**

38. During the reporting period, 16 judges on the judicial roster were assigned to serve as single judges in relation to applications arising at either branch. The applications concerned assistance to national jurisdictions, access to confidential information, variation of protective measures, disclosure of exculpatory information, access to frozen assets, allegations of contempt and false testimony, changes in the

classification of filings, *non bis in idem* issues, requests for relocation of acquitted or released persons, and assignment of counsel. Collectively, 96 decisions and orders were issued by single judges during the reporting period and, as at 30 June 2022, single judges were seized of nine pending matters.

39. As previously reported, the trial judgment in the case of *Prosecutor v. Anselme Nzabonimpa et al.* was pronounced on 25 June 2021 and filed in writing on 20 September 2021. The single judge convicted Augustin Ngirabatware, Anselme Nzabonimpa, Jean de Dieu Ndagijimana and Marie Rose Fatuma of contempt on the basis of witness interference. Mr. Ngirabatware was also convicted for contempt on the basis of violating court orders. In respect of co-accused Dick Prudence Munyeshuli, the single judge entered a verdict of not guilty on a single contempt charge on the basis of violations of court orders.

40. Also, on 20 September 2021, the single judge issued an order in which he considered that there may be reason to believe that Mr. Ngirabatware's former counsel was in contempt of the Mechanism. On 25 October 2021, another single judge directed the Registrar to appoint an amicus curiae to investigate the matter and directed the amicus curiae to file a report within 120 days of the appointment. On 1 April 2022, the single judge granted a 120-day extension of time to the amicus curiae in view of the volume and nature of the material under consideration. The amicus curiae is now expected to file a report on his investigation by 28 July 2022.

41. In a different matter, on 19 April 2022, a single judge directed the Registrar to appoint an amicus curiae to investigate two individuals and their former counsel to determine whether contempt proceedings or other appropriate action should be initiated in connection with the submission of forged documents, arising from proceedings before another single judge concerning frozen assets linked to Félicien Kabuga.

42. In the *Jojić and Radeta* contempt case, on 3 September 2021, the single judge granted the request of the amicus curiae prosecutor to take evidence of prosecution witnesses by special deposition in order to preserve evidence for use in a future trial in the event that the witnesses would become unavailable. The special deposition proceedings took place in The Hague in March 2022.

### **C. Principal activities of the Trial Chambers**

43. In the *Kabuga* case, the Trial Chamber, constituted of Judge Bonomy, presiding, Judge Gatti Santana and Judge Ibanda-Nahamya, largely finalized pretrial proceedings, held status conferences on 6 October 2021, 3 February 2022 and 11 May 2022, and completed its preliminary evaluation of Mr. Kabuga's fitness for trial, which included the filing of reports by five experts and the hearing of three of those experts in court on 31 May and 1 June 2022. On 13 June 2022, the Trial Chamber found that the Defence had not established that Mr. Kabuga was unfit for trial; instructed a panel of three independent medical experts to monitor and report on Mr. Kabuga's fitness on an ongoing basis to allow the Trial Chamber, if circumstances gave rise to concern, to review the situation before proceeding further; and decided that Mr. Kabuga was to remain detained at the Hague branch of the Mechanism, where the trial was to commence until otherwise decided. On 23 June 2022, the Trial Chamber granted the defence motion for certification to appeal the decision on Mr. Kabuga's fitness for trial, and the Defence filed its appeal on 30 June 2022. On the same day, the President assigned the matter to a bench of the Appeals Chamber. The pretrial conference is scheduled to take place on 18 August 2022 and, pending the decision on appeal, the trial is expected to commence in September 2022. The Trial Chamber also issued several decisions related to procedural and evidentiary matters in anticipation of trial.

## D. Principal activities of the Appeals Chamber

44. In the case of *Prosecutor v. Jovica Stanišić and Franko Simatović*, Jovica Stanišić, Franko Simatović and the Office of the Prosecutor filed notices of appeal against the trial judgment on 6 September 2021, one month after the judgment was filed in writing on 6 August 2021. On 10 September 2021, President Agius appointed himself as the presiding judge and appointed Judge Muthoga, Judge N’gum, Judge Aksar and Judge Hoefler to the bench of the Appeals Chamber assigned to the case. On 15 September 2021, President Agius appointed himself as the pre-appeal judge. The parties filed their respective appeal briefs on 22 November 2021 and, after being granted an extension of time, filed their response briefs on 31 January 2022. The parties filed their reply briefs on 15 February 2022. Pursuant to rule 69, the pre-appeal judge held status conferences on 16 December 2021, 1 April 2022 and 23 June 2022 to allow Mr. Stanišić and Mr. Simatović to raise issues in relation to their detention and health. During the reporting period, the pre-appeal judge and the Appeals Chamber issued 14 orders and decisions.

45. In the *Nzabonimpa et al.* case, on 18 October 2021, Ms. Fatuma appealed her conviction and sentence, and the Prosecution appealed Mr. Munyeshuli’s acquittal and certain aspects of Mr. Ngirabatware’s sentence. Mr. Ngirabatware, Mr. Nzabonimpa and Mr. Ndagijimana did not appeal the trial judgment. To reflect the parties involved in the appeal proceedings, the case name changed to *Fatuma et al.*

46. Following the completion of the written briefing of the appeals, the Appeals Chamber, composed of Judge Agius, presiding, Judge Orié and Judge Pantón, decided that holding an oral appeal hearing was not necessary. The appeal judgment in the *Fatuma et al.* case was delivered on 29 June 2022. The Appeals Chamber dismissed Ms. Fatuma’s appeal in its entirety, setting aside her sentence of time served and imposing a new sentence of 11 months of imprisonment. As a result of granting the entirety of the Prosecution’s appeal, the Appeals Chamber overturned Mr. Munyeshuli’s acquittal of contempt, sentencing him to five months of imprisonment, and set aside Mr. Ngirabatware’s concurrent sentence of two years of imprisonment for contempt, imposing, by majority, a sentence of two years of imprisonment to be served consecutively with the 30-year sentence that Mr. Ngirabatware is already serving for his convictions for genocide and direct and public incitement to commit genocide. During the reporting period, the Appeals Chamber issued 13 orders and decisions related to the conduct of the appeal.

## IV. Activities of the Office of the Prosecutor<sup>1</sup>

### A. Introduction

47. During the reporting period, the Office of the Prosecutor continued to focus on three strategic priorities: (a) the expeditious completion of trials and appeals; (b) locating and arresting the remaining fugitives indicted by the International Criminal Tribunal for Rwanda; and (c) assisting national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda.

48. In managing its work, the Office is guided by the views and requests of the Security Council as set forth in, among other places, resolutions [2256 \(2015\)](#), [2529 \(2020\)](#) and [2637 \(2022\)](#). The Office continued to implement its one-office policy to further streamline operations and reduce costs.

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<sup>1</sup> The present section reflects the views of the Prosecutor of the Mechanism.

49. During the reporting period, the Office achieved important results in its efforts to account for the remaining fugitives indicted by the International Criminal Tribunal for Rwanda. The files of two more fugitives – Protais Mpiranya and Phénéas Munyarugarama – have now been closed following confirmation that they are deceased. There are now only four fugitives at large, and all so-called “major” fugitives, whose cases remained with the Mechanism, have been accounted for. Continued cooperation from Member States will be critical to achieving further results and bringing this residual function to a close.

50. The Office of Internal Oversight Services issued its latest evaluation of the methods and work of the Mechanism during the reporting period. With respect to the Office of the Prosecutor, the Office of Internal Oversight Services found that steps taken by the Office of the Prosecutor during the reporting period reflected a focus on operationalizing the mandate of the Security Council. The Office of Internal Oversight Services again favourably assessed the methods and work of the Office of the Prosecutor, noting that, even with a “skeletal staff number”, it had flexibly reconfigured operations as necessary to deliver results and had redeployed its resources to where they were most required. The Office of Internal Oversight Services further concluded that, as the Office of the Prosecutor had downsized, the smaller team had benefited from management’s efforts to promote a more positive working culture. Finally, the Office of Internal Oversight Services concluded that the Office of the Prosecutor had implemented the recommendation directed to it.

## **B. Trials and appeals**

51. During the reporting period, the Office of the Prosecutor completed appeal proceedings in one case and continued to effectively litigate one trial and one appeal.

52. On 29 June 2022, the Appeals Chamber issued its judgment in the *Fatuma et al.* case, formerly known as *Nzabonimpa et al.* The Appeals Chamber accepted the Prosecution’s arguments and unanimously granted the Prosecution’s appeal in its entirety. As a result, the Appeals Chamber convicted Mr. Munyeshuli for contempt of court by knowingly and wilfully interfering with the administration of justice, and sentenced him to five months of imprisonment. The Appeals Chamber further set aside the concurrent sentence of imprisonment imposed against Mr. Ngirabatware at trial and sentenced him to two years of imprisonment, to be served consecutively with his existing sentence of 30 years of imprisonment for genocide. In relation to the appeal filed by Ms. Fatuma against her conviction and sentence at trial, the Appeals Chamber accepted the Prosecution’s arguments in full and *proprio motu* sentenced her to eleven months of imprisonment. The Office of the Prosecutor is satisfied with the judgment of the Appeals Chamber and emphasizes that the effective investigation and prosecution of contempt-of-court crimes are essential to protecting witnesses and safeguarding the integrity of proceedings conducted by the Mechanism, the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia.

53. In the *Kabuga* case, the Prosecution is fully ready for and looks forward to the commencement of this trial. During the reporting period, the Prosecution met all of its pretrial obligations in a timely manner and took a number of important steps to promote the effective and efficient presentation of its evidence. In accordance with the Trial Chamber’s pretrial workplan, the Prosecution filed its pretrial brief on 23 August 2021 and completed disclosures under rules 71 (A) (ii) and 116 (A) by 30 August. The Prosecution further made significant efforts to have its evidence admitted in writing to limit the number of witnesses called to testify and minimize in-courtroom time required for viva voce witnesses. This work included taking statements under rule 110 for 23 witnesses, while also submitting seven motions for the admission of 56 prior statements under rules 110, 111 and 112.

54. On 30 June 2021, the Trial Chamber issued its judgment in the *Stanišić and Simatović* case. Mr. Stanišić and Mr. Simatović, formerly senior officials in the State Security Service of Serbia, were convicted for aiding and abetting crimes against humanity and war crimes committed in ethnic cleansing campaigns by Bosnian Serb forces in 1992. Both were sentenced to 12 years of imprisonment. During the reporting period, the Prosecution filed its notice of appeal on 6 September 2021, asserting two grounds of appeal against the Trial Chamber's judgment. The defence teams filed 12 grounds of appeal in total. On 15 February 2022, the Prosecution completed its written appellate arguments and is now focused on preparations for the appeals hearing, at which it will present its oral arguments.

55. The Prosecution remains committed to taking all steps necessary to expedite the completion of all proceedings in accordance with the directives of the respective Chambers. The Office also remains committed to flexibly deploying its limited resources to efficiently handle all responsibilities within its mandate.

### **C. Fugitives**

56. During the reporting period, the Office of the Prosecutor continued to achieve key results in its efforts to account for the remaining fugitives indicted for genocide by the International Criminal Tribunal for Rwanda. On 12 May 2022, the Office announced that it had confirmed the death of Protais Mpiranya, former commander of the Rwandan Presidential Guard and the last remaining so-called major fugitive. On 18 May 2022, the Office further announced that it had confirmed the death of Pheneas Munyarugarama, former commander of the Gako military camp. Since May 2020, the Office has accounted for four fugitives, including all three "major" fugitives, and now only four fugitives remain at large. The Office has viable leads and is implementing strategies for each of these fugitives.

57. These results depended on the cooperation of Member States. The Office recognizes in particular the assistance provided by the authorities of Belgium, France, the Netherlands, Rwanda, Spain, the United Kingdom, the United States of America and Zimbabwe. Going forward, full and effective cooperation from Member States will continue to be essential to the achievement of further results. Cooperation from Zimbabwe will still be needed with respect to the fugitives who remain at large, and the Office fully trusts that Zimbabwe will continue to respond to the Office's requests for assistance. As for South Africa, since 2018, there have been challenges in obtaining the necessary assistance. However, with the support of the President of South Africa and his Cabinet, an operational task team was established in April 2022 and joint investigations are already underway. The Office has identified additional Member States from which cooperation will be needed and is working to put in place the necessary arrangements. The Office will continue to engage directly with national authorities to ensure that its requests for assistance are promptly answered.

58. The Office reiterates that the Government of the United States continues to offer a financial reward of up to \$5 million for information leading to the arrest of a fugitive.

### **D. Assistance to national jurisdictions**

59. National prosecutions remain essential to achieving greater justice for the victims of war crimes, crimes against humanity and genocide committed in Rwanda and the former Yugoslavia. In line with the completion strategies of the ad hoc Tribunals, Security Council resolutions [1966 \(2010\)](#) and [2256 \(2015\)](#), and the statute, the Office of the Prosecutor is mandated to assist and support national prosecutions

of those crimes. In the affected countries, the effective prosecution of the crimes committed is fundamental to building and sustaining the rule of law, establishing the truth of what occurred and promoting reconciliation. Third-party States are also undertaking prosecutions against suspects who are present in their territories for crimes committed in Rwanda and the former Yugoslavia.

60. The Office has continued its efforts, within existing resources, to monitor, support and advise national judicial authorities prosecuting war crimes cases arising from the conflicts in Rwanda and the former Yugoslavia. The Office maintains an ongoing dialogue with its counterparts and takes a range of initiatives to assist and build capacity in national criminal justice sectors. The joint European Union-Mechanism project to support domestic accountability for war crimes continued. The Office expresses its deep gratitude to partners for providing financial, logistical and other support to enable the Office's capacity-building and training efforts.

61. During the reporting period, the Office continued to provide national authorities with access to evidence and information in response to a high volume of requests. In relation to Rwanda, the Office received and processed nine requests for assistance from six Member States. In total, the Office handed over more than 2,075 documents comprising more than 87,611 pages of evidence. In relation to the former Yugoslavia, the Office received 333 requests for assistance from eight Member States and two international organizations. A total of 82 requests for assistance were submitted by authorities in Bosnia and Herzegovina, 1 by Croatia and 12 by Serbia. In total, the Office handed over more than 8,014 documents comprising nearly 248,009 pages and 80 audiovisual records. In addition, the Office filed 12 submissions in relation to requests for variation of witness protective measures and 7 submission in relation to confirmation of witness protective measures.

62. There has been a significant rise in recent years in the number of requests for assistance received by the Office. From 2018 to 2021, the Office received an average of 362 requests each year, a 226 per cent increase compared to the 111 requests received in 2011 by the two Tribunals. The continued high volume of requests for assistance received demonstrates the importance of the support provided by the Office to national prosecutions of war crimes, crimes against humanity and genocide committed in the former Yugoslavia and Rwanda.

## **V. Activities of the Registry**

63. The Registry continued to provide judicial support services, as well as other administrative, budgetary, legal, policy and diplomatic support for Mechanism operations.

### **A. Budget, administration, staffing and facilities**

64. In resolution [76/243](#), the General Assembly endorsed the recommendations of the Advisory Committee on Administrative and Budgetary Questions made in [A/76/577](#) and [A/76/608](#) and decided to appropriate to the special account for the Mechanism a total of \$89,690,200 gross for 2022.

65. The Mechanism implemented the decision of the General Assembly and continued to actively limit its overall expenditure to that essential to fulfil its mandated functions. The Mechanism will be in a position to fully support the remaining judicial activities in 2022 as outlined above, within its approved budgetary resources.

66. The Mechanism is preparing its 2023 budget proposal, which will include requirements for the trial phase of the *Kabuga* case and the completion of appeal proceedings in the *Stanišić and Simatović* case.

67. On 30 June 2022, the Mechanism had a total of 435 staff (on continuous posts and in general temporary assistance positions): 210 at the Arusha branch, including the Kigali Field Office, and 225 at the Hague branch, including the Sarajevo field office. The Mechanism's staff comprises nationals of 72 Member States. At the Professional level and above, 50.8 per cent are women and 49.1 per cent men, consistent with the Secretary-General's gender parity goals. If General Services staff is taken into account, the average percentage of female staff is lower. The Mechanism remains committed to achieving a greater gender balance at all levels and equitable geographical representation.

68. The decision-making of the Principals on pandemic-related matters was facilitated by the COVID-19 Steering Committee. After a full return of all staff to the premises, with restrictions eased further at all Mechanism duty stations, in April 2022, almost all the Mechanism's pandemic-related policies were lifted and the activities of the Steering Committee were suspended.

69. Negotiations with the general contractor for the construction of the Mechanism's Arusha premises are ongoing. During the reporting period, the contractor submitted a counter claim related to additional work done on the premises and the Mechanism responded. Although efforts to remedy problems with the heating, ventilation and air-conditioning system in the archives building continued, progress has been delayed by the poor market response to an expression of interest to participate in the remediation work published by the Mechanism. The conclusion of this matter is now expected by the first quarter of 2023.

70. Concerning the Hague premises, which are owned by the host State, the Mechanism and the host State had been looking to renew the lease for the premises on the basis of a partial occupancy of a renovated building by 2024. However, the renovation project has been delayed. In the light of this and other factors, the situation is being reassessed, with alternative approaches being developed, taking into account that the *Kabuga* trial will commence in The Hague. It is hoped that an agreed way forward is determined during the third quarter of 2022.

71. The Mechanism is deeply grateful to its host States, the Netherlands and the United Republic of Tanzania, for their long-standing commitment and invaluable support. The Mechanism is equally grateful to Bosnia and Herzegovina and Rwanda for facilitating the presence of the Mechanism's field offices.

## **B. Support for judicial activities**

72. The Registry continued to provide support for the Mechanism's judicial activities at both branches.

73. Both branches supported pretrial proceedings in the *Kabuga* case, including hearings in relation to expert witness evidence and status conferences that took place in The Hague. At the Arusha branch, the Registry facilitated the appeal proceedings and the delivery of the judgment in the *Fatuma et al.* contempt case, including arranging travel to Arusha or videoconference link participation for the parties. At the Hague branch, the Registry supported the appeal proceedings in the *Stanišić and Simatović* case, including by enabling a defence counsel to participate by videoconference link, and the special deposition in the *Jojić and Radeta* case.

74. During the reporting period, the Judicial Records Unit processed 1,810 judicial filings, amounting to 22,637 pages. As at 30 June 2022, over 364,000 public judicial

records were available through the unified court records database, which was accessed over 47,500 times during the reporting period.

75. The language support services continued to provide translations of judgments and other documents into and from Bosnian/Croatian/Serbian, English, French, Kinyarwanda and other languages, as required, as well as interpretation services. A notable milestone was the completion of the translation of judgments issued by the International Tribunal for the Former Yugoslavia into Bosnian/Croatian/Serbian.

76. Furthermore, the Registry provided administrative assistance to 62 remunerated and pro bono defence teams, comprising 100 team members.

77. Pursuant to article 15 (4) of the statute, and consistent with the Mechanism's commitment to efficiency, the Registry maintains rosters of qualified candidates to ensure that staff can be recruited expeditiously to support further court proceedings.

## **C. Support for other mandated activities**

### **1. Witness support and protection**

78. The Mechanism is responsible for the protection of witnesses who have testified before the ad hoc Tribunals and witnesses who have appeared or may appear before the Mechanism. Approximately 3,150 witnesses currently benefit from protective measures.

79. The Witness Support and Protection Units at both branches ensure the security of witnesses by making threat assessments and coordinating responses to security-related requirements. The Units implemented 27 judicial orders related to protected witnesses and other witness-related matters, and facilitated the President's determination of early-release applications by providing comprehensive witness-related information when requested.

80. Furthermore, the Unit at the Arusha branch assisted in the certification of written statements or transcripts of 14 witnesses in lieu of oral testimony in the *Kabuga* case pursuant to rule 110.

81. The medical clinic at the Kigali field office continues to provide medical and psychosocial assistance to witnesses, with a focus on those who are survivors of sexual or gender-based violence during the genocide against the Tutsi in Rwanda.

82. The Unit at the Hague branch facilitated the testimony of one witness in the special deposition in the *Jojić and Radeta* case and the appearance of three expert witnesses in the *Kabuga* case.

83. Witness protection will continue to be required until the relevant judicial protection orders are rescinded or waived, or, where applicable, until the last victim or witness is deceased. The provision of support for relocated witnesses may be required until the last member of the immediate family is deceased.

### **2. Detention facilities**

84. On 30 June 2022, the United Nations Detention Facility in Arusha housed no detainees, following the transfer of the last convicted person to Senegal on 17 July 2021.

85. As at the same date, the United Nations Detention Unit in The Hague housed five detainees: Mr. *Kabuga*, who, pursuant to an order handed down by the Trial Chamber on 13 June 2022, remains detained there and whose trial is set to commence at the Hague branch; Mr. *Stanišić* and Mr. *Simatović*, whose appeals against their convictions are pending; and two convicted persons awaiting transfer to States for the

enforcement of their sentences. During the reporting period, one convicted person at the United Nations Detention Unit who had been returned from an enforcement State that was no longer able or willing to enforce the sentence, was granted conditional early release.

86. The United Nations Detention Unit will continue to be required until the detained persons are either acquitted or convicted and subsequently transferred to enforcement States.

### **3. Enforcement of sentences**

87. The Mechanism relies greatly on the cooperation of States for the enforcement of sentences. As at 30 June 2022, the Mechanism was overseeing the enforcement of the sentences of 46 individuals in 13 enforcement States.

88. A total of 27 persons convicted by the International Criminal Tribunal for Rwanda were serving their sentences in three States, while 19 persons convicted by the International Tribunal for the Former Yugoslavia were serving their sentences in 10 States.

89. Supervision on the enforcement of sentences will continue until the last prison sentence has been served, subject to rule 128, which provides that the Security Council may designate another body after the Mechanism has legally ceased to exist.

90. The Mechanism is grateful to Member States for their assistance in the enforcement of sentences. The Mechanism would not be able to fulfil its mandate without this crucial support.

### **4. Assistance to national jurisdictions**

91. During the reporting period, the Registry processed 31 requests for assistance by national authorities or parties to national proceedings in connection with national proceedings related to the genocide against the Tutsi in Rwanda or the conflicts in the former Yugoslavia.

92. Assistance to national jurisdictions will continue until national investigations and proceedings in connection with the genocide against the Tutsi in Rwanda and the conflicts in the former Yugoslavia are concluded.

### **5. Monitoring of referred cases**

93. During the reporting period, the Mechanism monitored three cases referred to Rwanda with pro bono assistance from the Kenyan section of the International Commission of Jurists.

94. The *Ntaganzwa* case remained in the appeal phase. An appeal hearing is yet to be scheduled owing to delays caused by the pandemic. On 25 June 2021, the Supreme Court of Rwanda reaffirmed the appeal judgment of 24 December 2020 in the *Uwinkindi* case; that case is now concluded.<sup>2</sup> Furthermore, on 25 November 2021, the Supreme Court of Rwanda reaffirmed the appeal judgment of 7 May 2021 in the *Munyagishari* case; that case is now also concluded. Mr. Uwinkindi and Mr. Munyagishari are serving life sentences in Rwanda.

95. The Mechanism further continued to monitor the remaining case referred to France with the assistance of a staff member appointed as monitor by the Registrar. The *Bucyibaruta* trial started on 9 May 2022 and concluded on 12 July 2022, but may be followed by an appeal.

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<sup>2</sup> The Mechanism was not informed of the decision of the Supreme Court of Rwanda until March 2022.

## 6. Archives and records management

96. The Mechanism Archives and Records Section is currently responsible for the management of 4,119.75 linear meters of physical records and approximately 3 petabytes of digital records generated by the ad hoc Tribunals and the Mechanism.

97. The Section continued to feed digital records into the digital preservation system. Thus far, 326.02 terabytes of digital records, including 224,762 files in a variety of formats, have been processed. In addition, the Section continued to preserve audiovisual recordings currently stored on obsolete physical media at the Hague branch. During the reporting period, over 9,660 physical audiovisual records were assessed to determine preservation needs. The Arusha branch continued to create publicly accessible audiovisual recordings of the judicial proceedings of the International Criminal Tribunal for Rwanda, making an additional 361 hours available.

98. The Section responded to 141 enquiries about and requests for access to the archives during the reporting period and continued work on developing a publicly accessible catalogue containing descriptions of the archives, which is expected to be launched in June 2023.

99. Management of the archives, including their preservation and access pursuant to article 27 of the Statute, is a function that will continue for as long as the Mechanism is operational and has custody of the archives.

## 7. External relations and information-sharing

100. The External Relations Office continued to raise awareness of the Mechanism's mandate and work by engaging with Member States, civil society, victims' groups, the public and the media. In addition, the Office produced social media campaigns and online exhibitions, and organized virtual and in-person meetings to raise the visibility of the Mechanism and the ad hoc Tribunals.

101. At the Hague branch, the Mechanism, with the support of the European Union and Switzerland, continued to work on a project focused on educating affected communities and young people in the former Yugoslavia about the legacy of the International Tribunal for the Former Yugoslavia and the work of the Mechanism, and on facilitating access to the archives.

## VI. Conclusion

102. Over the last year, the Mechanism has decisively advanced its mandated functions. The favourable assessments of its work by the Office of Internal Oversight Services and the Security Council have energized judges and staff to build on this momentum and continue their hard work with determination and perseverance even during challenging times.

103. With the important final trial in the *Kabuga* case anticipated to begin soon and the appeal in the *Stanišić and Simatović* case to conclude next year, the Mechanism is now uniquely positioned to consolidate its activities further, in line with Security Council resolution [2637 \(2022\)](#).

104. The focus of the Mechanism will now shift towards its remaining continuous functions. These residual responsibilities are no less important and require sustained efforts and resources alike. For this, the Mechanism is still heavily dependent on the valuable support provided by the United Nations and its Members States, as well as enforcement States and the States hosting both branches.