



# Security Council

Sixty-eighth year

*Provisional*

## 7073<sup>rd</sup> meeting

Thursday, 5 December 2013, 3 p.m.

New York

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*President:* Mr. Araud/ Mr. Lamek . . . . . (France)

*Members:*

Argentina . . . . .	Mrs. Perceval
Australia . . . . .	Mr. Bliss
Azerbaijan . . . . .	Mr. Musayev
China . . . . .	Mr. Li Zhenhua
Guatemala . . . . .	Mr. Rosenthal
Luxembourg . . . . .	Ms. Lucas
Morocco . . . . .	Mr. Laassel
Pakistan . . . . .	Mr. Masood Khan
Republic of Korea . . . . .	Mr. Oh Joon
Russian Federation . . . . .	Mr. Zagaynov
Rwanda . . . . .	Mr. Nduhungirehe
Togo . . . . .	Mr. Menan
United Kingdom of Great Britain and Northern Ireland . . . . .	Mr. McKell
United States of America . . . . .	Mr. DeLaurentis

## Agenda

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

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 1994 and 31 December 1994

Report of the International Criminal Tribunal for Rwanda (S/2013/460)

Report of the International Tribunal for the Former Yugoslavia (S/2013/463)

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Letter dated 13 November 2013 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council (S/2013/663)

Letter dated 18 November 2013 from the President of 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, addressed to the President of the Security Council (S/2013/678)

Letter dated 18 November 2013 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2013/679)

*The meeting was called to order at 3.05 p.m.*

**Adoption of the agenda**

*The agenda was adopted.*

**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**

**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 1994 and 31 December 1994**

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**Letter dated 18 November 2013 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2013/679)**

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

Under rule 39 of the Council's provisional rules of procedure, I invite the following briefers to participate in this meeting: Judge Theodor Meron, President of the International Tribunal for the Former Yugoslavia and President of the International Residual Mechanism

for Criminal Tribunals; Judge Vagn Joensen, President of the International Criminal Tribunal for Rwanda; Mr. Serge Brammertz, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia; and Mr. Hassan Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda and 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 Council members to documents S/2013/460 and S/2013/463, respectively containing the report of the International Criminal Tribunal for Rwanda and the report of the International Tribunal for the Former Yugoslavia.

I wish to draw the attention of members to documents S/2013/678 and S/2013/663, respectively containing a letter dated 18 November 2013 from the President of the International Tribunal for the Former Yugoslavia and a letter dated 13 November 2013 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council.

I also wish to draw the attention of Council members to document S/2013/679, a letter dated 18 November 2013 from the President of the International Residual Mechanism for International Criminal Tribunals addressed to the President of the Security Council.

I now give the floor to Judge Meron.

**Judge Meron** (*spoke in French*): It is an honour for me to address the Security Council once again as President of the International Tribunal for the Former Yugoslavia (ICTY) and of the International Residual Mechanism for Criminal Tribunals. I wish to congratulate Ambassador Gérard Araud of France upon his assumption of the presidency of the Council. France is known for its tireless support to international justice. I wish him the greatest of success in the discharge of his duties.

(*spoke in English*)

I am appearing before the Council today in my two capacities as President of the ICTY and of the Mechanism. Written reports concerning both institutions were submitted to the Council last month. In my remarks today, I wish to focus on the most noteworthy issues detailed in those written reports. Before doing so, however, I would like to take this

opportunity to express my gratitude once again to the Informal Working Group on International Tribunals. In particular, I would like to recognize the exceptional leadership of Guatemala over these past two years. Guatemala's support for the Tribunals and for the Mechanism during this critical period of transition has been sustained, constructive and truly appreciated. I would also like to recognize the continuing support and assistance provided to the ICTY and the Mechanism by the Office of the Legal Counsel.

Allow me to first update the Council on the progress being made by the ICTY towards the completion of its mandate and its closure. The Tribunal has continued to make progress in completing the final cases before it. Since my last completion strategy report (S/2013/308), the Tribunal has rendered five judgements. In the Trial Chambers, judgements were rendered in the cases of *Prlić et al.* and *Stanišić and Simatović*. In addition, the Appeals Chamber rendered a judgement in the rule 98 bis appeal in the *Karadžić* case. Finally, one contempt trial judgement and one contempt appeal judgement were also rendered.

The forecast judgement delivery dates remain unchanged in seven of the Tribunal's 11 remaining cases. In particular, the forecasts for the delivery of the appeal judgements in the cases of *Popović et al.*, *Stanišić and Simatović*, *Tolimir*, *Stanišić and Župljanin* and *Prlić et al.* have not changed. The *Hadžić* trial also remains on track and is expected to be completed by the end of 2015. The *Mladić* trial is likewise proceeding apace and is expected to conclude by mid-2016, as previously forecast.

The delays in three of the remaining four cases are of a very limited nature. The delivery of two appeal judgements in the multi-accused case of *Šainović et al.* and in the case of *Đorđević* has been delayed by one month. The appeal judgements in those cases, originally forecast for December 2013, are now scheduled to be delivered on 23 and 27 January 2014, respectively. Those short delays have been the result of various factors, including the complexity of the cases and the heavy workload of the judges involved.

The *Karadžić* trial judgement, originally planned for July 2015, is now forecast to be delivered in October 2015. The delay in that case is attributable to the Appeals Chamber's rule 98 bis judgement delivered in July of this year. In that judgement, the Appeals Chamber reversed the Trial Chamber's decision to acquit Mr. Karadžić on count 1 of the indictment against him and directed the

Trial Chamber to determine Mr. Karadžić's relevant culpability after hearing defence evidence. Following the Appeals Chamber's ruling, the Trial Chamber determined that an additional three months were necessary for further preparation and presentation by the defence.

Finally, the conclusion of the trial in the *Šešelj* case has also been delayed. The Trial Chamber in that case had previously issued an order scheduling the delivery of the judgement on 30 October. However, in July, the accused filed an application for the disqualification of one of the judges in his trial. The panel of judges appointed to consider the issue upheld the application by a majority and another judge was subsequently appointed to the trial bench. That newly appointed judge is currently familiarizing himself with the trial record and reviewing related documents. Once he completes that process, the trial bench will be in a position to decide on the next steps in the case. I will of course provide more information about the case in my next completion strategy report.

As set out in my report, almost all ICTY cases will have been completed by 31 December 2014. Of the six cases that will not be concluded by then, half involve the trials of the late-arrested accused Mr. Karadžić, Mr. Hadžić and Mr. Mladić. In addition, the judgements in two appeal cases — *Tolimir* and *Stanišić and Župljanin* — are forecast to be delivered in the first few months of 2015. Finally, the multi-accused case of *Prlić et al.* is expected to be completed in mid-2017. I note that in the latter case, the trial judgement was rendered only in late May and is very voluminous, numbering approximately 2,500 judgement-size pages or more than 4,000 pages in the United Nations format. The case also involves a large number of appellants and expected appellants. Those factors contribute to the comparatively late forecast delivery date for the appeal judgement.

I am of course so sorry that certain cases have been delayed and that we will not be able to complete all ICTY judicial work by 31 December 2014. I note, however, that several of the delays that I have reported and our inability to complete all ICTY judicial work by the end of 2014 are directly attributable to factors outside the case management process and reflect the inherent uncertainty in predicting the time needed to complete judgements in highly complex cases, as well as previous uncertainties as to which cases would transition to the Mechanism on appeal.

Looking forward, the Tribunal is making every effort to ensure that the forecast completion dates for cases remain on schedule. In particular, the Tribunal's Chambers are coordinating closely with the Registry to ensure that the significant reductions in personnel do not adversely impact our ability to complete trials and appeals in an efficient and fair manner. I remain, as ever, tremendously appreciative of all the hard work and dedication shown on a daily basis by the many talented staff members employed by the Tribunal.

I note, however, that staff morale continues to be affected by the knowledge that many staff members' contracts will not be renewed. I have been working with the Tribunal's Registrar and others to take a variety of measures to bolster morale. Staff members nevertheless continue to seek more secure employment elsewhere, and staff departures pose additional challenges as we strive to maintain the previously forecast judgement delivery dates.

As I have previously informed the Council, other potential risks to the timely completion of trials and appeals stem from the unique circumstances of the Tribunal, which is located thousands of kilometres from the scene of the alleged crimes, required to translate a myriad of documents into multiple languages and called on to handle volumes of evidence that are almost unheard of in domestic criminal prosecutions. The Tribunal has developed robust systems and processes to address those challenges. However, especially in a downsizing environment and even as we take the practical steps necessary to ensure the Tribunal's orderly closure, I remain particularly vigilant to ensure that the services necessary to the Tribunal's functioning are retained long enough to ensure that trials and appeals are completed in accordance with the schedule previously forecast.

In that connection, I would like to note that the terms of office of all ICTY judges expire at the end of this month and Security Council action is needed. My requests of 30 October and 19 November asked that the judges' terms of office be extended through the period in which their last trial or appeal is expected. In making such requests, I was guided by the considerations of efficiency and maximum transparency. Indeed, extensions that correspond to the lengths of the judicial proceedings in which the judges are engaged will bolster the Tribunal and also reduce the demands on the Security Council's valuable time. I am grateful for the Council's consideration of my requests.

Before concluding my report on the ICTY, I would like to share certain reflections based on my visit to Bosnia and Herzegovina last week. I held meetings with victims from various communities and participated in a conference marking the twentieth anniversary of the Tribunal. Discussions at that conference confirmed the importance of the Tribunal's work in the former Yugoslavia. However, conversations during my visit also underscored for me that the Tribunal's work, important though it is, cannot address all the needs of the region. Instead, the international community needs to support additional, complementary initiatives that provide for reconciliation through dialogue and restitution.

In particular, I would like to urge Member States to support efforts to provide reparations and support for victims of the wars in the former Yugoslavia. Many of those victims continue to face serious challenges relating to injuries they suffered during wartime. More broadly, I was particularly encouraged by the conversations that I took part in during a meeting held at the Prijedor area. Local representatives of victims' associations from various communities undertook a dialogue that was both constructive and forward-looking. In the coming months, I hope to explore the possibility of encouraging similar local-level initiatives. In my view, that kind of dialogue is a necessary complement to the Tribunal's work and essential to peace and reconciliation in the former Yugoslavia.

I would now like to turn to the work of the International Residual Mechanism for Criminal Tribunals.

Following the opening of the Mechanism's Hague branch on 1 July 2013, the institution is now fully formed. I am tremendously grateful to the Mechanism's Prosecutor, Mr. Hassan Bubacar Jallow, the Registrar, Mr. John Hocking, the Mechanism staff, and the principals and staff of both the ICTY and the ICTR for all that they have done to ensure a smooth launch of the Hague branch, as they previously did for the launch of the Arusha branch. I am equally grateful for all that they continue to do to ensure the Mechanism's efficient and effective functioning.

As the Mechanism moves forward in its second year, it is now operating on two continents and has inherited work from two related but distinct tribunals: the ICTY and the ICTR. There are many challenges that come in the early years of any new institution, and that makes the work both exciting and rewarding. The



Mechanism is fortunate in that, in its formative stages, it can learn from and build on the best practices of our predecessors, as well as draw upon the talents and expertise of colleagues at the ICTY and the ICTR. Our progress thus far is the result of a truly collaborative undertaking.

As the members of the Council are aware, the Mechanism's mandate encompasses both judicial work and certain other essential functions. The one appeal from judgement filed thus far, in the *Ngirabatware* case, is forecast to be completed by the end of 2014. In the meantime, my fellow Judges and I continue to address a variety of other judicial matters, ranging from requests for variation of protective measures to motions concerning contempt allegations. The Mechanism is also expected to hear appeals, if any, in the *Šešelj*, *Karadžić*, *Hadžić* and *Mladić* cases and must remain ready to address any additional judicial matters that may come before it, such as requests for review of judgements or orders for retrial. Although we do not know when the remaining three fugitives who have been indicted by the ICTR and are expected to be tried by the Mechanism will be arrested or will surrender, I profoundly hope that it will be soon, and I call upon the members of the Council and the Member States of the United Nations to do all in their power to make that hope a reality.

The Mechanism, of course, is responsible for many other functions besides judicial work, including ensuring the monitoring of cases referred to national jurisdictions; providing protective services to witnesses and victims; enforcing sentences of those convicted by either the ICTY or the ICTR; responding to requests for assistance from national jurisdictions; and managing the archives of both the ICTY and the ICTR. Details concerning the Mechanism's activities in those areas are included in my written report; I wish only to underscore that we are fully engaged with our responsibilities in those areas and making good progress.

I mentioned a moment ago the importance of Member States' assistance in relation to apprehending the remaining fugitives who are expected to be tried before the Mechanism. In truth, the Mechanism depends on the cooperation of the international community in all that it does, and it particularly depends on the cooperation of the affected States, including both Rwanda and the States of the former Yugoslavia. Strong relationships and partnerships with those States, and with other States and organizations, will remain vital

to the Mechanism going forward, given its unique mandate to be an efficient and temporary institution whose size and functions are to diminish over time.

In that respect, I am pleased to report that, several weeks ago, President Joensen of the ICTR, Prosecutor Jallow of the ICTR and the Mechanism, and I, along with representatives of the Registrars of both the ICTR and the Mechanism, visited Kigali, where we held very productive meetings with Government officials. I was also in Sarajevo just last week and hope to return to the region again next year. Meetings of that sort, whether with high-level officials or with those at the working level, are crucial to helping to ensure that lines of communication are kept open and that, during this time of transition between the original ad hoc Criminal Tribunals and the Mechanism, the nature and effect of that transition are fully communicated and understood, particularly in the communities most affected by our work in both Rwanda and the States of the former Yugoslavia.

One issue that continues to be raised, and one that is particularly important for many from those communities, concerns access to information about the work of the Tribunals. In resolution 1966 (2010), the Council requested that the Mechanism, along with the ICTY and the ICTR, cooperate with Rwanda and the States of the former Yugoslavia and other interested parties to facilitate the establishment of information and documentation centres by providing access to copies of public records of the archives of the Tribunals and the Mechanism, including through their websites. With respect to the role of the Mechanism, I can assure you that we are taking seriously our responsibilities in that regard. In the months and years ahead we will continue to take steps to ensure that such access is widely available, whether online or otherwise, and we welcome ideas and suggestions from any and all interested parties. I look forward to reporting to the Council on our progress, as well as on other developments, in my next written report on behalf of the Mechanism next year.

As always, I come before the Council committed to the most complete transparency possible. I hope, however, that my frank discussion of delays, challenges and potential future risks does not give an unnecessarily negative impression of the Tribunal. The staff and Judges of both the Tribunal and the Mechanism remain fiercely committed to completing trials and appeals efficiently and in accordance with the highest standards of procedural fairness.

Indeed, the twentieth anniversary of the ICTY this year provided an opportune time to reflect on the Tribunal's tremendous accomplishments. What the Tribunal has achieved in the course of two decades has been extraordinary. It has accounted for all 161 individuals indicted, given rise to an authoritative and extensive corpus of procedural and substantive law relating to serious international crimes, assisted national judicial systems in conducting their own trials of such crimes, and helped to end impunity, even for national or military leaders. These accomplishments are a reflection not just of the hard work and dedication of the Tribunal's staff and judges, but also of the key assistance provided to the Tribunal by the United Nations and its Member States. Without this support, the success of the bold experiment in international justice initiated by the Council in 1993 would never have been possible.

As the Mechanism carries the legacy of the ICTY and the ICTR forward, I know that it will serve as a worthy successor to these two institutions and continue to symbolize the determination of the international community and the Council to bring an end to impunity.

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

I now give the floor to Judge Joensen.

**Judge Joenson**: I would like to begin by extending my sincere congratulations to the representative of France, which is presiding over the Security Council in December, as well as the representatives of Chad, Chile, Lithuania and Nigeria on their nations' election to the Security Council for the term beginning in January 2014. I wish them all the best for a successful tour of duty.

I would also like to thank the representatives of Azerbaijan, Guatemala, Morocco, Pakistan and Togo for their nations' service to the Security Council as they near the completion of their terms, and express the gratitude of the entire Tribunal to all Governments represented on the Council for the continued support they have provided as we draw closer to the completion of our mandate and the closure of the Tribunal. In particular, please allow me this opportunity to extend my sincere gratitude to the representative of Guatemala. His country's excellent leadership as Chair of the Informal Working Group on International Tribunals for the past two years has led to continued excellent communication and cooperation between the Tribunals

and the Working Group, which helps to ensure that the Council and Tribunals remain aware of each others' needs and concerns, which is especially crucial at this time of transition and as we near closure.

It is as always an immense honour for me to have this opportunity to address the members of the Security Council and to provide them with an update on the progress being made towards the completion of our work. First and foremost, I would like to express my sincere gratitude to the past and current judges and staff members of the International Criminal Tribunal for Rwanda (ICTR) for all of their hard work and the dedication that they have shown, which have led us to the stage we are at today, with only appeals remaining following nearly two decades of judicial work.

As Council members are aware, it has been nearly one year since the ICTR completed its work at the trial level. As of today, the Tribunal has concluded appellate proceedings in respect of 46 persons. The Appeals Chamber will render one more judgement on 16 December in the *Ndahimana* case, while four other appeal judgements concerning eight persons will be disposed of in 2014. This leaves only one appeals case, *Nyiramasuhuko et al.* ("*Butare*"), which will be completed in 2015.

While the Appeals Chamber has continually devoted its best efforts towards the completion of all appeals work by the end of 2014, the final appeal judgement concerning six persons in the *Butare* case is now projected to be completed not before the end of July 2015. As explained more fully in my written report submitted in May 2013 (see S/2013/310), the initial change in the briefing and projected schedule for the completion of the appeal in the *Butare* case was occasioned, in part, by the sheer complexity of the case, coupled with an inability to meet expedited translation goals with respect to the more than 1,400-page trial judgement.

I have worked closely with the Presiding Judge on the *Butare* case since May, when the projection was pushed past the end of 2014, to see what could be done to mitigate the delay. Unfortunately, during the past six months amid these efforts, the *Butare* case also had an unexpectedly large amount of pre-appeal work that threatened to further delay the projected completion date. I am happy to inform the Council today, however, that our efforts to advance the completion date, including the allocation of additional resources to the *Butare* team in 2014, have at least had the effect of

preserving the projection of completion around the end of July 2015, in spite of the pre-appeal litigation that distracted from the core judgement work.

I would also like to note that I remain in close contact with the Presiding Judge, who continues to take all necessary measures to expedite the appeal work in this case without compromising the rights of the parties. In that respect, the Presiding Judge held a status conference in May aimed at streamlining the consideration of several motions and at facilitating more efficient disposal of pre-appeal work. The Appeals Chamber has taken further steps to follow-up with the translation unit to accelerate the translation of pre-appeal documents, and the Butare legal team in Chambers now consists of staff members able to work in both English and French, which facilitates preliminary work on submissions from the parties without awaiting translations.

I wish to underscore that every effort is being made by the Tribunal to complete this case while fully respecting the fundamental rights of the accused to due process in accordance with international standards, and I assure the Council that the Registrar and I will continue to closely monitor the status of the *Butare* case in order to forestall any further impediments to its completion.

I must now take this opportunity to extend my sincere gratitude to all of the judges and the support staff of the Appeals Chamber, who have worked tirelessly to complete the Tribunal's work under extremely tight deadlines. I hope that the Member States will also join me in recognizing their efforts.

On a related note and as detailed in my previous report to the Council, Judge Andrésia Vaz resigned from her position as appeals Judge in May. In order to mitigate any detrimental effect on the completion of appeals work that would come with the loss of such an esteemed judge, in accordance with article 12 bis of the Statute of the Tribunal I requested that the Secretary-General appoint a replacement judge to serve the remainder of Judge Vaz's term. I am therefore grateful to the Secretary-General for his appointment of Mr. Mandiaye Niang of Senegal as permanent judge of the ICTR to replace Judge Vaz. I am confident that the appointment of Mr. Niang, coupled with the recent election of Mr. Koffi Afande as Permanent Judge of the International Tribunal for the Former Yugoslavia (ICTY), will play a crucial role in contributing to the remaining work.

I would next like to take this opportunity to inform the Council about a recent joint visit of the ICTR and the Mechanism to Rwanda on 4 and 5 November. In order to strengthen mutual assistance and cooperation between both institutions and Rwanda, for the first time the Presidents, Prosecutor and representatives of the Registrars of the ICTR and the Mechanism met with senior Government officials in Kigali. During these meetings, discussions took place regarding issues of mutual interest, and the ICTR delegation provided updates on the problems that the Tribunal is facing in terms of relocating acquitted and convicted released persons who are still residing in Tanzania. The ICTR delegation further outlined the progress being made in terms of reparations for victims and survivors of the 1994 genocide in Rwanda, and on the very recent commissioning of a draft project proposal to be carried out by the International Organization for Migration. That proposal will provide a meaningful way forward that is in line with the position that the General Assembly has taken in calling for assistance to victims and survivors of the 1994 genocide.

Returning to the matter of relocation, I note that, as the ICTR continues to make preparations for closure, the issue of the relocation of acquitted and convicted released persons in Tanzania remains one of the most serious challenges to the successful completion of the Tribunal's mandate. For the past five years, all efforts made by the ICTR to achieve the relocation of the remaining individuals have proved unsuccessful. To date, seven acquitted and three convicted released persons reside in a safe house in Arusha, despite the fact that some of those persons were acquitted over a decade ago.

Since the last report to the Council, and pursuant to the framework of the strategic plan submitted to the Security Council's Informal Working Group on International Tribunals, the Registrar and I met with representatives of North American, European and African countries between May and October 2013. More specifically, I met with representatives of nine European countries, while the Registrar met with representatives from four African and two European countries, to brief them on the serious challenges facing the ICTR in terms of relocation and to appeal for their assistance in accepting one or more acquitted or released persons currently residing in Tanzania. The Registrar and I continue to follow-up with the officials of each country that we met with, as well as others, in order to continue to explore all possible avenues



available to the Tribunal to find an equitable resolution to the problem of relocation.

I firmly believe that failing to relocate the acquitted and released persons residing in Tanzania represents a serious challenge to the credibility of the enforcement of international criminal justice. Therefore, recalling resolution 2080 (2012), in which the Council reiterates its call upon Member States that are in a position to do so to cooperate with the Tribunal, I must once again call upon the Council for urgent assistance and increased cooperation from Member States to support the Tribunal in its efforts to find host countries for the seven acquitted persons and three convicted released persons still residing in Tanzania.

I next turn to the transition to the Mechanism. The monitoring of all ICTR cases referred to national jurisdictions is now the responsibility of the Mechanism. That currently includes two cases referred to France and two cases referred to Rwanda. The Mechanism will also be responsible for monitoring the six fugitive cases transferred to Rwanda once those individuals are arrested and proceedings commence. The Registrar and I continue to oversee the administrative functions of the monitoring of the *Uwinkindi* trial in Rwanda, and will do so until the end of 2013. The Mechanism has assumed all responsibilities associated with the monitoring of the *Munyagishari* case in Rwanda upon his transfer in July and for the two cases referred to France, save for the fact that the ICTR is providing interim monitors who are now working closely with Mechanism staff as interim monitors until arrangements with an organization are finalized.

With respect to the archives, the Mechanism has begun to assume responsibility for the management of the archives for both Tribunals. Since the last report to the Council, the ICTR has completed three temporary archives facilities and handed them over to the Mechanism, together with some of the ICTR records that have already been prepared for management by the Mechanism. The transfer to the Mechanism of judicial records not in active use remains ongoing and is still expected to be completed by the end of 2014. However, records that are still in active use, including records related to the *Butare* case, will remain the responsibility of the ICTR and will be transferred only once they are no longer in use. The Tribunal remains hopeful that the preparation and transfer of its records will be completed prior to its closure.

I would next like to take this opportunity to congratulate my friend and colleague President Theodor Meron on his re-election as President of the ICTY. I have come to work very closely with President Meron in his role as President of the Mechanism and I cannot stress enough how important it is that he and Registrar Hocking have ensured such great cooperation between the Mechanism and ICTY offices and the ICTR, allowing for a very smooth transition so far. I want to also thank the Registry, especially the archives staff, for the important work they have completed to date with distinction.

As the work of the ICTR concludes, it is worth remembering that it was the Security Council that not only established the ICTR to try those accused of being most responsible for the planning and execution of the genocide in Rwanda, but also provided the ICTR with a broad mandate that included helping to contribute to the process of peace and reconciliation in the Great Lakes region by helping to bring to justice those most responsible for the Rwandan genocide. While the legacy of the ICTR will no doubt include its jurisprudential contributions to the development of international criminal law and international humanitarian law, it remains important to also recall the efforts that the Tribunal continues to make to foster genocide education and remembrance through its outreach and capacity-building initiatives.

Throughout its existence, the ICTR has instituted training programmes, professional workshops, visiting professionals programmes and partnerships with institutions of higher learning across the globe. The Tribunal created the Umusanzu Information and Documentation Centre in Kigali and a capacity-building task force. It also instituted programmes aimed at sharing lessons learned with respect to the administration of a court adjudicating international crimes and with respect to running an international court in general. The Office of the Prosecutor created a manual of best practices on the tracking and arrest of fugitives from international criminal justice and recently finalized a best-practices manual on the investigation and prosecution of sexual and gender-based violence. Those capacity-building initiatives represent some of the concrete measures that the Tribunal has taken to help to restore peace and reconciliation in the region and ensure that present and future generations are provided with the necessary tools to continue the fight against impunity long after the Tribunal closes its doors.

It remains my distinct honour to address the Council once more on behalf of the Tribunal. I wish to express our gratitude for the support members' Governments have shown over the past 19 years. I truly believe that, with continued assistance from Member States, the Tribunal will close its doors with its mandate completed and its legacy secured.

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

I now give the floor to Mr. Brammertz.

**Mr. Brammertz**: I would like to thank the Council for this opportunity to address it on our progress towards the completion of our mandate.

In this reporting period, we have advanced significantly towards the conclusion of our remaining three trials. In the *Karadžić* case the defence is in the final phase of presenting its evidence. In the *Hadžić* case the Prosecution has finished presenting its evidence and is preparing for the rule 98 bis hearing later this month. And in the *Mladić* case the Prosecution is in the final stages of presenting its evidence and expects to finish by the end of the year. That means that, by early 2014, the Prosecution will have finished presenting its evidence-in-chief in all trials before the Tribunal. I acknowledge the tremendous effort of staff members across my Office, which has facilitated the expeditious presentation of evidence in our final cases. The trial teams, with essential support from the Appeals Division, have coped with a staggering workload and successfully confronted many challenges throughout the reporting period.

Contrasting with this positive progress, the *Šešelj* case suffered a serious setback. The delivery of the trial judgement, scheduled for 13 October 2013, was postponed following the disqualification of a judge from the *Šešelj* Trial Chamber. Concerns raised by the Prosecution and by members of the *Šešelj* Trial Chamber regarding the validity of the disqualification decision were dismissed. A new judge was appointed on 31 October, and the parties await the Trial Chamber's further directions about the finalization of the case.

The Tribunal is now 20 years old. But events during this reporting period remind us that many people in the former Yugoslavia are still waiting for answers about the fate of their loved ones. In particular, since September this year, the International Commission on Missing Persons, along with national authorities, has been exhuming the recently discovered Tomašica mass

grave in north-western Bosnia and Herzegovina. It is one of the largest graves uncovered, with more than 474 bodily remains so far exhumed. That number is expected to rise before work on the grave is complete. The size of the grave and the calculated planning that obviously informed its design, underscore the extent of the tragedy in Bosnia and Herzegovina.

The Tomašica grave is also a timely reminder that efforts to resolve the issue of persons still missing from the conflicts in the former Yugoslavia must be accelerated. In that regard, I express my full support for the International Commission on Missing Persons, which is working hard to provide families of the missing with long-awaited and desperately needed information, thereby helping to advance the reconstruction of communities. We endorse the idea of establishing the Commission as a permanent institution so that its expertise can also be made more systematically available in other regions of the world where work is needed on missing persons.

When it comes to cooperation between the Tribunal and the countries of the former Yugoslavia on day-to-day matters, I am pleased to say there are no problems. Serbia, Croatia, and Bosnia and Herzegovina have responded as required to our requests for assistance and have facilitated our work on the remaining trials and appeals. We thank the national authorities for their cooperation, and we call upon them to maintain that positive approach in the next reporting period.

We remain seriously concerned, however, about the progress of national war crimes cases in Bosnia and Herzegovina. The main issues are threefold.

First, very little progress has been made towards finalizing 9 of the 13 category II cases transferred by my Office to Bosnia and Herzegovina between 2005 and 2009. In October this year, I met with the Chief Prosecutor in Sarajevo to review the outstanding case files. I received an undertaking that a decision would be made on the status of each case before the end of this year, and I await a further update.

Secondly, the national war crimes strategy is floundering. Measures taken to relieve the bottleneck of cases before the State Court have not yet been matched with essential resources for the entity-level courts receiving the cases. Nor is there currently an effective strategy for training national personnel for war crimes cases. As set out in an expert report prepared on behalf of my Office, a comprehensive

national training programme, implemented by officially designated central bodies, is urgently required. My Office appreciates the support of our international partners, particularly the Organization for Security and Cooperation in Europe, the European Union and the United Nations Development Programme, in working to improve the coordination and quality of training for war crimes cases in Bosnia and Herzegovina. We hope there will be visible progress in the next reporting period.

Thirdly, the implementation of the European Court of Human Rights' decision in the *Maktouf and Damjanović* case by the judicial system in Bosnia and Herzegovina has raised a number of issues. Among them is the unconditional release from custody of 12 persons convicted by the State Court of serious crimes — including, in some cases, genocide — pending correction of their sentences. The release of those prisoners poses a threat to the proper conclusion of the cases and undermines public confidence in the administration of justice. The significance of the issue is reinforced by the fact that up to 40 additional convicted persons have appealed their verdicts and sentences before the Constitutional Court of Bosnia and Herzegovina. We encourage all concerned to urgently find coherent ways of addressing the fairness issues identified in the *Maktouf and Damjanović* ruling, while at the same time safeguarding the proper administration of justice in war crimes cases.

When it comes to regional cooperation between Croatia, Serbia, and Bosnia and Herzegovina on war crimes issues, the picture is mixed. We are pleased to note that following the recent conclusion of cooperation protocols, regular meetings are taking place and information on cases is being exchanged. However, further reforms are still needed to resolve ongoing coordination problems, especially the legal barriers that remain to extradition.

When we survey developments in the field of international criminal law over the past few years, it is clear that the future of international justice is, increasingly, national justice.

While international courts will always be needed to provide an accountability safety net, building the capacity of national systems to effectively handle crimes under international law is the lynchpin of the justice system. In that respect, the former Yugoslavia provides an important precedent. There are lessons to learn from the different models and structures adopted

by the countries of the former Yugoslavia, which have assumed responsibility for war crimes cases. There are also lessons to learn from the process by which the Tribunal has transferred expertise and helped to build capacity nationally. That is an ongoing process. Within the limits of our resource constraints, my Office remains engaged in several innovative capacity-building projects.

Twenty years after the Tribunal opened its doors we are yet to fully deliver on our promise of justice for victims and survivors of atrocities in the former Yugoslavia. Their expectations are high — and rightly so. In coming forward to testify in proceedings before our Tribunal and elsewhere, many have confronted deep-seated fears and trauma. Without their courage and commitment to the Tribunal's success, we would have achieved very little. At the same time, we are conscious that recent developments have seriously strained the Tribunal's relationship of trust with victims and survivors. My Office reiterates its commitment to using the last phase of our work to address those concerns.

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

I now give the floor to Mr. Jallow.

**Mr. Jallow:** I thank the Council for the opportunity to once again brief the Council on the progress of the work of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda (ICTR) and of the Mechanism for International Criminal Tribunals.

At the ICTR the Office is currently fully engaged in the completion of its remaining activities in order to ensure a smooth, efficient and effective closure of the Tribunal and the handover of all residual matters to the Mechanism. Since my last report to the Council (see S/PV.6880), my Office has continued to work on the prosecution and completion of the appeals cases, the preparation of the records of the Office of the Prosecutor (OTP) of the ICTR for archiving and handover to the Mechanism, the completion of residual and closure issues, as well as providing support to the OTP of the Mechanism. We have also devoted considerable time and effort over this period to ensuring the establishment of the OTP Hague Branch of the Mechanism, which was launched on 1 July 2013.

The heavy appellate workload of the ICTR continues to require significant time and human resources. Since June 2013, the ICTR-OTP has responded to 8 appeals

filed by 8 different convicted persons in the *Butare*, *Nzabonimana* and *Nizeyimana* cases. It has also assisted the Mechanism-OTP in responding to the appeal in the *Ngirabatware* case. The cases are now pending hearing by the Appeals Chamber. Furthermore, the OTP has been actively preparing for the hearings in the *Karemura et al* case involving two convicted persons that the Appeals Chamber has scheduled for the week of 10 February 2014. In the meantime, we are awaiting judgement by the Appeals Chamber in the *Ndahimana* case for 16 December 2013 and in the *Military II* case involving four accused in February 2014.

A key milestone in the archiving project was achieved with the commissioning of the OTP archives store and its transfer to the Mechanism. The facility, I am advised, conforms to the required international standards of archiving and provides enhanced security of the records. The handing over of the OTP records to the Mechanism Registrar continues. It is expected that an additional 231 boxes in respect to three completed cases will be handed over at the end of this year. In the meantime, the Mechanism OTP will continue full access to the active records of the ICTR, which will also in due course be transferred to the Mechanism. That process will continue on an ongoing basis as and when related litigation is concluded.

As expected, the imminent closure of the ad hoc tribunals has generated broad interest within the international community on the potential for their practices and other aspects of their legacy to contribute to the capacity-building of national and other international tribunals in the investigation and prosecution of international crimes. That impetus has encouraged the ICTR OTP and the offices of the prosecutor of other tribunals to share their experiences with national and international stakeholders on best practices in the fight against impunity.

Meanwhile, work on the OTP's best-practice manuals continues. The Manual on the Investigation and Prosecution of Sexual Violence will be finalized and launched, after review, in Kampala in January 2014. That will follow the earlier launch of the Manual on the Tracking and Arrest of Fugitives, which was effected in September 2013.

I would now like turn to the activities of the Office of the Prosecutor of the Residual Mechanism.

This reporting period has involved much activity on the establishment of The Hague branch, the recruitment

of staff for core and ad hoc functions, the preparation of the budget for the 2014-2015 biennium, the setting up of systems and procedures to streamline operations and to ensure greater coordination between the Arusha OTP and The Hague branch, as well as the management of the ad hoc and core activities of the Mechanism OTP in general.

In May 2013, in preparation of the start of operations of The Hague branch, I participated in the annual regional conference of chief prosecutors in the former Yugoslavia in Brijuni, Croatia, together with the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia (ICTY). I am pleased to report to the Council, that the recruitment of core staff for The Hague branch, which was launched on 1 July 2013, is almost complete. I am hopeful that the remaining core staff will be in place by the end of this year. In addition, OTP staff in both the ICTR and the ICTY have been designated to double-hat to support the Mechanism OTP during their tenures at the respective Tribunals, as envisaged by the Security Council.

The creation of a roster of potential staff for recruitment in the event of an arrest and subsequent trial or appeal is also in progress. Tracking of the three fugitives, namely Félicien Kabuga, Protais Mpiranya and Augustin Bizimana, remains a top priority for the Mechanism. We continue to actively engage with all States with which the fugitives may have any connections. I plan early in the year to visit a number of countries in East, Central and Southern Africa in order to secure enhanced cooperation from them in the tracking effort of the Mechanism.

I would like to seize this opportunity to thank INTERPOL and the United States Department of State through its War Crimes Rewards Program for their continuing support in those tracking efforts. The Security Council should continue to call on all States to cooperate fully with the Mechanism in order to ensure that those indicted are brought to account. That will ensure that justice is done for the victims and survivors of this great tragedy and that there is a proper closure of this process of accountability, in which the United Nations and the rest of the international community have rightly devoted considerable effort and resources.

The Mechanism OTP, in conjunction with INTERPOL and the Office of Global Criminal Justice of the United States State Department, continues to lend support to Rwanda's tracking efforts with regard to the six fugitives cases that have been referred to Rwanda.



These are the cases of Charles Sikubwabo, Fulgence Kayishema, Ladislav Ntaganzwa, Aloys Ndimbati, Charles Ryandikayo and Phénéas Munyarugurama. Last month, in November 2013, I joined the Presidents and Registrars of the ICTR and of the Mechanism on the first joint ICTR-Mechanism principals' mission to Rwanda to meet and consult with senior Government officials and to brief them on the Mechanism, the ICTR's remaining workload, the ongoing transition of responsibilities from the ICTR to the Mechanism and the areas for potential cooperation between Rwanda and the Mechanism, particularly in the area of training and other capacity-building efforts.

In relation to the continuing activities of the Mechanism OTP, the Office has during this reporting period responded to a total of 80 requests for assistance from 17 countries and international organizations, out of a total of 112 requests for assistance for both the Arusha and The Hague branches. Responding to those requests has involved locating and reviewing relevant evidence, certification of documents, contacting witnesses, requesting variation of protective measures and seeking the consent of providers for disclosure of restricted material.

We continue to monitor the cases of *Munyeshyaka* and *Bucyibaruta*, which were transferred to France in 2007, together with those of *Uwinkindi* and *Munyagishari*, transferred to Rwanda in 2012 and 2013, respectively. Munyagishari Bernard was physically transferred to Rwanda on 24 July 2013, and his case is now at a pre-trial stage before the Rwandan courts. The commencement of the trial of Jean Uwinkindi has now been set for 22 January 2014 before the High Court in Rwanda. Both cases also continue to be observed by monitors appointed by the Prosecutor of the Mechanism.

Briefing on the *Augustin Ndirabatware* appeal — the only appeal currently before the Arusha branch of the Mechanism — was completed during this reporting period, and we anticipate that oral argument will take place in the first half of 2014. In addition, the Mechanism ad hoc appeals team responded to several motions filed in that case and in the *Niyitegeka* cases.

The Hague branch has also been active in the reporting period, responding to the appeal of Radovan Stanković against a decision of the ICTY Referral Bench and a motion for contempt filed against Radovan Karadžić.

Although established in two branches, at The Hague and in Arusha, we are committed to ensuring that the OTP operates as a single office. I believe this can be attained through regular periodic consultations and working visits between staff, the redeployment and use of human and other resources between the two branches in response to work demand and the harmonization, where possible, of working methods and prosecutorial regulations between the two branches.

The first of such high-level consultations, involving the senior legal officers in charge of the two branches and some senior staff with the Prosecutor, has just concluded in Arusha. The meeting provided us with the opportunity to consider and agree upon measures that, in our view, will enhance the efficiency of a single OTP of the Mechanism. In that respect and as a result of the meeting, I have last week promulgated a code of conduct for the staff of the Mechanism OTP, which regulates the professional conduct of such staff, as well as regulations for the management of foreign requests for assistance from the Mechanism.

The ICTR remains committed to and confident of a timely and efficient completion of its mandate, with the conclusion of the bulk of appeals anticipated in 2014 and the conclusion of legacy-related works by that time. The Mechanism, too, is now fully operational, with both branches largely staffed and attending very actively to both its continuing and ad hoc activities. The support of the management and staff of both the ICTR and the ICTY, the Secretariat of the United Nations and of Member States, as well as the very effective and dynamic leadership of Honourable Judge Theodor Meron — the first President of the Mechanism — have all combined to achieve the historic launch and functioning of a new international tribunal within a relatively short period. We are confident that with that continuing support, the Mechanism will, despite challenges in tracking of fugitives, among others, also come to realize and fulfil the mandate that has been set for it by the United Nations.

**The President** (*spoke in French*): I thank Mr. Jallow for his briefing.

I shall now give the floor to the members of the Council.

**Mr. Rosenthal** (Guatemala) (*spoke in Spanish*): I would like to begin my statement by thanking the the Presidents and the Prosecutors of the International Tribunal for the Former Yugoslavia (ICTY) and of the



International Criminal Tribunal for Rwanda (ICTR) for their reports (S/2013/678 and S/2013/663, respectively), as well as the President and the Prosecutor of the Residual Mechanism for their reports (S/2013/679). These reports, along with the extensive briefings today, reflect the tireless efforts of both Tribunals to comply with the objectives set out in the completion strategies. Nevertheless, beyond this judicial work, there is a central aspect in the mandates of the Tribunals that we should not in any way overlook: the promotion of peace and reconciliation.

This year, we are celebrating the twentieth anniversary of the establishment of the Tribunal for the Former Yugoslavia, and next year we will celebrate the twentieth anniversary of the Tribunal for Rwanda. We acknowledge their considerable achievements and progress in developing international jurisprudence, in delivering justice to victims, in apprehending fugitives and in trying those individuals who bear the greatest responsibility for serious human rights violations and violations of humanitarian law. Furthermore, both Tribunals have contributed to strengthening the national justice systems, working closely with local authorities.

The work of the Tribunals finds itself at a very crucial stage as they attempt to conclude effectively cases that are still underway while referring pending tasks to the Residual Mechanism. The Mechanism ensures that no gaps will remain in the fight against impunity, given the considerable number of ongoing functions that persist beyond the closure of a Tribunal. In that respect, we congratulate the President, the Prosecutor and Registrar of the Mechanism for the timely opening of The Hague branch in July of this year. We would like to highlight this historic occasion, when for the first time the three Tribunals are fully operational: the ICTY, the ICTR and the Residual Mechanism.

We welcome the signing on 26 November of the headquarters agreement between the United Nations and the Government of Tanzania for the Arusha branch. We also acknowledge the close cooperation between the ICTY and the personnel of The Hague branch in the few months it has been operational, especially given its double workload.

It has been a productive year for the ICTY, as shown by its various decisions, as well as the election by the General Assembly on 18 November of an additional judge (see A/68/PV.53).

With respect to the ICTR, we note that it continues its deliberations on important appeals while the transfer of functions is underway, in particular through the transfer of archives to the Mechanism. However, as the closure of the Tribunal nears, we are concerned by the human rights situation faced by those who have been acquitted or those who have served their sentence but are still waiting to be relocated. We firmly support the strategic plan prepared by the Tribunal for Rwanda to relocate those individuals. We also believe that we have an obligation to find the proper way to resolve that situation before the ICTR concludes its work. We call on all States to continue to actively address that matter.

We continue to be concerned by the reports of both Tribunals on the difficulties in retaining staff, which is one of the main obstacles to achieving the strategies objectives. That is why we must support the Tribunals both politically and financially. We will be closely following this issue in the Fifth Committee of the General Assembly.

Our mandate as Chair the Informal Working Group on International Tribunals is coming to an end. Next Monday, I will be presenting an oral report to the Security Council with an evaluation of our work and experience. At this moment, I would simply like to take advantage of the occasion to thank the principals of the Tribunals, the Office of Legal Affairs and the Security Council Affairs Division for all their support and contributions. Likewise, our sincere gratitude goes to each of the delegations for their collaboration and active participation over the past two years when we have had the privilege of chairing this Group. We very much appreciate this opportunity, which has allowed us to fully assume a leadership role in the discussions about peace and justice.

Lastly, we believe that the Tribunals have had an important role in consolidating the rule of law and in promoting reconciliation and long-term stability, not only in the Balkans and Rwanda, but in the entire world. Their jurisprudence has had far-reaching effects and has been a source of inspiration for all national and international jurisdictions, in particular for the establishment of the International Criminal Court. We hope that more measures can be taken to preserve their legacy and to facilitate the transfer of the knowledge and experience acquired to other jurisdictions.

**Mr. Masood Khan** (Pakistan): We thank Judge Meron, Judge Joensen, Prosecutor Brammertz and

Prosecutor Jallow for their comprehensive reports to the Security Council.

Pakistan commends and supports the important work of the two Tribunals to deliver justice and end impunity. The prevention of mass atrocities and genocide is a legal and moral responsibility of the international community. The provision of justice to victims of such crimes is important, not only for accountability but also for closure and healing. During their proceedings, the Tribunals have developed a comprehensive corpus of precedents in international criminal law. We welcome their contribution.

There has been progress in the completion strategies of the International Criminal Tribunal for Rwanda (ICTR) and the International Tribunal for the Former Yugoslavia (ICTY) during the period covered by the latest reports of the Presidents and Prosecutors of the two Tribunals (see S/2013/663 and S/2013/678, respectively). In the past six months, the Tribunals have continued to engage in trial and appeal proceedings, the drafting of judgements and the referral of cases to domestic jurisdictions. It is a matter of satisfaction that the ICTR has completed the substantive cases at the trial level for all 93 of the accused who were indicted by the Tribunal. The ICTY has also concluded proceedings against 136 out of the 161 individuals it indicted.

The transition from the ICTR to the International Residual Mechanism for Criminal Tribunals appears to be on track. The Tribunals continue to contribute to procedural and evidentiary international criminal law in a professional manner. They have taken several measures to improve the drafting of judgements, translation, outreach and the preservation of archives. The Tribunals' initiatives on assistance and support to victims, as well as legacy- and capacity-building projects, are steps in the right direction.

The Tribunals need to demonstrate continuing commitment to the timely conclusion of their proceedings. We hope that the Tribunals will make every effort to complete their judicial work as quickly as possible, while taking into account the fundamental rights of the accused and the appellants to due process, according to international standards.

In the process of winding down the work of the Tribunals, we recognize the challenges in the assignment of work to judges, staff management and the preparation of archives. The recruitment of workers and the retention of staff with institutional memory

of cases are a crucial part of the completion process. Adequate resources should therefore be provided to the Tribunals to fulfil their responsibilities in an optimal manner.

While there are no outstanding fugitives under the jurisdiction of ICTY following the arrest of Ratko Mladić and Goran Hadžić, there are individuals indicted by the ICTR who remain at large. We hope that with the cooperation and efforts of relevant Member States, the remaining fugitives will be held accountable. We support the efforts of the ICTR President and Registrar to find hosts for the relocation of individuals who have either been acquitted or have served their sentences. We call upon States that are in a position to do so to positively respond to the Tribunals' requests. The relocation of the acquitted and released persons to third States would give them an opportunity to restart their lives.

Over time, the decisions of the Tribunals have produced a body of jurisprudence that will influence the fight against impunity and shape the future of global criminal justice. It is therefore important to preserve the legacy of the Tribunals because of their rich contribution to the fields of international humanitarian law and legal doctrine. The Tribunals' contribution to jurisprudence and precedence in international law is important. We hope that the Tribunals will contribute to the process of reconciliation and lasting peace in the Balkans and the Great Lakes region.

**Mr. Menan** (Togo) (*spoke in French*): I would like to thank the Presidents of the International Tribunal for the Former Yugoslavia (ICTY), the International Residual Mechanism for Criminal Tribunals and the International Criminal Tribunal for Rwanda (ICTR), and the Prosecutors of the ICTY, the ICTR and the Residual Mechanism for their respective briefings on the activities of the two Tribunals and the Residual Mechanism, in accordance with the relevant Security Council resolutions.

The report of the International Criminal Tribunal for Rwanda (S/2013/460) and the report of the International Tribunal for the Former Yugoslavia (S/2013/463) indicate that both Tribunals are making progress towards the achievement of their mandate, albeit by modifying procedures, but nevertheless by upholding the fundamental principle of due process. We note that the ICTR has concluded all cases at the trial level and referred cases to Rwandan courts, is preparing to hand down a new appeals judgement before the end of the

year and is conducting pending appeal cases so as to finish the majority of them in 2014 and a final one in July 2015. The ICTY, for its part, seeks to uphold the time lines, in spite of being understaffed by appeals judges and the burden of new arrests.

Togo remains confident that the recent appointment of Judge Mandiaye Niang of Senegal and the appointment on 18 November as Permanent Judge of my fellow countryman Mr. Koffi Kumelio Afande, who will be sworn in on 12 December, will contribute to bolstering the number of judges and will help the Appeals Chamber in upholding timelines.

We regret the negative impact of the attrition of qualified staff on the Tribunals' completion strategy and on the transition to the Residual Mechanism. We hope that the relevant United Nations bodies will take the necessary measures to mitigate the impact of this state of affairs. Togo supports any measure, including the referral of cases to national courts, to ensure that the closure of the Tribunals is not seen as signalling impunity for those not yet arrested or prosecuted. Monitoring mechanisms must be set up to guarantee due process in those national jurisdictions.

Togo urges the various bodies of the two Tribunals to coordinate their efforts, in cooperation with States and international institutions, in order to facilitate the execution of their mandate. That is why we welcome the measures being implemented by the Office of the Prosecutor to strengthen national capacities in criminal prosecution as a fundamental element of national reconciliation in concerned countries. Togo also encourages the two Tribunals to pursue their efforts to meet the needs of victims and witnesses who find themselves in difficulty after having testified before the Tribunals, especially since many of those witnesses suffered losses and experienced suffering during the conflicts.

My country also deplores the problems that have arisen in relocating individuals who have been acquitted or served their sentence, but are still denied of their freedom for lack of a host country. Our Council should explore appropriate ways to support the strategy designed by the ICTY along those lines, which was considered with the Registrar of the ICTR during the interactive dialogue of the Informal Working Group on International Tribunals on 20 November. At that time, it was unanimously acknowledged the fact that those individuals continue to be deprived of their freedom constitutes a serious humanitarian issue.

Allow me, in passing, to warmly congratulate Ambassador Gert Rosenthal and his team on the effective and deft way in which Guatemala led the work of the Informal Working Group on International Tribunals during the past two years.

When acquitted individuals are not relocated, any inaction on the part of the Council affects the credibility of the United Nations in ensuring international justice in accordance with the rule of law or the primacy of law. The Security Council could invite the Secretary-General to submit a report on the role that is or could be played by United Nations entities and make recommendations to guide the Council.

Togo welcomes the substantive, multifaceted assistance provided by all the sections of the Registrar of the two Tribunals to the Residual Mechanism until the latter can fully carry out the administrative and judicial activities. The experience of the Arusha branch of the Residual Mechanism, which is carrying out the bulk of the judicial and prosecution functions, will be used to better organize the ongoing transfer of functions to The Hague branch, which was launched on 1 July.

With regard to the staff of the Residual Mechanism, we have two hopes — first, that greater geographical representation within the limits of the Mechanism's reduced staff will strengthen capacity in the represented regions, and secondly, that women's representation should go beyond the number of women recruited and lead to their being given positions of greater responsibility.

In conclusion, Togo would encourage both Tribunals to further increase awareness with regard to their legacy through various social networks, as well as academic and professional circles.

**Mr. DeLaurentis** (United States of America): I thank Presidents Meron and Joensen and Prosecutors Brammertz and Jallow for their reports and, even more, for their dedication to global public service. The world community is indebted to each one for their outstanding leadership in the area of international criminal justice.

I would also like to take this opportunity to thank Ambassador Gert Rosenthal, Permanent Representative of Guatemala, for his service as chair of the Informal Working Group on International Tribunals. Ambassador Rosenthal and his talented team have ably guided the Informal Working Group over the past two years as it confronted many important issues in the field of international justice and accountability. Through their

work, they have made tangible contributions to the fight against impunity.

The United States has strongly supported the work of the International Criminal Tribunals for the former Yugoslavia and Rwanda since their inception. As we all recall, the Tribunals were established in response to the horrors committed in the Balkans and in Rwanda in the early 1990s, when the slaughter of hundreds of thousands of innocent men, women and children led to a wave of international revulsion.

The Tribunals were founded on the firm conviction that those responsible for mass atrocities — no matter what their rank or official position — must be held accountable. Once the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) were up and running, they began delivering international justice on an unprecedented scale. To date, the two courts have tried more than 200 defendants accused of genocide, war crimes and crimes against humanity, including top political and military leaders. The Tribunals have operated on the principles of fairness, impartiality and independence, and in the process have built up a robust body of international humanitarian law.

While events in Syria, the Sudan and elsewhere have shown that the commission of mass atrocities continues to embody and urgent and profound challenge to the global community, the ICTY and ICTR provide a warning to leaders around the world that there are consequences for the choices they make, the actions they take and the orders they give.

With the historic work of the Tribunals now nearing completion, the United States commends the efforts of the Presidents and Prosecutors of both Tribunals to enact cost-saving, managerial and administrative measures and to transfer the remaining functions of the Tribunals to the International Residual Mechanism for Criminal Tribunals. At the same time, we recognize that the exact closure dates will depend on the completion of ongoing and soon-to-begin trials and appeals.

Turning specifically to the ICTY, we note, with satisfaction, that the Tribunal continues to focus on the completion of all trials and appeals, rendering 13 trial, appellate and contempt judgements between August 2012 and July 2013 — a larger number of judgements than in almost any previous reporting period. We are pleased that The Hague branch of the Mechanism began operating in July.

We particularly want to commend the work done by the ICTY to enhance the training of judges, prosecutors and defense counsel in States of the former Yugoslavia. That investment in human and institutional capacity will pay long-term dividends in peace and stability. We urge all Governments of the region to continue working towards reconciliation, to avoid statements that inflame tensions and to continue to bring more criminals to justice in local courts.

Regarding the ICTR, we are pleased that the Tribunal has wrapped up its workload of trials and continues to complete appeals, which we hope will be done by 2015. The Arusha branch of the Mechanism opened in 2012 and is operating smoothly. The United States urges all States Members of the United Nations, especially those of the region, to cooperate with the Tribunal in the apprehension of the nine remaining fugitives. Those alleged mass murderers must be brought to trial. The United States continues to offer monetary rewards for information leading to their arrest, whether those individuals are to be prosecuted in the Mechanism or in Rwandan courts. We also call on regional Governments to work with the Tribunal on the relocation of several persons who have either been acquitted by the ICTR or served their sentences, but whose return to Rwanda is problematic.

Looking back 20 years, it should be clear to all that the two Tribunals have made enormous historic contributions to international criminal law. Not only have they brought to justice perpetrators of some of the most heinous crimes known to humankind, they have also assembled records and archives that will be publicly accessible and that will protect the truth from those who might, in the future, attempt to deny or distort it. The Tribunals have fostered respect for the rule of law, developed capacity at the national level, and enhanced reconciliation and peace. They have also shown that no one, no matter how powerful, is beyond or above the reach of law. Those achievements have transformed international criminal justice in ways that will stand the tests of time and create a safer and more just world for generations to come.

**Mr. Bliss** (Australia): I thank Presidents Meron and Joensen and Prosecutors Brammertz and Jallow for their briefings today. I also thank you, Mr. President, for convening this important debate, which provides us with an opportunity to reflect on the contribution to peace and security made by international criminal justice in general, and more particularly on the work



of the International Tribunal for the Former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) and the International Residual Mechanism for Criminal Tribunals.

We welcome the progress made by the three bodies in relation to their respective mandates in the latest reporting period. Achievements include the successful launch of The Hague branch of the Residual Mechanism on 1 July, good progress in transferring the ICTR's archives to the Mechanism, the delivery of five judgements by the ICTY and the signing of a host-State agreement between the United Nations and the Government of Tanzania for the Arusha branch of the Mechanism. We also welcome the fact that the ICTY will shortly be returned to its full complement of judges.

As the reports before us and today's briefings make clear, the work of the ad hoc Tribunals is not yet done and will clearly extend beyond 2014. Key trials and appeals remain before the ICTY. The last appeal before the ICTR is still to be finalized. Victims and witnesses require ongoing protection. Fugitives from the ICTR must be found and apprehended. The ongoing support and cooperation of the international community is therefore essential to the successful completion of the work.

The Council must also play its role in addressing the challenges that remain before the ICTY and the ICTR. Specifically, Australia considers it necessary for the Informal Working Group on International Tribunals to give further consideration to how the Council can support the ICTR's efforts to relocate the 10 acquitted and released persons currently in Tanzania, some of whom, as we have heard, have been effectively confined to safe houses in Arusha for over 10 years.

In light of the impending closure of the ICTR, the time has come to elevate diplomatic and political efforts to identify a solution and we urge all Member States to enhance their cooperation with the ICTR on that critical matter. We also consider it imperative that the Council renew those mandates of ICTY judges that will shortly expire, in accordance with the request made by President Meron, in order to ensure that the ICTY's remaining cases can be concluded as efficiently as possible.

Much has been said about the achievements of the ad hoc Tribunals and the legacy that the Residual Mechanism has been established to preserve. It is no

overstatement to say that the work of the ICTY and the ICTR has been ground-breaking. Most obviously, the Tribunals have played a major role in the development of our understanding of genocide, crimes against humanity and war crimes. But beyond that, the Tribunals have won the cooperation of States that is necessary to conduct investigations, obtain evidence, and arrest and transfer indictees to Arusha and The Hague. They have developed rules of procedure and evidence, constructed legal aid systems, and found solutions for how and where their sentences could be enforced. And they have developed the means to protect victims and witnesses in order to encourage them to let their voices be heard.

The Tribunals have also shared both evidence and experience with national courts. In doing so, they have helped to foster the type of national accountability processes that are essential to truly ending impunity, and in that way have made a major contribution to strengthening the rule of law. It is crucial that the experience of the Tribunals be shared and their legacy promoted. To that end, Australia is pleased to be supporting the ICTR's international workshop on sexual and gender-based violence, to be held, as we heard earlier, in Kampala in January 2014. The workshop is aimed at sharing international best practices in the investigation and prosecution of sexual violence.

Twenty years ago, the Security Council breathed life into the international community's wish that those alleged to be responsible for serious international crimes be held to account. The Council's power to refer situations to the International Criminal Court underscores the fact that it remains a key player in accountability matters. As the work of the ad hoc Tribunals winds down, it is more important than ever that the Council fulfil its responsibilities regarding ending impunity, including by providing ongoing political and diplomatic support to the International Criminal Court. Otherwise we will be failing to live up to the vision that the Council established 20 years ago.

Finally, we wish to recognize and thank Guatemala, Ambassador Rosenthal and his entire team for their outstanding leadership of the Informal Working Group on International Tribunals over the past two years.

**Ms. Lucas** (Luxembourg) (*spoke in French*): I would first like to reaffirm Luxembourg's full support for the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). Their work shows that international criminal justice can prevail and that



sooner or later the perpetrators of the most serious kinds of crimes must be held accountable. I thank Presidents Meron and Joensen and Prosecutors Brammertz and Jallow for their comprehensive briefings and reports. As the end of his term approaches, I would like to pay tribute to Ambassador Rosenthal of Guatemala and his team for the effectiveness and commitment with which they have chaired the Informal Working Group on International Tribunals.

The ICTY laid the foundations for what is now an internationally recognized principle for promoting conflict resolution and reconciliation in regions ravaged by war — that those suspected of responsibility for the most serious kinds of crimes of concern to the international community as a whole must be brought to justice. The ICTY has played an essential role in strengthening the rule of law and promoting stability and long-term reconciliation in the Western Balkans, but its contribution goes beyond that. Its jurisprudence has contributed to the development of international criminal law in areas such as individual criminal responsibility and crimes of sexual violence. It has given a voice to the victims, especially women and children.

We thank the President of the ICTY for the report he has just given us on the Tribunal's future jurisdictional activities, as well as on the reasons that led to the revised trial schedule. It is crucial that the Council be kept fully informed of relevant developments so that it can quickly help overcome difficulties and monitor the Tribunal's completion strategy. The ICTY is currently dealing with highly complex cases — which explains the slippage in the schedule — particularly those of *Šešelj*, *Karadžić*, *Hadžić* and *Mladić*. We also understand that the problems related to staff retention have an effect on the ICTY's ability to prosecute certain trials according to the original timetable.

Of course, we hope the Tribunal completes its work as quickly as possible, but nothing should undermine its ability to deliver justice in such serious cases. So while the Court is faced with a heavy workload, we welcome the fact that the election of the sixteenth judge of the Appeals Chamber was finally able to take place on 18 November (see A/68/PV.53). We support the requested extension of the judges' mandates. We encourage the ICTY to take all necessary measures to keep the delays to a minimum. The timely completion of all trials is essential to achieving a smooth transition to the International Residual Mechanism for Criminal

Tribunals. In that regard, we welcome the start of the Hague Branch of the Mechanism's operations on 1 July.

Like the ICTY, the International Criminal Tribunal for Rwanda has made a significant contribution to our common goal of ending impunity for the crime of genocide. We welcome the ICTR's ongoing transition to the Residual Mechanism and the fact that the transfer of judicial functions will soon be completed. We also welcome the fact that on 17 July the last remaining case was transferred to Rwandan jurisdiction, thus concluding an important element of the ICTR's completion strategy.

However, as has already been mentioned, nine fugitives continue to evade justice. The Office of the Prosecutor of the Arusha Branch of the Residual Mechanism is rightly focusing its efforts on the search for three high-level fugitives, Messrs. Kabuga, Mpiranya and Bizimana. Catching the fugitives is an urgent priority if justice is to be done. We therefore urge all Member States to intensify their cooperation with the Tribunal and provide all the assistance necessary to arrest all the fugitives and bring them to justice.

We also call for a solution to finally be found so that the five persons acquitted by the Tribunal and still living in safe houses in Arusha under the Tribunal's protection can be relocated. With the date for the closing of the Tribunal approaching, we encourage Member States to help the ICTR implement the strategic plan it has developed for relocating these persons.

With both Tribunals on track to complete their work, the responsibility of States in the region for the fight against impunity is growing, based on the principle of complementarity. In both the Western Balkans and the Great Lakes region it is essential to combat impunity in order to promote national reconciliation, strengthen regional cooperation and enable citizens to face the future with confidence. In that context, we emphasize the importance of strengthening national capacities and raising public awareness, and of continuing efforts in those areas.

The mass atrocities committed in recent decades have shown that it is imperative to create a permanent court to end impunity for the most serious crimes of international concern. The two ad hoc Tribunals have played a crucial role and paved the way for the creation of the International Criminal Court, with permanent jurisdiction and universal authority.

In conclusion, I would like to reaffirm Luxembourg's commitment to supporting every effort aimed at building on the legacy of the ICTY and ICTR at the national, regional and international levels, including through enhanced cooperation between the Security Council and the International Criminal Court.

**Mrs. Perceval** (Argentina) (*spoke in Spanish*): I am grateful today for the presence in the Council of Presidents Meron and Joensen and of Prosecutors Jallow and Brammertz, and to thank Judge Meron in his capacity as President of the International Residual Mechanism for Criminal Tribunals.

I would also like to take this opportunity to acknowledge the expertise of Guatemala and to thank Ambassador Rosenthal for his leadership of the Informal Working Group on International Tribunals. Sometimes, when we talk about the ethics of responsibility and belief we keep them separate, but I believe that in Ambassador Rosenthal's leadership the ethics of responsibility and belief are all perfectly in line.

After two decades of activity, the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), as has been said, are in their final stages, whereby, according to the completion strategies laid down by the Council, they are to complete their judicial work according to the established timetables and to transfer their cases and archives to the Residual Mechanism. Argentina would like to recognize the progress reported by the ICTY and ICTR. We believe that June was the most recent occasion on which we considered the reports on the progress achieved by the Tribunals (see S/PV.6977).

As for the Tribunal for the Former Yugoslavia, we note that, 20 years after its creation, it has completed 136 prosecutions out of the 161 individuals accused and that the Court has no fugitives under indictment. The Tribunal has made progress in the completion of cases, but we must also take into account the significant challenges that it is facing owing to the loss of skilled personnel at this stage prior to the final completion of the Tribunal's duties. The Security Council should, as part of its responsibility, reconsider the measures already requested by the Tribunal, and then the General Assembly should consider them in the Fifth Committee. For example, the Tribunal requested the creation of a task force at the United Nations to provide opportunities for absorbing ICTY staff and the granting of a special

payment to keep staff from pre-emptively abandoning their duties in the expectation that their posts will be eliminated.

Argentina supported the establishment by the Council of an expedited mechanism for the election of an additional permanent judge, as requested by President Meron. I would like to take this opportunity to congratulate Judge Koffi Kumelio Afande on his election by the General Assembly to those functions.

I also wish to highlight the fact that Argentina supports the extension of the mandate of the ICTY judges requested by President Meron. We believe that, while resolution 1966 (2010) set ideal dates for the transfer of functions to the International Residual Mechanism for Criminal Tribunals, the judicial function may, like life itself, present challenges resulting from the complexity of the cases and the transitional phase that we are in.

We appreciate the report of the ICTR regarding compliance with the deadlines and projections made for cases in the trial and appeal stages, and the fact that the transition to the Residual Mechanism continues in line with those projections, including the delivery to the Mechanism of judicial and administrative archives by the end of 2014.

Other colleagues have mentioned the issue of the capture of the fugitives, and we agree that that is a priority. The fact that nine of those indicted by the ICTR are still fugitives is not good news. The Mechanism is ready to begin proceedings, once those under its jurisdiction are arrested, and that is also a priority. But that requires cooperation on the part of all States, in accordance with the obligations under resolution 955 (1994).

I would like to highlight the progress achieved in the area of training and cooperation with States and the creation of the Umusanzu Information and Documentation Centre in Kigali, together with other valuable contributions by the Office of the Prosecutor. The recent drafting of a manual of best practices for prosecuting and investigating cases of sexual and gender-based violence also deserves our commendation.

With respect to the Residual Mechanism, Argentina recognizes the progress made towards its full operation, and the fact that both the Arusha and The Hague branches are fully operational. The Tribunals represent a substantial contribution to that noble objective of living a life that is fully human.

I should like to make an unrelated announcement. We have just received the painful news of the passing of Nelson Mandela. Nelson Mandela was a man who gave hope to the entire world in his fight for human rights. It seems that nothing happens by chance in the history of humankind. I would like to recall that today, at this moment, mothers, grandmothers and daughters of the Plaza de Mayo are marching around the obelisk for the thirty-third time, with the slogan “30 years of democracy, 30 years of dictatorship, 33 years of resistance”. Entire peoples, good men and women — men like Mandela — resisted and taught us to resist fear, to resist impunity and to resist forgetfulness.

**The President** (*spoke in French*): Members will now stand and observe a minute of silence.

*The members of the Security Council observed a minute of silence.*

**The President** (*spoke in French*): On behalf of the Council, I think we can all agree on the extent to which we share the sentiment expressed by Ambassador Perceval and her sadness at this news. In a certain way, our meeting is about the values that Nelson Mandela defended, which are the values of justice and reconciliation, which go hand in hand.

**Mr. McKell** (United Kingdom): I, too, would like to thank President Meron, President Joensen, Prosecutor Brammertz and Prosecutor Jallow for the reports and for their briefings today.

The United Kingdom continues to be a strong supporter of the International Criminal Tribunal for the Former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) and the International Residual Mechanism for Criminal Tribunals. We believe that the ICTY has played a key role in tackling impunity and delivering justice to the countless victims of the conflicts in the former Yugoslavia. We thank and commend the Tribunal for all of its work over the past 20 years. We are pleased to see that Serbia, Croatia and Bosnia are continuing to cooperate with the ICTY. State cooperation is, in our view, absolutely essential for the ICTY to be able to complete its mandate.

We note from the Prosecutor’s report (S/2013/678, annex II) that the capacity of domestic institutions to conduct effective war crimes prosecutions remains a concern, especially in Bosnia. We share the Prosecutor’s concerns about the limited progress on the category II cases that were transferred to the Bosnian authorities between 2005 and 2009. We consider that

the report’s suggestion, namely, that local authorities consider adopting a comprehensive war crimes training curriculum, is a good one. We encourage all parties to consider that suggestion positively and to explore ways to improve the capacity of domestic institutions. The timely completion of all ICTY trials and appeals is important. We urge the ICTY to take all necessary steps to minimize any further delays in its proceedings.

On the ICTR, we remain pleased that it has completed all of its trial work, and we note the progress made on the appeals. It is welcome news that the transition to the International Residual Mechanism for Criminal Tribunals is going well. Apprehending the remaining nine fugitives continues to be a cause for concern. It is important that all of the individuals indicted by the ICTR be captured and brought to justice. We encourage all Member States to provide the ICTR with their full and unequivocal support, so as to ensure that all of those fugitives are apprehended as soon as possible.

Once again, we note with regret that the problem of relocating individuals who remain in Arusha following their acquittal or the completion of their sentences has still not been resolved. The United Kingdom shares the ICTR’s view that enabling persons who have been acquitted by an international tribunal to resume their lives is a fundamental expression of the rule of law. We commend the ICTR for its continued efforts and we encourage all parties to work together to try to find an acceptable solution to the problem as quickly as possible.

We also regret to see that staff retention continues to be an issue for both Tribunals. We acknowledge the difficulties that staff shortages and the loss of experienced members of staff can have on each Tribunal’s ability to carry out its work. We thank the Tribunals for their efforts to minimize the impact of staff attrition on their work and we encourage them to continue those efforts and continue to prioritize their resources as rigorously as possible.

Last but not least, we would also like to take this opportunity to thank the delegation of Guatemala for its outstanding contribution on international justice issues through its role as Chair of the Informal Working Group on International Tribunals over the last two years.

**Mr. Musayev** (Azerbaijan): At the outset, I would like to thank the Presidents and Prosecutors of the International Tribunal for the Former Yugoslavia

(ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their reports (see S/2013/463 and S/2013/460, respectively) and comprehensive briefings. I would also like to commend the work of the Informal Working Group on International Tribunals, under the highly professional leadership of Ambassador Rosenthal of Guatemala and his entire team, and of the United Nations Office of Legal Affairs in assisting the Tribunals and the International Residual Mechanism for Criminal Tribunals in their activities.

We welcome the efforts and commitment of both Tribunals towards completing the outstanding proceedings within the established time frame and the progress made in the transition of the Tribunals' functions to the Residual Mechanism. We note that the ICTY has concluded proceedings against 136 out of 161 indicted individuals and that four individuals are on trial and 21 others are in appeals proceedings. However, the trials and appeals continue to be affected by a number of factors. We take note of the clarifications provided in that regard by the President of the ICTY in his written report and in today's briefing given to the Council.

With regard to the loss of the highly experienced staff members, we commend the measures taken by the Tribunal, including those aimed at improving job security, conditions of work and providing a range of training and career development opportunities. The recent election by the General Assembly of Mr. Koffi Afande (see A/68/PV.53) and the appointment by the Secretary-General of Mr. Mandiaye Niang as Permanent Judge of the ICTR will definitely aid efforts to complete remaining work expeditiously.

The ICTR has completed its work with respect to substantive cases at the trial level for all 93 accused indicted by the Tribunal, leaving only the appeals cases to be completed. It is anticipated that all but one of the remaining appeals will be completed in 2013 and 2014. At the same time, as we have been informed by the President of the Tribunal, the ICTR continues to face serious difficulties in relocating individuals who were either acquitted or released after completion of their sentences and who still remain in safe houses in Arusha under the Tribunal's protection. We take note of the Tribunal's efforts in that regard and look forward to that issue being resolved as soon as possible.

Consistent with resolution 1966 (2010) and its mandate, the Residual Mechanism has now commenced its work in both Arusha and The Hague. We commend

the Mechanism for its efforts to maintain and build upon the achievements of the Tribunals and for its commitment to staying focused on its mandate and running as a small and efficient organization. The cooperation of States and their continued support remain a critical pillar of the work of the Tribunals and the Residual Mechanism. It is important that States remain committed to meeting their relevant obligations in that regard.

The international community, including the Security Council, should spare no effort in providing the Tribunals with the necessary support to achieve completion of their mandates and in preserving their legacy. The activity and jurisprudence of both Tribunals have helped to develop international law, fight impunity and deliver justice. The practice of the Tribunals can obviously benefit national efforts to pursue post-conflict justice, especially in those situations where the prevailing culture of impunity for serious crimes represents a considerable obstacle to peace and reconciliation. It is essential to recall once again the importance above all of human rights doctrine, which is based on the need to respect human dignity and consequently punish all those who seriously attack that dignity.

**Mr. Nduhungirehe** (Rwanda) (*spoke in French*): I would like to begin by thanking Judge Theodor Meron, President of the International Tribunal for the Former Yugoslavia (ICTY) and President of the International Residual Mechanism for Criminal Tribunals, Judge Vagn Joensen, President of the International Criminal Tribunal for Rwanda (ICTR), and the Prosecutors, Serge Brammertz of the ICTY and Hassan Bubacar Jallow of the ICTR for their reports on the completion strategies of their respective Tribunals. I would also like to warmly congratulate Mr. Koffi Afande of Togo for his outstanding election as Judge of the ICTY and Mr. Mandiaye Niang of Senegal for his appointment as a Judge of the ICTR. I remain convinced that those two judges will contribute to the swift conclusion of the remaining proceedings in the two Tribunals.

While progress in the two International Criminal Tribunals is not symmetrical, the work of each is progressively drawing to a close. However, my delegation is concerned about the challenges encountered by the two Tribunals, including attrition of staff who naturally want to secure the next part of their careers. I call on the General Assembly to cooperate more closely with the two Tribunals to take measures to combat staff attrition



on the basis of the reasonable proposals formulated by the ICTR and ICTY.

Rwanda welcomes the fact that the cases at the trial level have concluded in the ICTR. However, the delays in the appeals proceedings are a cause for concern, in particular in the *Nyiramasuhuko et al. ("Butare")* case, for which delivery of the appeal judgement is projected in July 2015 at the earliest. We know that there are challenges relating to the staff and new requests from parties, but we nevertheless feel that other reasons put forward by the ICTR, such as translation of documents, could have been planned for. We would therefore call on the Tribunal to do all it can to speed up the appeals proceedings so as to guarantee that all cases conclude before the expiration of its mandate on 31 December 2014.

Regarding the cases transferred to national jurisdiction under rule 11 bis of the rules of procedure and evidence of the Tribunal, the results are very mixed. While Jean Uwinkindi and Bernard Munyagishari, who were transferred to Rwanda in April 2012 and July 2013 respectively, have appeared before the judges under the monitoring of Tribunal monitors, the procedures for Mr. Laurent Bucyibaruta and Wenceslas Munyeshyaka, transferred to France in November 2007, have practically stopped. It is totally incomprehensible that so many years after their transfer there is no end in sight for the two indictees. We also regret that despite our repeated calls the report of the ICTR under consideration provides no detail regarding progress on the cases in France.

We would once again regard that rule 11 bis allows the Tribunals to rescind transfer orders to national jurisdictions at any time. In that regard, if those French proceedings remain in the current deadlock, the ICTR should envisage transferring the *Laurent Bucyibaruta* and *Wenceslas Munyeshyaka* cases to Rwanda.

Rwanda is pleased to note that there are no longer any fugitives from the ICTY. However, that is far from being the case for the ICTR, from which nine fugitives remain at large. We reiterate our support for the continuous calls from the Prosecutor, Mr. Hassan Bubacar Jallow, and from the Council urging the countries concerned to cooperate with the Office of the Prosecutor in tracking and arresting the remaining fugitives, including Félicien Kabuga, Protais Mpiranya and Augustin Bizimana, who were among those who planned the genocide perpetrated against the Tutsi in Rwanda.

Similarly, we call on the Democratic Republic of the Congo and the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo to redouble their efforts to arrest the genocidal members of the Forces démocratiques de libération du Rwanda (FDLR), a group that was recently described by the Security Council as a subject to United Nations sanctions and whose leaders and members include perpetrators of the 1994 genocide in Rwanda, who continue to promote and commit ethnic killings and other massacres in Rwanda and the Democratic Republic of the Congo.

In that regard, we reiterate our gratitude to Germany for having begun trials against the leaders of the FDLR, and we take this opportunity to call on other countries of the European Union that are harbouring perpetrators of the Rwandan genocide, including FDLR leaders, to do likewise. We profoundly regret that the justice systems in certain of those States, instead of bringing justice to the victims of the genocide, for which they have been waiting for 20 years, have preferred to issue arrest warrants against those who arrested them, thereby flagrantly abusing the principle of universal jurisdiction. We urge those States to return to reason, bring justice to the victims of genocide and abstain from using justice for political purposes.

Rwanda welcomes the awareness-raising activities of the Tribunal, in particular those of Umusanzu Information and Documentation Centre in Kigali and the 10 additional provincial information centres. Those centres are indispensable tools that allow the Rwandan justice system, students, researchers and individuals to have access to the jurisprudence and other documents of the ICTR. Rwanda believes that that fruitful initiative should be a first step towards the transfer of the ICTR archives to Rwanda at the end of the Mechanism's mandate. Those archives are an integral part of the history and heritage of Rwanda. They are crucial for the preservation of memory and for the education of future generations. We remain fully committed to continuing consultations with all interested parties with a view to ensuring that that request, which we have repeated many times before the Council, will be met with concrete action.

I could not conclude my statement without paying enthusiastic tribute to Ambassador Gert Rosenthal of Guatemala, Chair of the Informal Working Group on International Tribunals, for his devotion over the past several years to the fight against impunity and to



international criminal justice, in particular through the ad hoc Tribunals for Rwanda and the former Yugoslavia.

As we approach the twentieth anniversary of the genocide carried out against the Tutsi in Rwanda, I must also pay tribute to Nelson Mandela for his life devoted to justice and reconciliation.

**Mr. Laassel** (Morocco) (*spoke in French*): At the outset, I must convey the condolences of the Kingdom of Morocco to South Africa and the entire African continent upon the loss of the giant of Africa, Nelson Mandela.

I wish to thank the Presidents of the International Tribunal for the Former Yugoslavia (ICTY), Judge Theodor Meron, and of the International Criminal Tribunal for Rwanda (ICTR), Judge Vagn Joensen, and Prosecutors Brammertz and Jallow, for their reports and presentations on the activities of the Tribunals.

We noted with satisfaction the efforts deployed by the two Tribunals during the reporting period to implement the completion strategy for their work and to achieve a smooth transition to the International Residual Mechanism, while ensuring trials that respect the fundamental principles of equity and due process.

The ICTR has taken an important step in the process of transition to the Mechanism by concluding trial division cases with regard to all of the individuals before it and ensuring referrals to the Mechanism, while the six remaining cases, in accordance with resolution 1966 (2010), come under Rwandan jurisdiction.

We welcome the spirit of cooperation and coordination that has characterized the relations between the Tribunals, which are closing, and the Mechanism, which is being assisted in administrative matters by the Tribunals and which will continue to track fugitives, mount prosecutions and take on most of the judicial functions.

The President of the Tribunal, as a permanent judge of the Arusha Branch of the Mechanism, is now focusing his attention on contempt allegations; he also regularly meets with the Tribunal's archive groups and chairs meetings of the Joint Coordination Council of the Tribunal and the Mechanism.

For its part, the Office of the Prosecutor is working to complete appeal cases, monitor cases transferred to national jurisdictions and take transitional measures to ensure a smooth transfer of functions to the Office of

the Prosecutor of the Arusha Branch of the Mechanism and the effective final closure of the Tribunal at the end of its mandate.

In addition, the transitional activities have already addressed the monitoring of the enforcement of sentences by the President of the Mechanism and the designation, on 17 September, of two facilities for the transfer of the temporary Tribunal archives to the Mechanism, which has now begun.

Nevertheless, the transition process is not without its difficulties, such as the preparation of archives to be transferred to the Mechanism and issues of staff compensation, which have given rise to delays.

With respect to the ICTY, I would like to take this opportunity to reiterate my congratulations to Togo on the election of Koffi Kumelio Afande on 18 November by the General Assembly as a judge of the ICTY. We support the extension of the judges' mandates as requested by President Meron.

Since its inception, the ICTY has made efforts to complete its mandate. It was able to judge 136 out of a total of 161 accused in the trial division and 21 appeals during the reporting period. There are no outstanding fugitives, since Ratko Mladić and Goran Hadžić were arrested in 2011. However, as indicated in the report, there are still some remaining difficulties to be overcome. The ICTY will not be able to deliver judgements on the two accused whom I just mentioned before 31 December 2014, as stipulated in resolution 1966 (2010), owing to the fact that their arrests were so recent. Moreover, on the other cases, decisions may not be handed down until June 2017, owing to the appeals docket. The Appeals Chamber of the Tribunal will therefore function in parallel with that of the Mechanism after 31 December 2014.

Furthermore, practical solutions must be considered for facilitating the resettlement and rehabilitation of persons who have been acquitted or who have completed their sentences.

We welcome the outreach programme, which seeks to disseminate factual information regarding the Tribunal to the communities of the former Yugoslavia, targeting in particular young people in high schools and universities in Bosnia and Herzegovina, Croatia and Serbia. The documentaries transmitted by 12 local television stations in Bosnia and Herzegovina on the judicial activities in the former Yugoslavia and post-

conflict reconstruction, as well as cultural events, are extremely important when it comes to promoting reconciliation.

While everyone recognizes the important role played by witnesses in testifying to their experiences, those people face great difficulties, especially those who suffered atrocities. They therefore require multifaceted support, including psychological support.

We are pleased to note the efforts made by the Tribunal to implement the completion strategy and the transition to the Mechanism. We welcome the transfer of the archival and records management functions from the Tribunal to the Mechanism on 1 July 2012; local cooperation between the Tribunal and The Hague Branch of the Mechanism, in accordance with provisions of resolution 1966 (2010), during their period of coexistence; and the support provided by the Legal Affairs Section of the Tribunal in negotiations on a headquarters agreement with the host country.

Lastly, it should be underscored that only through continued dialogue between the Tribunals and the other bodies of the United Nations will it be possible to overcome the difficulties that they face.

I cannot conclude my statement without paying tribute to the Ambassador of Guatemala and his team for their praiseworthy efforts and professionalism in leading the Informal Working Group on International Tribunals.

**Mr. Li Zhenhua** (China) (*spoke in Chinese*): I would first like to thank the Presidents and the Prosecutors of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY) for their briefings and their respective detailed reports on the implementation of the completion strategies of the ICTY and the ICTR and the International Residual Mechanism for Criminal Tribunals. With regard to the work of both Tribunals and their residual mechanisms over the past six months, I would like to say the following.

First, we are pleased that progress has been made in the work of both Tribunals. During the reporting period, the ICTY rendered five judgements. The ICTR delivered an appeal judgement on the transfer of cases to Rwanda. Both Tribunals have taken steps to advance their completion strategies. The majority of the ICTR judicial and appeal functions have been transferred to the Rwanda branch of the Residual Mechanism. The

ICTY branch of the Residual Mechanism commenced operations as of 1 July. We acknowledge those developments with appreciation.

Secondly, we note that despite the progress in the work of both Tribunals, there are still undue delays in their proceedings. Individual cases have been postponed for as long as six months owing to translation issues. That is not in keeping with the spirit of the completion strategy. China is of the view that the relevant resolutions should be fully implemented. We urge both Tribunals to take more rigorous steps to accelerate their work, while ensuring the quality of their proceedings to ensure the completion of their work within the established time frame.

Thirdly, we acknowledge the transfer of cases by both Tribunals to the relevant national courts. We hope that both Tribunals and their residual mechanisms will follow up on domestic judicial proceedings, provide the necessary assistance and update the Security Council regularly on the progress made.

Fourthly, we also note the difficulties and challenges that both Tribunals continue to face in their work, such as the resettlement of acquitted persons and those who have been served their sentences and have been released. It is against the spirit of fair justice to ignore the fundamental human rights of such individuals. In addition, the ICTR Branch is also responsible for tracking and arresting fugitives and bringing them to justice. We therefore call on the countries concerned to continue to cooperate with the Tribunals.

Before concluding, I would like to take this opportunity to thank Ambassador Rosenthal, Chair of the Informal Working Group on International Tribunals. In the past two years, Guatemala has provided excellent guidance to the the Working Group under his able leadership. We pay tribute and express our gratitude to him and his team.

**Mr. Zagaynov** (Russian Federation) (*spoke in Russian*): We share the feeling of deep sadness at the passing of Nelson Mandela, a leading political figure with whom the entire world associated a sense of fairness and freedom.

We thank the Presidents of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY) for their detailed briefings on the progress of the judicial proceedings and the task of winding up their activities.

We would like to begin by congratulating Togo on the recent appointment of a candidate from that country, Mr. Koffi Afande, as the sixteenth judge of the ICTY. We hope that, as stipulated when the issue of the appointment of an additional judge was proposed, he will actively participate in the work of the Tribunal and that, given the large number of cases, his work will assist in bolstering the effectiveness of the Appeals Chamber, in line with the opinion of the President of the Tribunal set out in the relevant request to the Security Council.

We eagerly await the decisions on the *Šešelj* case in the Trial Chamber and on the *Šainović et al.* and *Dorđević* cases in the Appeals Chamber, which, as we understand, have been delayed for a number of procedural reasons. We closely follow and study the course of those protracted cases and hope for their objective consideration.

Unfortunately, there are ongoing difficulties with regard to the translation of cases in both Tribunals. The slow translation work continues to lead to significant delays in the legal proceedings. With regard to the translation of the judgement on the *Prlić et al.* case, rendered in May, the Tribunal has postponed work for a year, justifying the delay by the large caseload. The same translation issue was the root cause of a significant delay in the *Butare* case of the ICTR, where the material took an excessive length of time, that is, from July 2011 to February 2013. We urge the Presidents of the Tribunals to pay the closest attention to that problem. The Tribunals have the financial means to resolve the issue, including through the outsourcing plan.

We must mention yet another problem that could ultimately hamper the closure of the Rwanda Tribunal within the set time frame, namely, the resettlement of individuals acquitted by the Tribunal in secure countries. We understand and support the humanitarian significance of that task. However, it must not be a reason for postponing the closure of the ICTR. The International Residual Mechanism for Criminal Tribunals was established in order to resolve such issues. That is the very body to which the function should be transferred in a timely manner. In our view, there are no legal constraints in that regard. We note the assurances by the ICTR President and Prosecutor of their readiness to undertake the transfer of that issue to the Residual Mechanism by the end of 2014.

In general, we would like to underscore once again that the practice of drawing out legal proceedings

contradicts the text outlined in resolution 1966 (2010), that is, a swift drawdown of the work of the Tribunals. The delays undermine the interest in international justice and are costly to the international community. They incur, inter alia, an increased financial burden for States Members of the United Nations. We underscore our commitment to that resolution.

**Mr. Oh Joon** (Republic of Korea): I would like to express our condolences on the sad demise of South Africa's great leader, Mr. Nelson Mandela.

At this meeting, my delegation is grateful to the Presidents and the Prosecutors of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Residual Mechanism for Criminal Tribunals for their respective briefings. We also thank Ambassador Rosenthal of Guatemala for his outstanding leadership in conducting the work of the Informal Working Group on International Tribunals for the past two years. With the establishment of the Tribunals two decades ago, a new era of international criminal justice began. It has been 20 years since the founding of the ICTY, while the ICTR will reach that milestone in 2014. Both Tribunals have been instrumental in the fight against impunity and in developing key international legal precedents. We are confident that the Residual Mechanism will continue to maintain the high standard set by the Tribunals.

As the work of the Tribunals draws to a conclusion, Member States must continue to lend their support at this critical juncture. We welcome the fact that the ICTR completed its workload on all 93 indicted individuals at the trial level before the end of 2012 and we look forward to the Tribunal's completion of the outstanding appeals by the projected date in 2015. We expect that the appointment of Mr. Mandiaye Niang of Senegal will be of assistance in facilitating the appellate work of both Tribunals. We also support the efforts of the ICTR to retain the humanitarian issue of relocating acquitted persons and those who have already served their sentences. We hope for an efficient and timely solution to that problem.

The ICTY still faces various challenges, including late arrests and staff attrition. Among the implications for the Tribunal is a delay in its appellate work, which is estimated to be completed as late as mid-2017. We urge the Tribunal to do its best to complete its work in a timely manner without sacrificing the principles of justice. With the significance of meeting time frames

in mind, we hope that the election of Mr. Koffi Afande of Togo will aid efforts to complete the remaining cases expeditiously. In that vein, we further expect that the extensions requested by the Judges in the ICTY will duly be considered.

We welcome the Residual Mechanism's engagement in numerous judicial activities during the reporting period. That includes the appeal proceedings in the *Augustin Ndirabire* case. Such activities are evidence that the Mechanism is well on the way towards fulfilling its mandate. The arrest and prosecution of nine outstanding fugitives from the ICTR remains a top priority for the Mechanism. We encourage continuing efforts to track down the fugitives and to secure the cooperation of Member States in that regard.

To conclude, we also wish to stress that the Tribunals have made a significant, lasting contribution to the development of international justice. Their work has enriched international humanitarian law and led to the establishment of the International Criminal Court. The Republic of Korea is firmly committed to providing our continuing support to ensure that the Tribunals fulfil their important mandates.

**The President** (*spoke in French*): I shall now make a statement in my national capacity.

I thank Presidents Meron and Joensen and Prosecutors Jallow and Brammetz for their statements.

This year, we celebrated the twentieth anniversary of the adoption of resolution 827 (1993), on the creation of the International Criminal Tribunal for the former Yugoslavia (ICTY). Political dialogue in the region continues to advance under the auspices of the European Union. The Tribunal has played its full role in these developments. To be sure, all is not ideal. Prosecutor Brammertz referred earlier to missing persons. The political rhetoric, the denial of certain crimes, and the lack of regional cooperation in bringing mid-level criminals to justice remain matters of concern. But the historic agreement of 19 April between Serbia and Kosovo, achieved under the auspices of the European Union, creates a context that augurs well for the region's stability, the future of its people and the European outlook for both States. Political dialogue, justice and the fight against impunity should make it possible to definitively turn the page on the conflicts in the former Yugoslavia.

The ICTY is handling matters of great complexity, which accounts for delays in its schedule. We hope that

the Tribunal will conclude its activities as quickly as possible, while ensuring that nothing undermines its capacity to render justice.

The year 2014 will mark the twentieth anniversary of one of the darkest periods in our collective history, the Rwandan genocide. In memory of the victims, and invoking our shared will, we hope to see the Great Lakes region emerge once and for all from violence. With respect to the work of the International Criminal Tribunal for Rwanda (ICTR), I hope to be able to offer the Tribunal some good news concerning the two cases under French jurisdiction. Both Mr. Bucyibaruta and Mr. Munyeshyaka have been indicted, and the French authorities are devoting all their attention to the questions raised by the Tribunal on those procedures.

Now that the International Criminal Tribunal for Rwanda is about to closing out its activities, we should remain vigilant. Three high-level fugitives — Félicien Kabuga, Augustin Bizimana and Protais Mpiranya — remain at large, and their arrest is a priority. They will be tried by the Residual Mechanism as soon as they are apprehended. We must ensure that the Mechanism is provided with sufficient resources to successfully complete that mission.

The cooperation of all with the ICTR is an obligation pursuant to the relevant resolutions of the Security Council. It is important for the Council to remind everyone of that obligation. With respect to assistance for the Tribunal, the relocation of persons who have been acquitted or served their sentences remains a central concern. France was the first country to welcome a number of individuals to its territory at the request of the Tribunal. We hope that more States will accept such persons on their territory.

The Tribunals have placed justice at the core of our concerns. The International Criminal Court, which is permanent and universal, has already taken up the pursuit of justice. That is the case, for example, in the Democratic Republic of the Congo, and I take this opportunity to note that, two weeks ago, the Democratic Republic of the Congo undertook the arrest and transfer to The Hague of a suspect being sought by the International Criminal Court. That is an encouraging sign.

I also note the Secretary-General's resolute policy on behalf justice and human rights, which excludes all contact with persons sought by the International Criminal Court. He has instructed his mediators not to



consider amnesty or immunity for the perpetrators of serious crimes. He has done a great deal to reinforce the impact of international justice. We commend his activity in that regard along with that of Mr. Serpa Soares, Under-Secretary-General for Legal Affairs.

Finally, I join previous speakers in thanking Ambassador of Guatemala, Chair of the Informal Working Group on International Tribunals, and his entire team. Beyond his leadership of the Working Group, Ambassador Gert Rosenthal has been an unyielding and eloquent voice within the Council on the fight against impunity, the role of the Tribunals and the historical significance of the Rome Statute of the International Criminal Court.

I now resume my functions as President of the Council.

I now give the floor to the representative of Croatia.

**Mr. Medan** (Croatia): At the outset, please allow me to congratulate you, Sir, on assuming the presidency of the Security Council for the month of December.

We would also like to join the previous speakers in expressing our sadness of the passing of a great leader, Mr. Nelson Mandela, of South Africa.

I would like to start by welcoming the Presidents of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), Judges Meron and Joensen, along with Prosecutors Brammertz and Jallow. We commend them for their important work. Croatia appreciates their comprehensive reports on the work of the Tribunals, the status of the cases before them, and the measures undertaken in the implementation of the completion strategy during the reporting period. Those documents add to the substantive volume of work and legacy of the ICTY and ICTR.

More than 20 years after the establishment of the ICTY, it is possible to make a comprehensive assessment of its activities and overall achievements. There is also an opportunity to learn important lessons and apply that significant empirical knowledge for the sake of the further development of international criminal justice. In our view, the establishment of both Tribunals and their work have profoundly changed the landscape of international criminal justice and paved the way for the International Criminal Court. Croatia advocated for the establishment of the ICTY from the very beginning. We believed then, as we do today,

that it is of paramount importance to put an end to the culture of impunity, regardless of the causes and nature of the specific conflict within which the crimes against humanity were committed.

Croatia welcomes the results achieved by the ICTY to date. However, the work of the Tribunal is not over. Some of those most responsible for the carnage, deaths and suffering are still waiting for the verdict to be pronounced against them. We note with satisfaction the precise and entirely positive assessment in the ICTY Prosecutor's report of Croatia's cooperation with the Office of the Prosecutor and the Tribunal. The brevity of that part of the report speaks volumes on Croatia's support and cooperation, which leaves not even the smallest room for doubt or second thoughts. Members can rest assured that Croatia will continue to cooperate and render its full support to the Tribunal.

This is the first time that Croatia has participated in the Security Council's debate on the ICTY as a State member of the European Union (EU). Along with many other accomplishments, our membership has been achieved through full cooperation with the ICTY and as a result of important reforms in our national judicial sector, including the establishment of specialized war-crimes chambers in selected courts. Croatia was the first country in the history of the EU's enlargement that had to meet numerous benchmarks in the negotiating chapter on judiciary and fundamental rights, among the most important of which were cooperation with the ICTY and processing war crimes in domestic courts. I am proud to say that we succeeded with flying colors.

Croatia has spoken in detail on this subject numerous times, praising but sometimes also criticizing the work of the Tribunal, so I will not repeat our well-known position. Let me just say that the results achieved and the Tribunal's far-reaching legacy do not and cannot mean that there is no room for improvement in its work. In that context, what comes to one's mind are often criticized protracted judicial processes, which in some cases undermined their own purpose.

Late justice is by all means better than no justice at all, but such delays interfered with the expectations of the victims' longing for justice to be delivered. Equally so, the accused have the right to trials that are not only fair, but also of reasonable duration. One could also argue that the modifications of the Tribunal's rules of procedure did not always contribute to legal security, nor to the clarity or simplicity of the proceedings. Those

are lessons learned that we should apply circumspectly in the future development of international law.

Enhanced regional cooperation in the area of war crimes and related issues represents one of the most important legacies of the Tribunals. Croatia stands ready to continue mutual cooperation in that area, in accordance with the generally accepted principles of international criminal law, and with full respect for the relevant national jurisdictions and competences.

The saying that there can be no true justice without peace, nor peace without justice, is a hard-earned truism. What really matters in the final analysis is the long-term impact left by the work of the Tribunals on the ground and their legacy in the countries concerned. Establishing individual accountability based on judicially verified facts is a vital tool in the reconciliation process. However, that process cannot be carried out by the international tribunals alone. They can lay the foundation for it, but it is up to societies to bring the process of reconciliation to its culmination.

Finally, let me conclude by praising once again the important and valuable work of the Tribunal.

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

**Mr. Milanović** (Serbia): It is with great sadness that we extend our deepest condolences to the people of South Africa and our colleagues in the Mission of South Africa. In this moment of great loss, we stand together with them.

Before I proceed with my statement, I would like to congratulate His Excellency Mr. Gérard Araud, Ambassador of France, and the French delegation on their assumption of the presidency of the Council for December, and to wish you, Mr. President, great success. I also acknowledge Mr. Liu Jieyi, Ambassador of China, for his successful conduct of the proceedings of the Council during November. Our special appreciation goes to Guatemala for the hard work and leadership in the Informal Working Group on International Tribunals.

Let me begin by welcoming the Presidents and the Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda, and by thanking them for the reports they submitted. We studied them with great attention.

At the outset, I would like to point out that the cooperation of the Republic of Serbia with the

International Criminal Tribunal for the Former Yugoslavia has been based on continuity and that it continues to evolve unimpeded and at a very high level. That fact was also confirmed in the latest reports of the ICTY President and the Prosecutor, in which it was stated that there are no more outstanding fugitives and that, in general, Serbia has shown continued diligence in processing the requests for assistance of the Office of the Prosecutor.

Proceeding from Serbia's determination of Serbia to make a contribution to regional peace and reconciliation, as well as from its readiness to continue to cooperate constructively with the ICTY, I would like to take this opportunity to inform the Council on the concrete results that my country has achieved in its cooperation with the ICTY, confirmed also this time round in the ICTY President's and the Prosecutor's reports of December 2013, just as they were confirmed in previous reporting periods.

There are no outstanding or overdue requests for assistance. Summonses were served on time, court orders were executed and witness interviews were arranged without delay or difficulty. In that way, my country has shown that it is not only seriously committed to abiding by its international obligations but also that, by taking each and every step in good faith, it is resolved to contribute to achieving international justice and regional reconciliation. Concrete examples and results reflect Serbia's cooperation with the ICTY in the best possible way, and I shall mention a few here.

In July 2011, Serbia completed cooperation with the ICTY on the transfer of all accused persons. Serbia responded to more than 3,350 requests for assistance received from the Office of the Prosecutor or the defence counsel regarding access to documents, archives and witnesses. Only those of a more recent date are still being processed. No request for assistance from the Office of the Prosecutor or defence counsel regarding access to archives has been rejected, while all witnesses for whom waivers were requested were granted. That enabled them to testify before the ICTY. According to the data of the Republic of Serbia Office of the War Crimes Prosecutor, 410 individuals indicted for committing criminal offences under international humanitarian law have been tried in the courts of the Republic of Serbia.

Serbia has shown in a demonstrable way that it is fully committed to the quest for truth about the crimes committed during the armed conflicts on the

territory of the former Socialist Federal Republic of Yugoslavia, and to bringing those responsible for the crimes to justice, irrespective of their nationality or the nationality of the victims.

My country is of the opinion that the Security Council, whose resolution provided the basis for the establishment of the ICTY, has an exceptionally important role and responsibility in ensuring the impartiality of the Tribunal, respect for basic international legal norms and laws and in eliminating all forms of politicization and voluntarism in its work.

In that context, let me draw the Council's attention to the case of *Vojislav Šešelj*, whose detention, lasting almost 11 years without a judicial decision, is a gross violation of basic human rights and civilizational values. The length of the detention in this case is in contravention of the provisions of the United Nations Covenant on Civil and Political Rights and the European Convention on Human Rights. The two international documents provide for a fair and public hearing within a reasonable time. Although the term "a reasonable time" may be interpreted elastically and vary from case to case, an 11-year lapse of time can hardly be considered a reasonable time. We also believe that the detention of a person without a first-instance decision is tantamount to the denial of the presumption of innocence. We are convinced that the case is less than conducive to the ICTY's reputation and that concrete measures should be taken speedily in order to unlock the legal and procedural deadlock in which the case finds itself.

Bearing in mind that Serbia is firmly committed to cooperation with the ICTY, and the fact that 20 years have elapsed since its establishment, I would like to point out once again that my country attaches great importance to the initiative that those convicted by The Hague Tribunal be allowed to serve their sentences in the States that emerged in the territory of the former Yugoslavia. This initiative is motivated by the desire of Serbia to assume responsibility for its nationals and other persons convicted by the Tribunal serving their sentences, as well as by its belief that the purpose of punishment — which implies, among other things, the resocialization of convicted persons — can hardly be achieved if they serve their sentences in far-off countries, the language of which they do not understand or speak, and when family visits and contacts are reduced to a minimum.

Yet today, the States that emerged in the territory of the former Yugoslavia have no possibility to conclude

agreements with the ICTY on the serving of sentences, even though President Meron said in his report that, in addition to 17 existing agreements, additional agreements should be concluded in order to complete the ICTY's mandate successfully.

In that context, let me recall that since 2009 Serbia has requested the signing of such an agreement with the ICTY. From the outset, we have very actively sought to promote this initiative. Serbian officials have written to the United Nations and the ICTY on a number of occasions. Regrettably, no progress has been made because the question continues to be determined by the Secretary-General's recommendation to the Security Council in May 1993 that "the enforcement of the sentences should take place outside the territory of the former Yugoslavia. While that position may have been justifiable in 1993 at the time of the war in the former Yugoslavia, it is clear that the situation has changed and lost its relevance a long time ago.

The results of the years-long cooperation with the ICTY indicate that my country takes this question seriously and that it is ready to accept international supervision of the enforcement of sentences and to provide clear guarantees that convicted persons will not be paroled without a decision of the ICTY, the International Residual Mechanism for Criminal Tribunals or some other organ or body of the United Nations to be made responsible for this matter in the future.

Let me also recall that, on 20 January 2011, the Republic of Serbia signed an agreement on the enforcement of criminal sentences with the International Criminal Court. Under the agreement, persons convicted before the Court for war crimes, crimes against humanity or genocide may serve their sentences in Serbia. My country is the first country in South-East Europe to sign such an agreement — Great Britain, Austria, Belgium, Denmark and Finland having done so earlier. Once again, I express my country's expectation that the Security Council will vest its full attention on this initiative and enable those convicted by the Tribunal to serve their sentences in Serbia.

I would like to take this opportunity to reiterate the readiness of Serbia to, and interest in, addressing the question of the ICTY archives. We advised the Security Council of our official position on the matter in October 2008. My country is ready to participate actively in all future discussions and to continue to cooperate with the Informal Working Group on International Tribunals on

this question. Also, as in the past, Serbia is ready to fulfil its obligations resulting from cooperation with the ICTY and the Residual Mechanism for International Criminal Tribunals.

In conclusion, let me point out once again that Serbia is committed to regional peace, stability and reconciliation. In that commitment, however, the quest and respect for justice and fairness are of vital importance. The international judicial system has a key role to play in the process, and the Tribunal is duty-bound to make a contribution by ensuring full respect for international norms, human rights and the right to a fair hearing and defence. The influence of the Tribunal and its decisions are fully felt both within regional and national confines. Attaining justice is just as important as establishing the difference between fairness and vengeance all over again, for the two notions send basically different social and political messages to our societies.

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

**Ms. Čolaković** (Bosnia and Herzegovina): First of all, on behalf of my country, Bosnia and Herzegovina, and my personal behalf, I wish to express my deepest condolences to the people of South Africa on the passing away of the great leader, humanist and symbol of the fight for justice and human rights, Mr. Nelson Mandela.

I would like to welcome the Presidents and Prosecutors of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) and to express our gratitude for their reports and respective briefings at today's meeting. I also want to express our appreciation to the Permanent Mission of Guatemala for its successful chairmanship and leadership of the Informal Working Group on International Tribunals. The Tribunals serve as a constant reminder that there is no impunity for the serious crimes that were committed. In that light, the successful completion of the work and missions of the ICTY and the ICTR is necessary to achieving sustainable peace and reconciliation.

The ad hoc Tribunals for the former Yugoslavia and Rwanda are milestones in the development of international criminal law. The ICTY and the ICTR established that crimes against humanity could be committed not only in armed conflict, but also in its absence. Thus, those who were not members of armed

forces have been brought to justice for their involvement in violating international norms and laws.

Throughout history, women have often been victims of rape and other forms of sexual abuse in conflict and war. At the present, the documentation of facts related to sexual violence is better than at any time in history. The ICTY and the ICTR have contributed to classifying sexual abuse as a crime against humanity, and as such sexual abuse has become an integral part of the Statute of the International Criminal Court (ICC). Women judges and women in senior positions in the Offices of the Prosecutors have made significant contributions to the effective prosecution of cases of sexual violence against women. In general, the Tribunals have sent a strong crime-prevention message to all those who have committed crimes against humanity, regardless of the functions they serve.

The punishment should from the outset prevent the emergence of conspiracies to commit genocide, crimes against humanity, crimes against peace and other serious crimes. We support efforts to harmonize the serving of prison sentences with the norms of human rights. However, we underline that the manner in which prison sentences are served should not put into question the meaning of the punishment.

Considering that the Tribunal will soon complete its mandate, the further processing of war crimes will have to be transferred to national judicial systems. Our commitment to investigating, prosecuting and appropriately punishing perpetrators of war crimes is unquestionable. We are also making additional efforts to increase the number of completed cases at the levels of State and entity.

As regional cooperation also plays an important role, we are certain that the protocol on the exchange of evidence and information on war crimes, signed between the Offices of the Prosecutor of Bosnia and Herzegovina and of Serbia and Croatia, will serve as an impetus towards strengthening communication and enhancing coordination of the Offices. My country remains dedicated to further promoting and increasing regional cooperation, since it is in the common interests of the countries in the region as well.

In order to preserve documentation pertaining to the ICTY, we have proposed that the information centre be located in Bosnia and Herzegovina. The centre would serve future generations and be a constant reminder



that violations of human rights and international humanitarian law should never be repeated.

It is very important that the Tribunal's completion strategy and its transition to the Residual Mechanism be successfully achieved. We welcome the decision that, among other countries, the Residual Mechanism staff will also include persons from the countries of the Western Balkans region. However, we are surprised and very much regret that at present no staff members will be from Bosnia and Herzegovina. We believe that the issue deserves further consideration in the spirit, good practice and inclusiveness of the United Nations.

Finally, the establishment of the ICTY and ICTR was not a random experiment, but rather the result of the

efforts of the international community in strengthening human rights and international humanitarian law. After the tragic experiences in the former Yugoslavia and Rwanda, we need to contribute to the creation of international legal systems that will be able to punish those responsible for the violation of human rights and international humanitarian law, regardless of the persons' rank or position. We hope that the experience of the ICTY and ICTR will be expanded in the work of the ICC. We know that it is difficult to achieve the ideal of justice, but we should never stop trying.

**The President** (*spoke in French*): There are no more names inscribed on the list of speakers.

*The meeting rose at 6 p.m.*