



# Security Council

Seventy-sixth year

**8927**<sup>th</sup> meeting

Monday, 13 December 2021, 11.30 a.m.

New York

*Provisional*

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<i>President:</i>	Mr. Abarry/Mr. Ousman . . . . .	(Niger)
<i>Members:</i>	China . . . . .	Mr. Geng Shuang
	Estonia . . . . .	Mr. Lipand
	France . . . . .	Mrs. Dime-Labille
	India . . . . .	Ms. Bhat
	Ireland . . . . .	Ms. Byrne Nason
	Kenya . . . . .	Ms. Nyakoe
	Mexico . . . . .	Mr. Gómez Robledo Verduzco
	Norway . . . . .	Mr. Aalia
	Russian Federation . . . . .	Mr. Kuzmin
	Saint Vincent and the Grenadines . . . . .	Ms. Prince
	Tunisia . . . . .	Mr. Zenati
	United Kingdom of Great Britain and Northern Ireland . .	Mr. Wickremasinghe
	United States of America . . . . .	Mr. Mills
	Viet Nam . . . . .	Mr. Pham

## Agenda

### International Residual Mechanism for Criminal Tribunals

Note by the Secretary-General on the International Residual Mechanism for Criminal Tribunals (S/2021/694)

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*The meeting was called to order at 11.30 a.m.*

### **Adoption of the agenda**

*The agenda was adopted.*

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

#### **Note by the Secretary-General on the International Residual Mechanism for Criminal Tribunals (S/2021/694)**

**The President** (*spoke in French*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite the following briefers to participate in this meeting: Judge Carmel Agius, President of the International Residual Mechanism for Criminal Tribunals; and Mr. Serge Brammertz, Prosecutor of the International Residual Mechanism for Criminal Tribunals.

The Security Council will now begin its consideration of the item on its agenda.

I wish to draw the attention of members to document S/2021/694, which contains a note by the Secretary-General on the International Residual Mechanism for Criminal Tribunals.

I now give the floor to Judge Agius.

**Judge Agius:** I wish a very good morning to all Council members. I am most honoured to appear before them to present the ninth progress report of the International Residual Mechanism for Criminal Tribunals (see S/2021/694). It is a particular privilege to be able to do so under the presidency of the Republic of the 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, the 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, irrespective of whether it is 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 fulfil 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 the Council 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 the Council's 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.

The strong progress set out in the report before the Council evinces our unyielding commitment to realizing the Security Council's vision of the Mechanism in that 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 judgments that had been projected June of this year, namely, the appeal judgement in the *Mladić* case, as well as trial judgments in the *Prosecutor v. Jovica Stanišić and Franko Simatović* case and the *Prosecutor v. Anselme Nzabonimpa et al.* contempt case. This achievement is striking not only in the number of judgments, 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 favourably 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 have 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 judgment is now called *Fatuma et al.*, given that the issues raised on appeal concern only 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.

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 to further enhancing efficiency and effective and transparent management. In particular, we have been working hard towards the 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 remaining functions. Another example of enhanced management is the ongoing collaboration between the principals and organs concerning the Mechanism's response to the coronavirus disease (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 the Council and in the Mechanism's two previous six-monthly reports. As Council members 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. Brdjanin, 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 those States for so conscientiously meeting their obligations in that area.

In discharging the mandate alluded to in paragraph 12, as President, I have also devoted much time and attention to applications for the pardon, commutation of sentence or early release of persons convicted by the International Criminal Tribunal for Rwanda (ICTR) and the International 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 in order 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 Security 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. Only the week before last, I rendered a decision disposing of one more early release application.

Finally, I move on to an issue that has long weighed heavily not only on the Mechanism and its predecessor, the ICTR, but also on the Security Council itself — a situation that at times has seemed 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. The Council emphasized the importance of finding expeditious and durable solutions and called

on 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, Mr. President, of your country, the Republic of the Niger, there has been a major breakthrough. I wish to share with Council members that on 15 November a milestone agreement between the Government of the Republic of the 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 the Niger has accepted for relocation on its territory all nine acquitted or released persons, and I can confirm that the agreement was already implemented with respect to eight of them. It is auspicious to announce that development here today under the Niger's presidency.

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

The Republic of the Niger's willingness to engage meaningfully with the Mechanism and, more importantly, take action epitomizes the type of State cooperation that will prove critical to the Mechanism's ability to fulfil 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 that context, the Mechanism once more calls on the Republic of Serbia to fulfil its international obligations by arresting and transferring Petar Jojić and Vjerica Radeta to the Mechanism.

The report before the Council provides ample evidence of the Mechanism's determination to keep achieving results that defy the challenging times that we are all experiencing. Moreover, when the progress made is considered in the light of resolution 2529 (2020), the Mechanism's resolve to do everything within its power

towards the optimal fulfilment of its mandate simply cannot be doubted.

Council members have my word that we will proceed with the same dedication in the coming reporting periods. In turn, we will once again 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 the OIOS.

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

**The President** (*spoke in French*): I thank Judge Agius for his briefing.

I now give the floor to Mr. Brammertz.

**Mr. Brammertz**: I am grateful for this opportunity to address the Security Council about the activities of the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals. Our written report (see S/2021/694) provides details about our activities. Today I would just like to mention a few highlights.

We are continuing our efforts to complete our remaining trials and appeals, which remains our first strategic priority.

In the *Kabuga* case, my Office achieved key pretrial milestones during the reporting period. In accordance with the Trial Chamber's deadlines, our trial team filed its pretrial brief, as well as other important pretrial filings. My Office further responded to significant additional litigation initiated by Kabuga's family members and associated third parties concerning seized assets.

Through those and other steps, we continue to meet all our pretrial obligations and take steps to promote expeditious trial proceedings. My Office is ready for, and looks forward to, the commencement of the trial at the Arusha Branch when ordered by the Trial Chamber.

In addition, my Office completed two more trials during the reporting period. At The Hague Branch, both Jovica Stanišić and Franko Simatović were convicted at trial for aiding and abetting the crimes of murder, deportation, forcible transfer and persecution, as crimes against humanity, and murder, as a war crime. At the Arusha Branch, in the *Nzabonimpa et al.* case, four of the accused were convicted at trial for contempt

of court. My Office proved that they had engaged in a brazen effort to interfere with the administration of justice by improperly influencing witnesses to recant in a failed effort to overturn Ngirabatware's genocide conviction. Appeal proceedings are now ongoing.

In establishing the Mechanism, the Security Council decided that it would be responsible for finalizing ongoing cases handed over by the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), as well as commencing new trials of ICTR fugitives who are arrested. My Office is satisfied that the last ICTY case is now at its final stage. With the nearing start of the Kabuga trial, we look forward to this opportunity to achieve more justice in the courtroom for the victims of the 1994 genocide against the Tutsi in Rwanda.

In accordance with the Security Council's mandate, my Office further continues to actively search for the remaining six fugitives indicted by the ICTR, which is our second strategic priority.

Our most wanted fugitive, the last one to be tried by the Mechanism, is Protais Mpiranya, the former commander of the Presidential Guard. In addition to Mpiranya, my Office is also actively working to locate and account for five other fugitives indicted for genocide, including Fulgence Kayishema, who was previously located in South Africa.

While their alleged crimes were committed more than 25 years ago, the need to bring Mpiranya and the others to justice is more urgent today than ever before. My Office continues to achieve significant progress in our investigations into the whereabouts of the remaining fugitives. Under the new leadership of our tracking team, we are implementing analysis-driven investigations using advanced tools. We have identified relevant persons of interest and are actively pursuing important leads.

The coming period will be of decisive importance. Our current strategies are indeed approaching critical junctures. If we are able to obtain the needed intelligence and evidence, we expect to make further significant progress in our work.

As I have repeatedly reported to the Security Council, the success of our efforts depends on the full and effective cooperation of Member States. Two key countries in that regard at present are Zimbabwe and South Africa.

With respect to Zimbabwe, in early November I undertook an official mission to Harare, where I met with Vice-President Chiwenga and other senior officials. The Zimbabwean authorities reaffirmed their unreserved commitment to provide my Office with full cooperation.

In that context, we discussed the positive results achieved recently in our joint efforts, as well as key outstanding issues. As a result of those discussions, I submitted a set of concrete recommendations on how to further improve our cooperation. I further reiterated our pending requests for vital information from Zimbabwean authorities. While I have not yet received a response, I trust that in the coming period I will be able to report that Zimbabwe is providing full and effective cooperation.

Regarding South Africa, the Security Council is well aware of the immense challenges my Office has faced for the past three years in obtaining cooperation. South Africa failed to arrest the fugitive Fulgence Kayishema and failed to provide critical information. I regret to report that the situation with South Africa is among the most severe instances of non-cooperation my Office has faced since the Mechanism's establishment.

Nonetheless, my Office has continued to propose constructive solutions to help South Africa finally get its cooperation on the right track. Three months ago we submitted an urgent request to establish a joint investigation team authorized to work directly with my Office on an operational level. I also visited Pretoria last month to discuss the situation.

Unfortunately, I am unable to provide today a more positive update, as South Africa continues to fail to adhere to its international obligations. However, only a few days ago, I received commitments that senior ministers would raise and support our request at the highest levels of Government. What is needed now is the political will to finally give operational services the green light to work with us.

My Office — and the victims of the genocide against the Tutsi in Rwanda — urgently need the Security Council's support. All of us share the same goal: to finally see the remaining fugitives accounted for so that justice can be achieved and that critical residual function brought to a close.

Recognizing that national courts are continuing the work of the ICTR and the ICTY, the Security

Council mandated my Office to respond to requests for assistance from domestic investigators and prosecutors around the world. Accordingly, my Office's third strategic priority is to assist national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda.

As my Office has regularly reported, the workload associated with that residual function is much greater than anticipated. In 2013, for example, when I was at the ICTY, we received approximately 100 requests for assistance per year. In each of the past two years, we received nearly 400 — a fourfold increase.

We are receiving not only a high volume of requests for assistance but also requests of greater complexity and significance.

During the reporting period, the Prosecutor General of Rwanda requested my Office to even further strengthen our support for his efforts to locate, investigate and prosecute Rwandan nationals suspected of genocide, particularly those living outside Rwanda. We have now commenced an extensive review of our evidence collection to identify suitable cases for which we can provide the requested expert assistance to the Prosecutor General's Office.

Similarly, in the former Yugoslavia, the Montenegro Special State Prosecutor's Office requested our support. In response, we prepared and handed over an investigative dossier concerning more than 15 suspects. Many of those suspects are implicated in grave crimes of sexual violence, including sexual slavery, rape, enforced prostitution and human trafficking for sexual exploitation.

Similarly, the War Crimes Prosecutor's Office of Serbia continues to request my Office to provide a wide range of support. In response, we have assisted Serbian prosecutors with two important investigations of senior-level suspects. We have also provided evidence to our Serbian colleagues for two more mid-level cases transferred from Bosnia and Herzegovina. The tangible progress being made demonstrates the value of intensified cooperation between our offices.

Those developments demonstrate, first, that accountability efforts for crimes during the Rwandan genocide and the conflicts in the former Yugoslavia continue, as the Security Council expected. Secondly, it is clear that evidence and other support from my Office are vital to national prosecutors, confirming

the wisdom of mandating my Office to respond to their requests for assistance.

As a final remark, I am compelled to bring to the Council's urgent attention once again the continued denial of crimes and the glorification of génocidaires and war criminals. Murals of Ratko Mladić in Belgrade and the publications of extremist Rwandan diaspora groups have one sad thing in common. They demonstrate that today, more than 25 years later, there are still those who deny, relativize and minimize the judicially established facts of genocide, crimes against humanity and war crimes.

That should be inconceivable. How can so many still see Mladić as a hero of the Serbian people after his conviction to life imprisonment in a court of law based on immense evidence of his crimes? How can others claim that men like Théoneste Bagosora were only defending Rwanda when his criminal responsibility for the genocide was proven beyond reasonable doubt?

Unfortunately, even today it seems that too often, truth and justice do not receive the support they need in words and actions. What message does it send when the Croatian Government takes a political decision to prevent its judiciary from investigating allegations of crimes against Bosnian Serbs? How can politicians of Bosnia and Herzegovina insist on respect for judgments involving their victims but call prosecutions of their commanders politically motivated? And what can be the explanation when, in Bosnia and Herzegovina, there is a lack of political support for legislation against the denial of genocide, crimes against humanity and war crimes equally involving victims from every ethnic group?

There are some who may say that truth and justice are the source of social conflict. The reality is that genocide denial and the glorification of war criminals are used to prevent reconciliation, provoke hatred and destabilize peace and security. They also condemn present and future generations to bear the burdens of the past. That is true of Rwanda and it is true of the former Yugoslavia.

My Office will continue to stand with the victims of the 1994 genocide against the Tutsi in Rwanda and the crimes committed during the conflicts in the former Yugoslavia by promoting the truth and opposing denial. We fully trust that the Security Council will join us in those efforts.

In conclusion, my Office is satisfied with its continued progress towards completing the remaining trials and appeals. Yet we still have significant work ahead of us in our mandated residual functions. The prosecution of the Kabuga case will be among our most important activities in the coming period and we look forward to the commencement of the trial.

Our search for the remaining fugitives indicted by the ICTR continues to be a priority. The coming period will be of decisive importance. In order for that work to be successfully completed, it is critical that the Security Council send an unmistakable message to Member States that cooperation with my Office is required. Without full and effective cooperation, we will be unable to fulfil our mandate.

While national courts prosecute crimes committed during the Rwandan genocide and the conflicts in the former Yugoslavia, my Office is determined to meet our mandate to fully respond to their requests for assistance. The large number of requests that we continue to receive demonstrates the importance of our support and the need for further accountability.

We are grateful for the continued support of the Council in all of our efforts.

**The President** (*spoke in French*): I thank Judge Brammertz for his briefing.

I shall now give the floor to those members of the Council who wish to make statements.

**Mr. Pham** (Viet Nam): I thank Judge Carmel Agius, President of the International Residual Mechanism for Criminal Tribunals, and Mr. Serge Brammertz, Prosecutor of the Mechanism, for their briefings on the work of the Mechanism over the past months (see S/2021/694). I also acknowledge the presence of Mr. Abubacarr Tambadou, Registrar of the Mechanism, and I welcome the participation of the Permanent Representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia in today's meeting.

The work of the Mechanism in carrying out the mandates given by the Security Council contributes to reaffirming our collective commitment to fighting impunity, delivering justice and supporting reconciliation.

Despite the continued insurmountable challenges caused by the coronavirus disease pandemic, the principals and staff of the Mechanism have made

meaningful progress in judicial activities, with three judgments rendered in three important cases. The Mechanism was able to maintain the continuity of in-court hearings, held virtual plenary meetings and implemented rigorous measures to maintain the health and safety of its staff, witnesses, detainees, prisoners and other persons under its authority, including by ensuring vaccination roll-out.

We recall the Security Council's emphasis on the importance of finding expeditious and durable solutions to the problem of the nine acquitted and released persons residing in Arusha. In that regard, we welcome the announcement just made by the President, congratulate the Mechanism on that positive result and commend the Government of the Niger for the generosity and assistance extended to the Mechanism. We hope that the relocation of those persons will allow them to reintegrate fully into society and enable the Mechanism to focus on other priority matters.

We welcome the President's commitment to the full implementation of resolution 2529 (2020), including by providing a clear projection of timelines for the completion of the Mechanism's judicial activities and other residual functions, strengthening close collaboration among the main organs of the Mechanism, ensuring geographic diversity and a gender balance of staff, and boosting staff morale and performance.

We take note of the efforts to advance the judicial proceedings in the remaining cases with a clear timeline, which would facilitate the Mechanism to subsequently move towards a new, leaner phase in its core judicial activity. Securing the assistance of States in the enforcement of sentences is of paramount importance in alleviating the residual burden on the Mechanism and should continue to be prioritized.

Looking forward, we encourage the Mechanism to continue implementing effective steps to adhere to its schedule of completion, realizing the Security Council's vision of a small, temporary and efficient structure, whose functions and size will diminish over time.

As several fugitives remain at large, despite efforts by the Office of the Prosecutor to locate and arrest them, States' cooperation with the Mechanism remains crucial for enabling the fulfilment of its mandates. It is also the responsibility and obligation of States, in accordance with Security Council's resolutions, to assist and cooperate with the Mechanism, where needed, including in the search for fugitives at large.

We welcome the enhanced efforts of the Prosecutor and his team to strengthen direct communication with relevant States, identify challenges that might hinder cooperation and work out feasible approaches.

As a matter of principle, it is the State that bears the primary responsibility for fighting and preventing heinous crimes. Building national capacity and assisting States to exercise their responsibility should be our top priority. We therefore welcome the assistance and capacity-building provided to national authorities by the Office of Prosecutor.

I wish to conclude by expressing our deep appreciation for the invaluable support provided by the Secretariat and the United Nations Office of Legal Affairs, both to the Mechanism and to the Informal Working Group on International Tribunals, which Viet Nam has the honour to chair. I thank all members of the Informal Working Group for their cooperation and underline the need for the Council to remain united, constructive and cooperative in its support in order for the Mechanism to fulfil its mandates and maintain its integrity. I wish the incoming Chair of the Informal Working Group great success.

**Mr. Kuzmin** (Russian Federation) (*spoke in Russian*): I welcome Mr. Agius and Mr. Brammertz to today's meeting. We have read their written reports (see S/2021/694) and listened carefully to their briefings. What can we say? Unfortunately, the situation is unsatisfactory. Justice is being administered selectively and human rights standards and humanitarian principles are being systematically ignored. There is no sign that the International Residual Mechanism for Criminal Tribunals is winding down. New pretexts are constantly emerging to extend its activities.

We would like to elaborate on certain points. Let us begin with the main point — the Mechanism is a temporary structure and was created as such. It is incorrect to consider it to be a full-fledged international tribunal. Nevertheless, we have not seen any concrete steps to bring the Mechanism's activities to a close. We only hear promises of work in that direction. Like the International Tribunal for the Former Yugoslavia (ICTY), the Mechanism is systematically prolonging all its trials and thereby artificially extending its existence.

The Mechanism's mandate stipulates that it should have a limited size and a fixed lifespan. It was created primarily to fulfil technical functions. Nevertheless, the finish line is receding further and further beyond

the horizon. Year after year, the Mechanism's financial appetite only grows bigger. This year, \$90 million have been spent despite the fact that only one case is currently being tried in the first instance.

That gives rise to a legitimate question — why are we spending so much money to maintain that court? National courts are cheaper and in our opinion many times more effective. The quality standards of national courts also compare quite favourably with the unfortunate legacy of the ICTY and the Mechanism.

Incidentally, the fairness and objectivity of the ICTY are well illustrated by the trial of the Kosovo Albanian leaders brought before a tribunal created on the initiative of the European Union (EU). Those leaders are currently on trial for war crimes, trafficking in organs and human beings and other atrocities. Yet a hile ago the ICTY had no claims against those odious individuals. That is all one needs to know about the impartiality of the ICTY. Our only wish is for the EU tribunal to work more actively, because, thanks to the ICTY, those war criminals have remained at large too long.

Turning to the work of the Mechanism, I note that it is a unique combination of bias and delay. By way of example, in the trial of Ratko Mladić, the conduct of even one independent medical examination was presented as an intractable problem. In the case of Félicien Kabuga, by contrast, several such examinations have been carried out at the court's own initiative. Until they are completed, the accused will be held in custody in the Hague, before being transferred to Arusha, so how much time is this investigation going to take? We still do not know.

We also note with concern the increasing number of cases of contempt of court. In this regard, we see an attempt to artificially extend the lifespan of the Mechanism. We are decisively against this practice. This is a class of case that can certainly be heard by national courts

Given the Security Council's review of the activities of the Residual Mechanism framework, we call on its leaders not only to finally put together a plan for how the Court will be brought to a close, but also to firmly keep to that plan.

**Mr. Geng Shuang** (China) (*spoke in Chinese*): China wishes to thank President Agius and Prosecutor Brammertz for their recent reports on the International

Residual Mechanism for Criminal Tribunals. During the reporting period, under the leadership of President Agius, the Mechanism overcame the difficulties of the coronavirus disease pandemic and took forward its judicial activities in orderly manner, in particular by adjudicating three cases in accordance with the projected timetable. The Office of the Prosecutor has also continued its efforts aimed at tracking down fugitives and actively moving forward on the trials and appeals. China appreciates and supports these measures.

In accordance with resolutions of the Security Council, the Mechanism should be a small, efficient and temporary institution whose functions and size should be gradually reduced over time. China hopes that the Mechanism will conduct its activities in accordance with the mandate set forth in Council resolutions, respecting in particular the projected timetable set out in its work plan and completing the judicial proceedings for outstanding cases in a timely, efficient manner. In this process, the Mechanism should allocate financial resources rationally, focusing on ensuring the fulfilment of judicial activities. As the number of outstanding cases decreases, the Mechanism should reduce its expenditures accordingly.

Practical and effective cooperation between the Mechanism and the countries concerned is of great significance for it to complete its mandate and make progress in its work. China hopes that the Mechanism will enhance mutual trust in its communication with relevant parties, address the parties' legitimate concerns, learn from the success stories of the International Criminal Tribunals and work together to combat impunity.

In addition, China looks forward to the Mechanism's further implementation of the recommendations made by the Council's Informal Working Group on International Tribunals and the Office of Internal Oversight Services to improve its working methods, enhance its work efficiency, ensure the orderly progress of investigations, prosecutions, and trials of high-profile cases, and facilitate the reasonable resolution of issues related to the resettlement of the acquitted and released persons.

In closing, I wish to take this opportunity to thank Viet Nam, Chair of the Council's informal Working Group on international Tribunals and the Office for Legal Affairs for their efforts aimed at coordination between the Council and the Residual Mechanism.

**Mr. Lipand** (Estonia): I thank Judge Carmel Agius and Prosecutors Serge Brammertz for the detailed progress reports submitted to the Council, as transmitted by the Secretary-General in document S/2021/694, and for their informative briefings today.

Estonia commends the important work of the International Residual Mechanism for Criminal Tribunals in ensuring accountability for the most serious crimes under international law. We positively note the progress made by the Mechanism in carrying out its judicial activities during the reporting period, including the delivery of three judgments during the month of June. We note the two cases entering stages of appeal and ongoing judicial activity in the *Kabuga* case, and we are also mindful of the implementation of the wide range of further residual functions with which the Mechanism has been entrusted.

The Mechanism relies on cooperation from States in conducting its work. Estonia remains concerned about the challenges in securing effective cooperation from national authorities in apprehending the remaining fugitives. We strongly urge States, especially those African States where fugitives are suspected of being at large, to intensify their cooperation with the Mechanism in order to arrest and surrender all of the remaining fugitives.

Moreover, Estonia continues to deeply regret that Serbia is persistently disregarding its obligations under international law to comply with the Mechanism's orders. We call on Serbia to fulfil its obligation to execute the arrest warrants for Petar Jojić and Vjerica Radeta.

International criminal justice and the fight against impunity continue to rely heavily on collective effort. The international community and the Security Council must work together to ensure justice for the countless victims and survivors. At the same time, domestic jurisdictions also need to assume their role. We welcome the efforts of the Mechanism aimed at providing assistance to national jurisdictions in prosecuting international crimes committed in the former Yugoslavia and Rwanda, and we call on States to increase their efforts in this regard.

Estonia remains deeply concerned about the ongoing denial of the genocides and the glorification of convicted war criminals, which is unacceptable and must stop.

As this is Estonia's last meeting with the Mechanism during its membership in the Security Council, allow me to extend our gratitude to the Mission of Viet Nam for facilitating our discussions on Mechanism-related issues as Chair of the Informal Working Group on International Tribunals.

Finally, allow me to once more express Estonia's deep gratitude to the President and Prosecutor of the Mechanism and their staff for their outstanding work. We take note that the periodic evaluation of the Mechanism is under way and wish the Mechanism success in the 2022 review process and in the day-to-day work with our common aim of ensuring justice for victims.

**Ms. Nyakoe** (Kenya): I thank Judge Carmel Agius, President of the International Residual Mechanism for Criminal Tribunals, and Mr. Serge Brammertz, Prosecutor, for their briefings. I welcome the presence of representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia in this meeting.

Kenya supports the work of the Mechanism as important to advancing accountability for war crimes and genocide. We reaffirm our support for the Mechanism's mandate, as renewed by resolution 2529 (2020). We were reminded of its importance last week, on 9 December, when the world marked the International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and of the Prevention of This Crime.

We acknowledge the progress achieved by the Mechanism in its judicial functions during the reporting period. The delivery of judgments in three key cases and the conclusion of one case under the constrained precautionary pandemic working arrangements are commendable. We note that the judicial workload of the Mechanism has been significantly reduced by the work undertaken since the last briefing (see S/PV.8790). We therefore urge speedy completion of the remaining cases to help survivors and families of victims find closure and create an environment conducive to reconciliation.

The Mechanism was created as a small, temporary and efficient structure. It has shown its value but can never replace or mirror the mandate of national authorities. It is important that States do their utmost to strengthen their judiciaries as a critical pillar in nation-building, development and conflict prevention. We urge the Secretary-General and other relevant, multilateral and regional actors to pursue every

avenue to assist States that need capacity-building in this regard.

The best prevention against genocide is to limit political cultures that weaponize social, cultural, ethnic and religious differences and present political competition as reflective of these identities. We urge States to build tools into their national laws, electoral processes and legal mechanisms that inclusively manage diversity.

States also need to cooperate with the Mechanism to apprehend the remaining fugitives pursuant to its improved tracking capability.

Still regarding cooperation, Kenya commends the Government of the Niger for accepting all nine acquitted or released persons who were in the Mechanism's custody. We also acknowledge the efforts of the Mechanism in resolving that long-standing issue.

We look forward to the conclusion of the evaluation of the methods and work of the Mechanism by the Office of Internal Oversight Services, in line with resolution 2529 (2020), to inform the Council's review of the Mechanism's progress of work in 2022. We also look forward to the report on the implementation of the recommendations from the previous evaluation.

Finally, Kenya thanks Viet Nam for successfully steering the Informal Working Group on International Tribunals during its tenure.

**Mr. Wickremasinghe** (United Kingdom): I would like to thank President Agius and Prosecutor Brammertz for their briefings, which highlight how the International Residual Mechanism for Criminal Tribunals continues to play a crucial role in ending impunity and implementing international justice.

I would like to highlight that the Mechanism has made significant progress this year, in particular by rendering three notable judgments. First, it affirmed Ratko Mladić's convictions for the violations of the customs of war, crimes against humanity and the genocide at Srebrenica. Secondly, in contempt proceedings connected with the case of *Ngirabatware*, it reached convictions in relation to witness interference and violating court orders. Thirdly, and finally, the Trial Chamber found Jovica Stanišić and Franko Simatović responsible for violations of the laws or customs of war and crimes against humanity. They were sentenced to 12 years of imprisonment each. Through its tireless work, the Mechanism continues to show that impunity

is not, and will not be, allowed to prevail. The United Kingdom is also pleased to see that following the timely delivery of those judgments, the Mechanism has a clear plan for winding down its activities.

We remain grateful for the Mechanism's ongoing efforts to progress the case of Félicien Kabuga. We note that the Mechanism is still considering his fitness to stand trial. We will continue to closely follow developments in the case, and we should be grateful for timely updates as they become available. We also continue to follow the case of Protais Mpiran, the former commander of the Presidential Guard in Rwanda, who is believed to be, or to have been, in Zimbabwe. We continue to call on the Government of Zimbabwe to work with the Mechanism to support its investigations.

We call on all Member States to assist the Mechanism. In that respect, we commend the acceptance by the Government of the Niger of the nine acquitted or released persons. However, regional judicial cooperation in parts of the Western Balkans continues to remain inadequate. That has direct implications for achieving justice for victims. We would like to mention the Mechanism's referral of Serbia to the Security Council for its failure to arrest and transfer Petar Jojić and Vjerica Radeta. That continued non-compliance is serious and follows years of requests, considerations and discussion. We urge Serbia to comply with the Mechanism's order.

Last week, we observed the United Nations International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and of the Prevention of This Crime. However, the glorification of war criminals and the denial of genocide continue. That is unacceptable, and it increases the suffering of victims. We see that in many areas, including the continued presence in Belgrade of a mural of Ratko Mladić, a man, as we observed, who is convicted of war crimes, crimes against humanity and genocide. Reconciliation is difficult. We must accept and acknowledge the truth of the past to move forward. Glorifying the perpetrators and instigators of such heinous acts takes us further away from reconciliation and hinders the achievement of a positive future. The United Kingdom will continue to condemn such denial and glorification in all its forms and calls on all Member States to do the same.

As the Council has seen, through its actions the United Kingdom remains committed to the Mechanism. We reaffirm our willingness to assist it wherever possible

in fulfilling its mandate and implementing its vision of being a small, temporary but effective organization.

**Ms. Bhat** (India): At the outset, let me thank President Agius and Prosecutor Brammertz for their briefings and for their assessment of the work of the International Residual Mechanism for Criminal Tribunals. Allow me to commend President Agius for his stewardship of the process and for ensuring that the Mechanism remains on track and continues to deliver. We welcome the appointment of Judge Fatimata Sanou Touré of Burkina Faso in place of the deceased Judge Kam. We would also like to place on record our appreciation for the long and able judicial services rendered by Judge Meron, who chose to retire on 17 November.

We welcome the progress made by the Mechanism during the reporting period, both in The Hague and in Arusha, including efforts aimed at ensuring business continuity, to the extent possible, under the current extraordinary circumstances. We have taken note that the Mechanism has made efforts to return to in-person meetings since mid-September. We hope that those efforts will positively help in adhering to the timelines laid down for case completion.

India reiterates its support for the Mechanism and commends its contribution to the fight against impunity and the preservation of the legacies of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda. We have taken note of the commencement of appeal proceedings in both the *Stanišić and Simatović* case and the *Nzabonimpa et al.* case and pretrial proceedings in the *Prosecutor v. Félicien Kabuga* case and the *Jojić and Radeta* case.

We acknowledge the progress made on other judicial matters during the reporting period, such as the variation of protective measures and the supervision of enforcement of sentences. We also note the work of the Prosecutor's Office in its other residual functions. The Mechanism should continue to make headway in its remaining residual functions, including protecting victims and witnesses, tracking the remaining fugitives of the International Criminal Tribunal for Rwanda, extending assistance to national jurisdictions and managing the archives of the ad hoc Tribunals and the Mechanism. We reiterate the importance of the Mechanism's implementation of its mandate strictly in accordance with the principles of justice, impartiality and fairness.

It is our collective responsibility to seek justice for victims. That is a humanitarian issue that needs to be addressed with urgency and sensitivity. We welcome the efforts of the Mechanism to further raise the international community's awareness regarding this issue. We take note of the announcement that the President just made, and we appreciate the progress being made with the help of the Government of the Niger on the relocation of nine acquitted persons from Arusha.

In conclusion, we encourage the Mechanism to take the necessary measures to keep the trial and appeal schedules on track and assist, within its mandate, in the capacity-building of national judicial authorities. Finally, I would like to thank the Government of Viet Nam for efficiently steering the work of the Informal Working Group on International Tribunals.

**Ms. Byrne Nason** (Ireland): I want to thank President Carmel Agius and Prosecutor Serge Brammertz for their comprehensive briefings this morning. We are pleased to welcome them both back to the Chamber among us today. We commend and acknowledge the leadership that they have shown in guiding the International Residual Mechanism for Criminal Tribunals through this difficult period, marked by the pandemic, with significant progress made in judicial proceedings over the reporting period.

In particular, we note the decisions in the *Mladić* case and the judgments in the *Stanišić and Simatović* and the *Nzabonimpa* cases during the reporting period.

We welcome also the ongoing work to harmonize approaches between the Mechanism's two branches.

I want to welcome President Agius' announcement today that, after many years and his own significant efforts, it has been possible to find a lasting solution for those acquitted and released residing in the Arusha safe house. In particular, I must commend the Niger for facilitating those persons' safe relocation.

States have an obligation to cooperate with the Mechanism in its investigations and prosecutions. However, despite the many instances of positive cooperation with the Mechanism demonstrated by Member States such as the Niger and by regional organizations, as well as the provision of assistance by the Mechanism to national jurisdictions, the Security Council's call on States to intensify their cooperation with and provide all necessary assistance to the

Mechanism to achieve the arrest and surrender of all remaining fugitives remains outstanding.

In particular, Ireland remains deeply concerned that following the Mechanism's referral of Serbia to the Council, due to non-cooperation in the surrender and arrest of Mr. Jojić and Ms. Radeta, no action has been taken by Serbia. We call on Serbia and all States to fulfil their obligations under international law, cooperate fully with the Mechanism and assist in its efforts to arrest and surrender the remaining fugitives. Those who commit atrocity crimes must be brought to justice. Ending impunity is imperative to sustaining peace and stability in the region.

Last Thursday, the United Nations marked the International Day of Commemoration and Dignity of the Victims of the Crime of Genocide. Ireland strongly supports the Mechanism's role as a preventative tool against future acts of violence. The Mechanism contributes to prevention by ensuring justice for those crimes within its remit and establishing facts, but also through its commitment to promoting education and remembrance in the fight against genocide ideology.

The Prosecutor's reports (see S/2021/694) underline that genocide ideology continues to present risks to international peace and security. We repeat our firm view that the denials of genocide and the glorification of convicted war criminals must be consistently challenged and condemned.

Ireland remains steadfast in its commitment to international criminal justice, ensuring accountability and achieving justice for victims and survivors. Never forgetting the victims and survivors in Rwanda and the former Yugoslavia, we will continue to support the work of the Mechanism and its role in ensuring that perpetrators of atrocity crimes are held to account.

**Mrs. Dime-Labille** (France) (*spoke in French*): I thank President Agius and Prosecutor Brammertz for their report (see S/2021/694) and briefings. I also thank Judge Meron, at a time when he has decided to dedicate himself to other duties, for his contribution to international criminal justice over the past decades.

France reiterates its full support for the Mechanism and its work in the fight against impunity and the preservation of the legacy of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (ICTR).

The year 2021 has been decisive. Under difficult circumstances, the Mechanism was able to continue its work and make concrete progress, which testifies to its relevance and effectiveness. The Security Council must support its work.

The three decisions of June 2021 were long-awaited. The decisions to be taken in 2022 are even more so. I refer to the appeals in the *Stanišić and Simatović* cases, as well as *Nzabonimpa et al.* I refer also to the trial in the *Kabuga* case, which will be another important milestone for the victims and for national reconciliation in Rwanda. In order to conclude those trials, as well as the other pending proceedings, the Mechanism must have adequate financing and qualified personnel.

France once again urges all States to cooperate fully with the Mechanism, in accordance with their international obligations, and to support its activities. We take this opportunity to thank the Niger for the decision to fully cooperate with the Mechanism and admit nine people who were under the jurisdiction of the Mechanism. On the other hand, we regret that a number of partners still refuse to cooperate despite the repeated calls by the President of the Mechanism, the Prosecutor and many Member States relayed through the Council. It is essential that the last fugitives indicted by the ICTR be brought to justice. The death of the alleged perpetrators of the most serious crimes cannot be considered justice for the victims.

With regard to the cases referred to national courts, France reaffirms its full commitment to bring the *Bucyibaruta* case to an end within a reasonable time frame. The trial of this case is scheduled to take place in the Court of Assizes between 9 May and 1 July 2022. France's objective is to ensure that no crime of genocide goes unpunished.

In conclusion, we would like to emphasize that the work of the Mechanism is not limited to judicial activities. The protection of the more than 3,000 witnesses is of paramount importance and we commend the work of the of the Kigali and Sarajevo branches in that regard. Similarly, the work of remembrance is also essential to reconciliation.

We remain deeply concerned about the denial of crimes and the glorification of génocidaires and war criminals condemned by international criminal tribunals following the conclusion of impartial and independent trials.

Finally, I would like to thank Viet Nam for the excellent work completed by the Informal Working Group on International Tribunals.

**Mr. Mills** (United States of America): I thank President Agius and Prosecutor Brammertz for their briefings on the ongoing work of the International Residual Mechanism for Criminal Tribunals to bring perpetrators to justice for the atrocities committed in Rwanda and the former Yugoslavia.

The United States remains deeply grateful for the commitment and hard work of the Mechanism's judges, attorneys and staff in Arusha and The Hague, as well as in its field offices in Kigali and Sarajevo, despite numerous challenges over the past year. We commend their unwavering pursuit of justice for the victims in Rwanda and the former Yugoslavia.

We also join others in expressing the United States' deep appreciation for the long and distinguished service of Judge Theodor Meron, who has retired from the roster of Mechanism judges. Judge Meron's efforts to provide justice and accountability for victims for some of humankind's worst atrocities will always be remembered.

The Mechanism has continued to make important progress over the reporting period, despite the persistent impact of significant coronavirus disease restrictions. We commend its continued commitment to fulfilling the goals the Security Council set out for the Mechanism at the time its establishment as a lean, temporary and efficient body. We appreciate the ongoing efforts to expeditiously complete the remaining trials and appeals, to locate and arrest the remaining fugitives indicted by the International Criminal Tribunal for Rwanda and to assist national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda.

The Mechanism has taken significant steps to realize those collective objectives over the past year and we are grateful for the years of work performed by the Mechanism in carrying out justice. That work has clearly manifested itself in several achievements, including the decision affirming Ratko Mladić's conviction; the thorough work of the Mechanism in the *Stanišić and Simatović* cases; and the four convictions for witness interference in the *Nzabonimpa et al.* contempt case. Taken together, those judicial actions move us closer to securing justice for the victims of

those horrific crimes, their families and communities, and their countries.

Still, we can and must do more to prevent future atrocities and realize the ideals of justice, including by securing the swift apprehension of the remaining six Rwandan fugitives. We join others in calling on Member States that may be harbouring them to cooperate with the investigation. The United States continues to offer a reward of up to \$5 million for information that leads to the arrest, transfer or conviction of the remaining Rwandan fugitives.

In addition, the United States continues to have serious concerns with respect to Serbia's non-cooperation on the arrest warrants for Jojić and Radeta, who have been charged with witness interference. Serbia has a legal obligation to cooperate with the Mechanism and we call on it to execute the arrest warrants without further delay. Contempt cases are a critical aspect of the Mechanism's work and are equally deserving of our attention in order to uphold the rule of law.

We also note that as long as some continue to engage in the dangerous fiction of genocide denial, to protect memorials that honour those responsible for genocide and other crimes and to stoke ethnic division, we risk the recurrence of those horrific crimes. A critical part of the efforts to ensure non-recurrence is the full recognition within domestic systems of international convictions.

We welcome the Mechanism's ongoing engagement with the affected countries and we encourage those national jurisdictions to vigorously pursue accountability for atrocity crimes in order to move beyond the dark and dangerous days of the past. We further encourage those national jurisdictions to explore opportunities for cooperation with one another in order to make justice a reality.

Let me conclude by welcoming the news of the announcement we heard today of the transfer agreement between the Republic of Niger and the United Nations. That is a significant positive step that the United States welcomes and commends.

I also want to take a moment to commend the Mechanism's Registrar for his work, commitment and dedication in that connection. The tireless work of the Mechanism serves as an important reminder to us all that we must recommit to protecting civilians during

armed conflict and holding accountable those who commit atrocities. Each of those steps moves us closer to properly and fully honouring the victims' memories.

**Mr. Zenati** (Tunisia) (*spoke in Arabic*): I would like to thank Judge Agius, President of the International Residual Mechanism for Criminal Tribunals, and Prosecutor Brammertz for their briefings and for the most recent report (see S/2021/694) submitted in accordance with resolution 1966 (2010).

I would also like to take this opportunity to commend Viet Nam for its excellent chairmanship of the Informal Working Group on International Tribunals over the past two years.

At the outset, Tunisia emphasizes once again its support for the Mechanism's mandate for combating impunity for the most serious crimes and deterring their perpetrators. The revitalization of international criminal justice through the Security Council's establishment of the two ad hoc Tribunals and the Mechanism has ended a grim era of atrocities and managed to extend peace in areas of conflict in former Yugoslavia and Africa. It is necessary to protect those gains by ensuring accountability and justice for the victims through the Mechanism, with the support of by the Security Council and the international community at large.

That is especially important amid the growing current concern about escalating tensions and extremism, the spread of revisionist ideologies, the glorification of war criminals and genocide denial. Tunisia stresses that establishing the truth and keeping remembrance alive, as well as providing stronger guarantees for the non-recurrence of violations in the future, constitute pillars of sustainable peace and comprehensive reconciliation among countries and affected communities. It is also necessary to enhance early-warning efforts and promote accountability and the rule of law if we are to take decisive and pre-emptive action against those revisionist ideologies.

My country expresses its satisfaction with the efforts of the President of the Mechanism to increase the efficiency, effectiveness and transparency of the Administration and the judicial workload, in accordance with relevant recommendations and mandates and in keeping with the Security Council's vision of the Mechanism as a small, temporary and efficient structure whose functions and size will diminish over time.

We also support the proposal to streamline the report submitted to the Council in order to facilitate its supervisory functions with respect to the work of the Mechanism. We welcome the progress made in the Mechanism's work as reflected in its issuance of three judgments within established timelines during the reporting period, despite the many ongoing challenges and restrictions of the coronavirus disease pandemic.

We take note of the challenges and complexities related to the trial proceedings of Félicien Kabuga. We reaffirm that once the standards of the rule of law are met, the holding of Kabuga's trial in Arusha would be an important step towards achieving justice for the victims and affected communities.

We also commend the Niger's initiative to accept the transfer of eight persons from Arusha pursuant to resolution 2529 (2020) with a view to finding lasting solutions to benefit the Mechanism and the individuals concerned. We also commend the work of the prosecution to enhance its capacity and create more structured working methods, in line with its continued international commitment to track fugitives, wherever they are, or to determine their fate, as well as to search for those missing and to empower and promote national jurisdiction. We stress that the Mechanism must continue to rely on States' full and expeditious cooperation and assistance so that the remaining six fugitives do not escape justice.

In that regard, we welcome the Prosecutor's visits to the States concerned, as well as his purposeful interaction with their authorities to advance the operational coordination and cooperation requests and ensure the arrest and surrender of the accused. We think that the work of the Prosecutor would be more effective if undertaken in tandem with regional and subregional judicial cooperation and coordination. Requests for cooperation should be extended in the context of political dialogue and bilateral relations between the States concerned.

In conclusion, we understand that international justice is costly and protracted. We therefore urge the Mechanism to continue to plan and streamline its work in order to conduct its business within reasonable timelines and to coordinate the work of its branches and subsidiary bodies in an efficient, professional and flexible manner in advance of the Council's upcoming review of the Mechanism next year, which would enable

international justice to continue its steady progress towards achieving its noble goals.

**Ms. Prince** (Saint Vincent and the Grenadines): I would also like to thank Judge Agius and Prosecutor Brammertz for their very comprehensive briefings (see S/2021/694).<sup>[P.]</sup><sub>[SEP]</sub> Saint Vincent and the Grenadines reaffirms its unwavering support for the International Residual Mechanism for Criminal Tribunals, which remains an essential pillar of the international criminal justice system. The Mechanism serves a critical role in the fight against impunity for mass atrocity crimes and continues to contribute significantly to national reconciliation.

Furthermore, its effective and efficient work in other practical aspects, such as witness support and protection, the monitoring of cases referred to national jurisdictions, the preservation of archives and the provision of multifaceted assistance to Member States, cannot be overstated.

We are pleased to note that the Mechanism was able to deliver three judgments in June, keeping its caseload on track. That is indeed a notable accomplishment and certainly speaks to the tireless efforts and dedication of the staff and judges of the Mechanism, despite the challenges resulting from the ongoing global pandemic. We applaud the Mechanism's commitment to operational continuity while still ensuring the health and safety of staff, witnesses and persons in detention.

We also commend the Mechanism's commitment to meeting the Secretary-General's gender parity goals among staff, which is necessary to create and ensure a more diverse and inclusive environment. We are, however, dismayed that the number of women judges now stands at only seven out of 25.

It is our hope that Member States will keep the current composition of the roster in mind when nominating future candidates.

The Security Council's vision of "a small, temporary and efficient structure, whose functions and size will diminish over time" (resolution 2529 (2020), *para.* 6) cannot be achieved without international cooperation. In the absence of support and timely assistance from Member States, the search for missing persons whose families still do not know their fate, and the tracking and apprehension of fugitives will be severely impeded. Further, the enforcement of judgments will not be guaranteed, and above all victims will be denied justice.

Political will is greatly needed, as non-cooperation undermines the administration of justice and the rule of law.

In the context of international cooperation, we welcome the announcement just made with regard to the agreement between the Government of the Republic of the Niger and the United Nations to facilitate the relocation and resettlement of the nine acquitted and released persons who have resided in Arusha, Tanzania for some time. We wish to commend the Republic of the Niger for its assistance and cooperation, and we recognize and commend the efforts of Registrar Abubacarr Tambadou, which have finally resolved this matter and allowed these persons to resettle.

Saint Vincent and the Grenadines emphatically denounces all forms of genocide denial and the glorification of convicted war criminals. Genocide denial promotes dangerous ideologies, impedes the fight against impunity and hinders reconciliation. It further delegitimizes and shows wanton disregard for the suffering of victims of horrendous crimes, for which the facts have been incontrovertibly determined. The recognition, education and remembrance of painful periods in history are critical to preventing the re-emergence of hateful rhetoric and to ensuring that such crimes are never repeated.

We must remain committed to the pursuit of international justice. Accordingly, we urge Member States to intensify their cooperation with the Mechanism in the quest for accountability and the strengthening of the rules-based international system.

**Mr. Aalia** (Norway): I would like to thank Judge Agius and Prosecutor Brammertz for their thorough reports to the Security Council, transmitted by the Secretary-General in document S/2021/694, and for their briefings today. I also welcome the representatives of Bosnia and Herzegovina, Croatia, Rwanda and Serbia to the Council.

Let me at the outset reaffirm Norway's strong support for the International Residual Mechanism for Criminal Tribunals, which diligently implements the important mandate given to it by the Security Council. Let me also stress that Security Council decisions must be adhered to. Non-cooperation undermines the Mechanism, undermines the Council and undermines international law.

The fight against impunity for the most serious crimes is a central element of Norway's foreign policy. We were a staunch supporter of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda (ICTR) since their establishment in the early 1990s, and now, we are a staunch supporter of the Residual Mechanism.

Norway commends the Mechanism's high level of activity during the reporting period. We note significant judicial activity and a series of visits and meetings to advance the cases on which it is working, including the delivery of judgments in the *Stanišić and Simatović* re-trial and in the contempt case of *Nzabonimpa et al.* We take note that both cases are now in the appeals phase.

Furthermore, we note that pre-trial preparations have been advancing in the case against Kabuga. However, we do regret the lack of progress in the *Jojić and Radeta* case, and once again strongly urge Serbia to cooperate fully with the Mechanism. At the very least, its lack of action more than two decades after the Balkan wars sends the international community the wrong message. The Mechanism is of course dependent on the cooperation of Member States in order to fulfil the mandate the Security Council has provided to ensure accountability and justice for the victims. And we urge Member States to fulfil their obligations in this regard.

As the successor of two International Tribunals — for the former Yugoslavia and for Rwanda — the Mechanism must carry out and eventually complete the work related to both situations. We note the announcement of Judge Agius and applaud the fact that there seems to be a good solution for the long-lasting difficult situation of the persons who have been in a safe house in Arusha. We also commend the Niger's very helpful role in this arrangement.

Norway also greatly appreciates the Office of the Prosecutor's work to account for the remaining fugitives indicted by the ICTR. However, we are concerned by the reported lack of timely and effective cooperation from Member States, which is preventing the achievement of successful results. We again urge all States to fully cooperate with the Mechanism and arrest and surrender all remaining fugitives. The Council should also assume its responsibility by considering every possible measure to facilitate the arrest and surrender of those wanted by the Mechanism.

In closing, let me thank Judge Theodor Meron, who recently stepped down from the Residual Mechanism, for his long and committed service to the Mechanism and to the International Criminal Tribunals before that. I also want to convey, through President Agius, a welcome to Judge Fatimata Sanou Touré of Burkina Faso to the roster of judges.

**Mr. Gómez Robledo Verduzco** (Mexico) (*spoke in Spanish*): Like the other delegations that have taken the floor before me, I would like to thank Judge Carmel Agius and Prosecutor Brammertz for their detailed reports, as transmitted by the Secretary-General in document S/2021/694. I welcome, of course, the presence among us of the representatives of Bosnia and Herzegovina, Croatia, Serbia and Rwanda.

Mexico also welcomes the progress reported in the ninth report of the Mechanism. Taking into consideration the restrictions imposed by the pandemic, as well as other unforeseen circumstances, such as the death of a judge, reaching rulings in three cases is a very significant achievement. The commitment of the judges, the Prosecutor's Office, the Office of the Registrar of the Mechanism and the overall team has been crucial in making these results possible.

I highlight the confirmation of the judgment in the *Mladić* case in June. The conclusion of this case is proof that, when it comes to mass atrocities, there is no room for impunity, despite the time and challenges to arrest and subsequently try those responsible. With that in mind — and recalling that just last week we commemorated the seventy-third anniversary of the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide and the anniversary of the Universal Declaration of Human Rights — we must reaffirm our faith in accountability as a fundamental pillar for reconciliation and rebuilding the social fabric. All the resources we invest in this are fully justified, but they will always be insufficient in the face of the unspeakable suffering endured by the victims and their families.

With regard to the other two judgments rendered in the reporting period, we note the outcome in the *Nzabonimpa* and *Stanišić and Simatović* cases, as well as the ongoing appeals. Similarly, we note the progress in the *Félicien Kabuga* case and will remain attentive to the commencement of the trial. The progress that has already been made is a very positive sign for the victims of the genocide in Rwanda.

With respect to contempt, like most Council members, we express our deep concern about the repeated failure to comply with the arrest and surrender warrants issued in the *Jojić and Radeta* case.

We reiterate that cooperation is mandatory, so that the failure to comply with the requirements of Security Council resolution 1966 (2010) is unacceptable. One cannot claim in one case that the situation in the territory of the former Yugoslavia demands full compliance with the Council's rulings and at the same time ignore other resolutions for which compliance forms part of the reparations due to the entire international community in general and to the victims in particular.

With regard to cooperation, we underline the importance of redoubling efforts aimed at the location, arrest and prosecution of the remaining fugitives. As mentioned earlier, that is a priority if the Mechanism is to be able to complete its residual functions and those cases are not to go unpunished.

On a positive note, we welcome today's announcement of the agreement reached with the Niger on the relocation of persons in Arusha. We thank the Niger for its willingness to cooperate and its profound sense of solidarity.

Finally, we stress that, 11 years after the adoption of resolution 1966 (2010), the Mechanism continues to fulfil its mandate. Therefore, Mexico will support the efforts of the Fifth Committee to ensure that the Mechanism's budget is not unduly affected. The provision of justice should not be subjected to criteria of efficiency and savings motivated by narrow and bureaucratic concerns.

**The President** (*spoke in French*): I shall now make a statement in my capacity as the representative of the Niger.

Allow me first to thank the President and the Prosecutor of the International Residual Mechanism for Criminal Tribunals for their briefings (see S/2021/694).

The Niger congratulates the Mechanism for all the activities it has been able to carry out and the progress made in the implementation of its mandate, despite the restrictions due to the coronavirus disease pandemic. I would also like to congratulate Ambassador Dinh Quy Dang of Viet Nam, as Chair of the Informal Working Group on International Tribunals, for having successfully led the Group's work for the past two years.

I would like to welcome the representatives of Rwanda, Bosnia and Herzegovina, Croatia and Serbia to our meeting today.

My delegation also wishes to reiterate its condolences to the President of the Mechanism following the tragic death of Judge Gberdao Gustave Kam of Burkina Faso, to whom we pay tribute for his remarkable contribution to international criminal justice. We wish his compatriot, Mrs. Fatimata Sanou Touré, every success following her recent appointment by the Secretary-General of the United Nations.

The Mechanism's efforts to deliver justice are commendable and we call for their further consolidation, ensuring respect for the rights of those subject to trial, time limits and procedural guarantees. My delegation also welcomes the regular inspections of the two detention centres in Arusha and The Hague by the International Committee of the Red Cross, which is responsible for ensuring the proper application of the rules governing the Mechanism and respect for international standards.

The Niger is pleased to acknowledge that the Mechanism is in a position to fully support its remaining activities for the year of 2021 and calls on the Security Council, in coordination with the General Assembly, to allocate sufficient resources to enable it to fulfil its mission.

It should be recalled that Council resolution 1966 (2010) urges States to cooperate with the Mechanism in the execution of its arrest warrants so that the acts of persons who have committed crimes of genocide do not go unpunished. My delegation welcomes the signing on 15 November of an agreement between the Niger and the United Nations on the transfer of persons released or acquitted by the International Criminal Tribunal for Rwanda or the International Residual Mechanism for Criminal Tribunals.

We also encourage all awareness-raising and educational activities to make the legacy of the International Criminal Tribunal for the former Yugoslavia known to the affected communities and to younger generations in the region.

The challenges related to the judicial proceedings faced by the Mechanism, such as lack of cooperation or denial of genocide, are a real challenge that we must all address. The Niger condemns such attitudes and encourages instead education and a culture of

remembrance as key instruments in combating the ideology of genocide in order to foster reconciliation and peacebuilding.

My delegation calls for capacity-building for the officials of the States concerned in order to emphasize the principle of complementarity and the assumption of responsibility by national authorities.

In conclusion, the Niger calls on the Mechanism to continue its efforts to implement the remaining recommendations made by the Office of Internal Oversight Services in previous assessments. We express our support for the President and the Prosecutor and their teams for their continued commitment.

I resume my functions as President of the Council.

I now give the floor to the representative of Bosnia and Herzegovina.

**Mr. Alkalaj** (Bosnia and Herzegovina): At the outset, please allow me to congratulate you, Sir, for assuming the presidency of the Security Council for this month. We wish you every success in performing your duties during your presidency in the ongoing specific circumstances caused by the coronavirus disease (COVID-19) pandemic

I would also like to thank the President of the International Residual Mechanism for Criminal Tribunals (IRMCT), Judge Carmel Agius, and the Prosecutor of the International Residual Mechanism for Criminal Tribunals, Mr. Serge Brammertz, for their respective reports (see S/2021/694) and for today's comprehensive briefings.

We are grateful that the Mechanism continued to make progress in its work during the period between the previous two Security Council sessions on this topic (see S/PV.8790 and S/2020/602) and continues to function in spite of the pandemic. We take note of the continued progress made by the Mechanism in fulfilling the remaining activities of the International Tribunal for the Former Yugoslavia. We commend the IRMCT for its efficiency in bringing all of its unfinished cases to a close in spite of its reduced resources during the pandemic.

The COVID-19 pandemic continued to have a serious impact on the actions and activities of the International Residual Mechanism, as well as those of the judicial authorities in Bosnia and Herzegovina, between the previous two sessions of the Security

Council on the topic. We are aware of the challenges that the pandemic has posed for the national prosecutors of war crimes in Bosnia and Herzegovina. The work of the Prosecutor's Office and the work of the Court of Bosnia and Herzegovina, which deal primarily with the unfinished and most complex cases of war crimes, was particularly affected.

I hereby inform the Council that the judicial authorities in Bosnia and Herzegovina are taking all necessary measures to implement the revised strategy for work on war crimes cases, as adopted in September 2020 by the Council of Ministers of Bosnia and Herzegovina. One of the first and most important goals of that strategy is to conclude all unresolved war crimes cases as soon as possible. To that end, the judicial authorities in Bosnia and Herzegovina are working to resolve all open war crimes cases at different levels in Bosnia and Herzegovina.

Let me stress that all potential perpetrators of war crimes must be prosecuted for their personal or command responsibility. In accordance with the revised strategy, judicial authorities should unify court practices in order to strengthen trust in the judicial system and ensure the equality of all citizens before the law. The strategy's implementation will send a strong message that impunity will not and must not be allowed.

The judicial authorities in Bosnia and Herzegovina will make every effort to prosecute all outstanding and unresolved war crimes cases, especially those with civilian victims, particularly children, women, religious officials and elderly people. In 2021, the Prosecutor's Office of Bosnia and Herzegovina has issued six indictments against nine persons. In the same period, the Court of Bosnia and Herzegovina has confirmed five indictments, and one indictment is still under the consideration. In the same period, the Court of Bosnia and Herzegovina has brought eight judgments. Also, I would like to inform the Council that, in the period between the two relevant meetings of the Security Council, the Prosecutor's Office of Bosnia and Herzegovina has forwarded to the Prosecutor's Offices at the entity level and to the Prosecutor's Office of Brcko district more than 170 different cases for further investigation and prosecution. In that vein, I would like to recall that, according to the official evidence of the Prosecutor's Office of Bosnia and Herzegovina, there are still 67 cases listed as Hague category list A, with 173 suspect persons awaiting prosecution, and the total number of prosecuted and unprosecuted persons

under Hague category list A are 805 persons. The total number of all unfinished investigation cases at the Prosecutor's Office of Bosnia and Herzegovina is 378, against 3,833 perpetrators.

I would like to emphasize again that, as evidenced in their reports throughout the relevant period of operations, the cooperation of Bosnia and Herzegovina with the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 and its successor Mechanism has been stable and complete. Representatives of the Prosecutor's Office of Bosnia and Herzegovina, along with the representatives of the Republic of Serbia, the Republic of Croatia and Montenegro, participated at the regional conference held in Belgrade on 20 and 21 September, with the co-sponsorship of the Office of the Chief Prosecutor of the IRMCT and the United Nations Development Programme. The main goal of the conference was to hold discussions on resolving all unresolved war crime cases, improving cooperation between the countries, mutual legal assistance and review of the obstacles to fulfilling these goals.

We are grateful that the Office of the Prosecutor of the IRMCT continues its engagement with the judicial authorities of Bosnia and Herzegovina and remains committed to providing Bosnia and Herzegovina with full support in assisting, transferring knowledge and applying all lessons learned. We remain committed to contributing actively to the Mechanism's efforts to accomplish its mission. We would also like to reiterate our commitment to its work and to call on all Member States to fulfil all obligations to ensure that the work of the Mechanism continues uninterrupted.

We would like to express our gratitude for the support of the European Union, the Organization for Security and Cooperation in Europe and the United Nations Development Programme in strengthening the human and material resources of judicial institutions prosecuting war crimes and engaged in general capacity-building. I would like to inform the Council that, at the end of last year, one courtroom in the Court of Bosnia and Herzegovina was adapted for hearings with more than five suspects and their defenders, with the help of foreign donors.

I would like to emphasize that Bosnia and Herzegovina remains committed to investigating,

prosecuting and punishing all persons responsible for war crimes, regardless of the offender's nationality, ethnicity, religion or political or other affiliation. We would also like to emphasize that witness protection is of the utmost importance in the conduct and operations of all judicial institutions in Bosnia and Herzegovina. That is important for reconciliation and progress in Bosnia and Herzegovina and throughout the Western Balkans.

Cooperation between the institutions of Bosnia and Herzegovina and those of neighbouring countries in the exchange of information is also critical as we continue to search for the more than 6,000 persons who remain missing in Bosnia and Herzegovina. In that vein, I would like to recall that Bosnia and Herzegovina has signed several bilateral agreements with the neighbouring countries, the Republic of Croatia, Montenegro and the Republic of Serbia, strengthening cooperation and exchange of information and evidence. Also, I would like to inform the Council that the meeting between the Acting Chief Prosecutor at the Prosecutor's Office of Bosnia and Herzegovina and the Chief Prosecutor of the Office of War Crimes of the Republic of Serbia was held on 23 November. The central topics of the meeting were cooperation and exchange of information and evidence in war crime cases, as well as the transfer of criminal prosecution cases in which the accused persons are inaccessible to the judiciary as a result of being located in the territory of the other States. Also, the fight against impunity, especially in war crime cases, has been emphasized as an imperative for future cooperation in order to ensure the prosecution of suspects and accused persons, regardless of their nationality or location.

Cooperation with the judicial authorities of the Republic of Croatia has to be improved in the sense that the Croatian Government's decision of 2015 not to comply with requests for mutual legal assistance in cases treated as crimes against humanity has to be withdrawn.

Bosnia and Herzegovina states that there has been no progress in the matter of Novak Đukić and Milomir Savčić, who were standing trial in Bosnia and Herzegovina and fled to Serbia.

I would also like to emphasize that the glorification of war crimes and their perpetrators and the denial of war crimes are unacceptable. Students in Bosnia and Herzegovina are taught differently regarding events

of the recent past, in which war criminals have been glorified as heroes. We would also like to stress that the cases of murals with the portrait of Ratko Mladić in Belgrade will not contribute to reconciliation in Bosnia and Herzegovina and in the Western Balkans region. The punishment of all persons responsible for war crimes and the building of trust in the judicial system are necessary for reconciliation as a significant step of progress in our path towards membership in the European Union, Bosnia and Herzegovina's primary foreign policy goal, which enjoys the broad consensual support of all political parties in the country.

We are fully committed to continuing to strengthen the rule of law, human rights and economic development. We will continue to work to strengthen the justice system in Bosnia and Herzegovina. Stability, progress, mutual trust and cooperation cannot be achieved without full justice.

**The President** (*spoke in French*): I now give the floor to the representative of Serbia.

**Mr. Stevanovic** (Serbia): I thank you, Sir, for the opportunity to speak to the Council on behalf of the Republic of Serbia and to present the most important instances of its cooperation with the International Residual Mechanism for Criminal Tribunals.

At the outset, I would like to recall the decision on the application for early release of Mr. Sreten Lukić, reached by President Carmel Agius on 7 October. We believe that the decision has shown that the efforts made by Serbia have been successful. Our Government issued binding guarantees for the early release of Mr. Lukić, itemized and in accordance with indicated requirements. Furthermore, the final decision reached by the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (ICTY) was entered in the criminal records of Mr. Sreten Lukić in Serbia. It is evident that Mr. Lukić, as well as the others who requested early release, were closely investigated by other institutions as well, primarily the Office of the Prosecutor of the Mechanism and the Association of Victims and Witnesses. I would like to express our gratitude to President Agius and to present our firm assurances that Serbia will comply with the requirements listed in the aforementioned decision.

I would also like to point out that it is necessary to respond as soon as possible to all requests submitted to

the Mechanism by the citizens of Serbia who meet the requirements for early release.

In addition, I wish to emphasize the importance of the meetings between the President and Minister of Justice of Serbia with Chief Prosecutor Serge Brammertz during the reporting period. Being in close contact with Mr. Brammertz and taking into consideration the extraordinary circumstances due to the coronavirus disease pandemic, exceptional results were achieved and almost all the requests that the Office of the Prosecutor presented to the Government of Serbia were responded to.

During the past six months, two judgments have been rendered by the Mechanism, both in June: the second-instance judgment in the case of *Prosecutor v. Ratko Mladić*, and the first-instance judgment in the case of *Prosecutor v. Jovica Stanišić and Franko Simatović*. We would like to request that the humanitarian aspect be taken into consideration when selecting a country in which Mr. Mladić will serve his sentence. We are talking about an elderly individual who suffers from a number of serious health issues. We have seen that, in certain countries, convicted persons are being held in inadequate facilities, in spite of the United Nations Standard Minimum Rules for the Treatment of Prisoners — the Nelson Mandela Rules — and even though formal requirements have been met before the Mechanism for the convicted persons to be handed over to those countries.

I would like to recall Serbia's initiatives, which so far have not been supported either by the Security Council or by the Mechanism. One is our request that the sentences passed by ICTY and the Mechanism be served in Serbia. A large number of the convicted persons who are currently serving their sentences are either of Serbian nationality or citizens of Serbia. I would like to repeat that Serbia is ready to assume the obligations and responsibilities for the sentence-serving of its citizens who were convicted by the Tribunal. We accept international supervision and are therefore ready to offer strong guarantees that the convicted persons will not be released early without corresponding decisions of the Mechanism, in cases in which they are serving their sentence in Serbia.

Another unresolved issue is the fate of the archives of the Tribunal. Serbia has submitted a large number of documents to the Office of the ICTY Prosecutor, defence attorneys and the Trial Chambers of the

Tribunal. Our position is that documents that have been submitted to the Office of the Prosecutor, but have not been used as evidence during ICTY and Mechanism proceedings, should be returned to source institutions. That is extremely important not only because of the responsibility to record the events that happened in the former Yugoslavia in the 1990s, but also because of its enormous volume. We are talking about millions of pages, according to professional assessments.

I wish to address two specific current issues. The first concerns the harassment of convicted persons and witnesses; specifically, two of our citizens who are serving prison sentences are facing harassment by the representatives of the so-called Republic of Kosovo. I am referring to attempts to interrogate Mr. Pavković and to extradite Mr. Đorđević. I take this opportunity to plead with the Security Council not to allow those acts to happen. The doctrine *non bis in idem* is one of the fundamental postulates of the civilized society, and as such can be found in article 7 of the Statue of the Mechanism. We find it unacceptable that they should be tried twice for the same crime, especially by the Provisional Institutions of Self-Government in Pristina.

The second issue is related to threats and intimidation of the witnesses in the *Jojić and Radeta* case. On 3 September, a single Judge reached a decision on the preservation of evidence by special deposition for the purposes of future legal proceedings. The Amicus Curiae Prosecutor was obliged to file an *ex parte* submission, including a list of witnesses whose evidence she seeks to preserve, prior witness statements and a summary of topics for which the proposed witnesses are expected to provide evidence. In September, a team of three individuals arrived in Belgrade, authorized by the Mechanism to assist the Amicus Curiae Prosecutor.

However, on 21 October, one of the witnesses made a request for urgent assistance to our Ministry of Justice. The witness provided a detailed description of an incident that took place on 29 September, involving the aforementioned individuals. The witness stated that he was exposed to threats, blackmail and verbal assaults and that he was ordered to testify against Jojić and Radeta.

Allow me to recall that, back in 2018, a single Judge ordered that the case against Jojić and Radeta be referred to the judicial authorities of Serbia for trial. The Amicus Curiae Prosecutor appealed the decision, based on the issue of witness protection and the

witnesses' fears for their own safety and the safety of their families, especially after their cooperation with the Prosecutor. The incident of 29 September entirely devalues the sole foundation of the request that this case be processed before the Mechanism. Such actions of the Amicus Curiae Prosecutor's team must be disclosed and sanctioned.

I would like to emphasize that the commitment of the Republic of Serbia has been demonstrated through years of effort, striving to ensure that all parties responsible for war crimes are brought to justice. Serbia has prosecuted many war criminals before its courts, as well as in cooperation with the ICTY and the Residual Mechanism. Our new national strategy for war crimes proceedings (2021-2016) is aimed at strengthening all mechanisms for combating war crimes impunity, to protect and support victims, to establish the fate of missing persons and to build a social environment of tolerance and reconciliation.

I am confident that the aforementioned objectives will be realized through an efficient implementation of this strategic document, while contributing to resolving other remaining and painful issues from the time of the dissolution of the former Yugoslavia. The burden of armed conflicts and their devastating consequences on citizens, regardless of their nationality, ethnicity or religion, has been obstructing the improvement of good-neighbourly relations and regional cooperation for many years now.

At the same time, in order to continue the process of reconciliation, to foster good-neighbourly relations and to maintain lasting peace and stability in the region of former Yugoslavia, it is essential to invest additional efforts in nourishing the culture of remembrance and dialogue. War crimes proceedings represent one of the especially important issues within our European integration process.

During the reporting period, the Office of the War Crimes Prosecutor of Serbia worked to strengthen cooperation with regional prosecutors. A regional conference of the prosecutors took place in Belgrade on 21-22 September and was supported by the United Nations Development Programme and the Government of the United Kingdom, with the active participation of the representatives of the Offices of the Prosecutors of Bosnia and Herzegovina, Croatia and Montenegro, as well as by the representatives of the Office of the Prosecutor of the Residual Mechanism, presided by

Chief Prosecutor Serge Brammertz. The Serbian and Bosnian Prosecutors met in Sarajevo in November to further discuss cooperation regarding the referral of criminal cases and concrete steps to be taken the near future.

We believe that it can be concluded that the cooperation between Serbia and the Residual Mechanism has been successful. Therefore, we expect that the Security Council will be actively engaged in the matters it has initiated.

**The President** (*spoke in French*): I now give the floor to the representative of Rwanda.

**Mrs. Rugwabiza** (Rwanda): Rwanda congratulates the Niger on assuming the presidency of the Security Council for this month. I thank President Agius and Prosecutor Brammertz for their progress reports and detailed briefings. We commend them for their continued efforts in the execution of the mandate of the International Residual Mechanism for Criminal Tribunals.

We wish to focus our statement on three points: first, the Kabuga trial; secondly, the remaining genocide fugitives who are still at large; and thirdly, the transfer of the nine Rwandans who were in Arusha to a third country.

On the Kabuga trial, we wish to remind the Council that Félicien Kabuga is one of the masterminds of the 1994 genocide against the Tutsi and the only fugitive from the genocide apprehended by the Mechanism since its inception in 2010. After escaping justice for close to three decades, 85-year-old Kabuga was arrested in France in May 2020 and transferred to the Hague Chamber of the Mechanism in October 2020. Today, more than a year later, his trial is yet to start.

We remind the Council of these basic facts to underline that what is at stake is, on the one hand, justice for the victims and survivors of the genocide crimes committed and enabled by Mr. Kabuga in 1994 and, on the other, the performance of the Mechanism, which should be evaluated on its ability to deliver on its core judicial mandate. The priority of the Government of Rwanda and the priority of justice is and should be that the trial should start. We hope that the next report of the Mechanism to the Security Council will comprise and inform us about progress with regard to the substance of the trial of Félicien Kabuga,

instead of detailed explanations about the extended preparatory procedures.

Secondly, on the remaining genocide fugitives who are still at large, I would like to commend the tireless efforts and work of Prosecutor Serge Brammertz and his Office. We note with concern that a number of Member States continue to obstruct international justice by refusing to extend cooperation to the Prosecutor's Office. Once again, we call on all Member States to honour their international legal obligations to extend cooperation to the Office of the Prosecutor of the Mechanism.

As all recall, more than 1.4 million Rwandans were brutally murdered within only three months during the 1994 genocide against the Tutsi. The Government and the people of Rwanda continue to ask themselves what the geostrategic interests of any Member State could possibly be to side with the perpetrators by helping them to hide and escape justice for crimes of genocide committed in Rwanda.

The crime of genocide is imprescriptible. Rwanda will continue the search for justice for the victims and the survivors if only for two reasons: to reaffirm the dignity of the lives of those exterminated during the genocide and to hold the perpetrators accountable for their crimes and prevent them from spreading their genocide ideology beyond Rwanda's borders.

Thirdly, regarding the transfer of the nine Rwandans who were living in a safehouse in Arusha to a third country, we take note that eight of the nine Rwandan citizens have now been transferred to the Niger. Rwanda was surprised not to have been notified by either the Mechanism or the host country about the transfer of those nationals of Rwanda. We would appreciate clarification from the principals of the Mechanism, in the appropriate General Assembly Committee, on whether the transfer, settlement and living costs of the transferred Rwandan nationals — who, let us recall, have been free from any Mechanism proceedings for more than a decade — are part of the budget of the Mechanism.

Finally, it is our sincere hope that the host country will exercise its responsibility to ensure that none of the nine persons uses its territory for subversive activities that have contributed to the insecurity and instability of the Great Lakes region for the past decades. There is available evidence in their criminal records that some of them have been engaging in such activities

even after their acquittal by the former International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994.

**The President** (*spoke in French*): I now give the floor to the representative of Croatia.

**Mr. Šimonović** (Croatia): I would like to welcome Judge Agius and Prosecutor Brammertz and thank them for their briefings today.

The International Residual Mechanism for Criminal Tribunals has made important headway since the previous briefing (see S/PV.8790) in June in completing its mandate. The Mechanism's Appeals Chamber delivered its judgment confirming the fully deserved life sentence against Ratko Mladić for the worst atrocities, including genocide in Srebrenica.

The Trial Chamber delivered its judgment in the retrial of Jovica Stanišić and Franko Simatović and found them responsible for aiding and abetting crimes against humanity committed by Serb forces following the takeover of Bosanski Šamac in April 1992. We were surprised to find out that, although it established the existence of a joint criminal enterprise of Serbian perpetrators in Croatia, Serbia and Republika Srpska, it did not list Stanišić and Simatović among them. That decision departs from findings in the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (ICTY) verdicts against Milan Babić and Milan Martić for crimes committed in Croatia, which established the existence of a joint criminal enterprise, in which Stanišić and Simatović, as Serbia's top security officials, participated along with others, led by Slobodan Milošević.

We sincerely hope that the Appeals Chamber will acknowledge the need for the coherence of judgments rendered by the former ICTY and the Mechanism and will convict Stanišić and Simatović for participation in a joint criminal enterprise, as well as for all crimes committed in Croatia and Bosnia and Herzegovina, as requested by the Prosecutor.

Fully aware of the challenges before it, we hope that the Mechanism will complete its remaining work soon. Rwandan fugitives must be apprehended and tried. The Mechanism's referral of Serbia to the Security Council for a third time for the failure to arrest and transfer Petar Jojić and Vjerica Radeta must be efficiently dealt with, as requested in President Agius's report (see S/2021/694). The intimidation of witnesses is a serious crime that undermines accountability efforts, and it should be treated as such.

The glorification of war criminals and the denial of genocide are unacceptable. They increase the suffering of the victims and take us further away from reconciliation. We especially condemn the recent cases of high-level glorification of Mladić, Stanišić and Simatović, as well as the consistent denial of the genocide committed in Srebrenica.

Croatia is committed to continuing constructive, non-politicized and evidence-based judicial cooperation with other States of the region in war crime matters, but, as we have mentioned many times, meaningful cooperation is not a one-way process, and we expect other States to actively engage and contribute to improving relations.

As stated in several Prosecutor's reports, Croatia is still waiting for Serbia's response to its invitation to finalize the draft of a bilateral agreement on processing war crimes, whose conclusion would represent a significant step forward in judicial cooperation between the two countries.

With regard to Croatia's otherwise very good bilateral cooperation with Bosnia and Herzegovina, we recently witnessed the case of a politically motivated and factually and legally unsubstantiated request

initiated by Republika Srpska and forwarded to Croatia through institutions of Bosnia and Herzegovina. The Government of Croatia decided to reject the request to take over the prosecution of 14 high-ranking Croatian officers suspected of war crimes allegedly committed during the 1995 Operation Flash, based on the provisions of the act on mutual legal assistance in criminal matters and the bilateral agreement on mutual legal assistance in civil and criminal matters. Those provisions were put in place precisely to prevent the misuse of the instrument of legal assistance for unsubstantiated defamation and harassment. We regret that the Prosecutor negatively reflected that decision in his briefing, raising unfounded allegations without understanding either the broader context or the clear legal basis for the decision of the Croatian authorities.

Another important area of cooperation is tracing missing persons. Determining the fate of 1,853 still missing Croatian citizens is our long-standing priority. Last month, the remains of at least 10 people, their hands tied with wire, were found in a mass grave near the town of Vukovar. The discovery of that mass grave was the result of the sole effort of the Croatian authorities, clearly demonstrating that crucial information is still not being shared.

In conclusion, let me reaffirm our strong support for the important work of the Mechanism and its successful completion.

**The President** (*spoke in French*): On behalf of the Security Council, I wish to sincerely thank the interpreters, who agreed to cover this morning's very long meeting,

*The meeting rose at 1.40 p.m.*