



# Security Council

Seventy-fourth year

**8576**<sup>th</sup> meeting  
 Wednesday, 17 July 2019, 10 a.m.  
 New York

*Provisional*

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<i>President:</i>	Mr. Meza-Cuadra	(Peru)
<i>Members:</i>	Belgium . . . . .	Mr. Pecsteen de Buytswerve
	China . . . . .	Mr. Liu Yang
	Côte d'Ivoire . . . . .	Mr. Moriko
	Dominican Republic . . . . .	Mr. Singer Weisinger
	Equatorial Guinea . . . . .	Mrs. Mele Colifa
	France . . . . .	Mr. Fize
	Germany . . . . .	Mr. Licharz
	Indonesia . . . . .	Mr. Syihab
	Kuwait . . . . .	Mr. Alajmi
	Poland . . . . .	Ms. Wronecka
	Russian Federation . . . . .	Mr. Kuzmin
	South Africa . . . . .	Mr. Mabhongo
	United Kingdom of Great Britain and Northern Ireland . . . . .	Mrs. Dickson
	United States of America . . . . .	Ms. Pierce

## Agenda

### International Residual Mechanism for Criminal Tribunals

Letter dated 20 May 2019 from the President of the International Residual Mechanism for Criminal Tribunal addressed to the President of the Security Council (S/2019/417)

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*The meeting was called to order at 10 a.m.*

### **Adoption of the agenda**

*The agenda was adopted.*

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

#### **Letter dated 20 May 2019 from the President of the International Residual Mechanism for Criminal Tribunal addressed to the President of the Security Council (S/2019/417)**

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

On behalf of the Council, I welcome Her Excellency Ms. Nela Kuburović, Minister of Justice of Serbia, and Her Excellency Ms. Zdravka Bušić, State Secretary for Political Affairs of Croatia.

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

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

I wish to draw the attention of members to document S/2019/417, which contains a letter dated 20 May 2019 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council.

I now give the floor to Judge Agius.

**Judge Agius:** I feel deeply honoured to have once again the privilege of addressing the Security Council, this time as the new President of the International Residual Mechanism for Criminal Tribunals. I am fortunate to have assumed the leadership of the Mechanism when the institution is strong and well-established, thanks to the unstinting and outstanding work of my predecessor, Judge Theodor Meron, together with that of my colleagues, the Mechanism's remarkable Judges, and of course its wonderful staff.

This is not to say that my first months have been easy. The role of Mechanism President is a demanding one, running an institution spread across two continents, with Judges and staff coming from numerous legal systems and diverse backgrounds, working in different time zones; with our focus split between the residual judicial matters arising out of two very distinct conflicts and resulting from the closure of the International Criminal Tribunal for Rwanda (ICTR) and the International Tribunal for the Former Yugoslavia (ICTY). I already knew of these unique circumstances before assuming the presidency, of course, because I have been a Judge of the Mechanism since it came into operation in 2012 and was a Judge of the ICTY for many years before that. Nevertheless, I have been surprised and enthralled by the extent to which the Mechanism differs from its predecessor institutions.

Despite our unique mandate and the many challenges that no doubt lie ahead, I remain fully committed, first and foremost, to the efficient and timely conclusion of the judicial proceedings at both the Arusha and The Hague branches of the Mechanism, bearing in mind due process and fundamental fair trial rights; secondly, to enhancing inter-branch coordination and harmonization of practices and procedures; and thirdly, to doing my utmost to foster a working environment that encourages high staff morale and performance. This is in line with the priorities I announced at the start of my presidency, which are elaborated in document S/2019/417, being the Mechanism's progress report for the period 16 November 2018 to 15 May 2019. I must add that the report partly reflects the work of the Mechanism under President Meron's guidance until 19 January of this year, when I took over the leadership of that fine institution from him.

As set out in the report before the Council, the Mechanism continues to work vigorously towards concluding its residual judicial workload. Notably, most of this work has been performed by Judges working remotely, with the assistance of Chambers staff at both branches, in accordance with the imperative to operate in a cost-efficient manner. In the Mechanism's seven years of existence, its Judges have had only two opportunities to come together for the purpose of in-person plenary sessions. The second in-person plenary of Judges, and the first to be held at the Mechanism's Arusha branch, took place earlier this year, in March, offering my colleagues and me a tremendous opportunity to discuss practical and substantial matters, familiarize ourselves

with the new courtroom and get to know our dedicated staff in Tanzania. It was a most valuable meeting, which I hope will be repeated periodically.

Turning to our workload, I am pleased to note that the appeal judgment in the *Karadžić* case was delivered on 20 March, representing a milestone for the Mechanism in the conclusion of one of its most significant cases. Remarkably, the timely adjudication of the case was achieved despite changes in the bench at a very late stage. I wish to particularly commend Judge Vagn Joensen, who took over as the presiding Judge, and Judge Ivo Nelson de Caires Batista Rosa, who, upon being newly assigned to the case, was able to quickly take up the complex and significant responsibilities entrusted to him.

In relation to the other ongoing cases in The Hague, I am also pleased to report that changes in late 2018 to the bench assigned to the *Mladić* case have also not resulted in any delays to the appeal proceedings, which are progressing smoothly. I am grateful to the presiding Judge, Judge Prisca Matimba Nyambe, and the other Judges on the bench, whose diligence, together with that of the Chambers team, has allowed the case to remain on track to conclude by the end of 2020. Solid progress is also being made in the *Stanišić and Simatović* retrial, with the defence case underway as of 18 June. Thanks to the dedication of the Presiding Judge, Judge Burton Hall, and the rest of the Bench and assigned staff, the trial judgment in this case also remains on schedule for delivery by the end of 2020.

In Arusha, the *Ngirabatware* review proceedings are currently expected to be heard in September. As the Council may be aware, the replacement of Mr. Ngirabatware's counsel and the disclosure of voluminous material from a related contempt case resulted in the postponement of the review hearing, which had previously been scheduled for September 2018.

In addition to those proceedings, which relate to core crimes within the jurisdiction of the Mechanism, the Mechanism is seized of a number of cases pertaining to allegations of contempt of court. I refer in particular to the multi-accused *Turinabo et al.* case, in which a single Judge continues to conduct pre-trial proceedings and to deal with numerous motions filed by the five accused. It is anticipated that the trial will start in October and conclude in the first semester of next year. I would like to add that the Appeals Chamber, which

I preside over, is also seized of several appeals of pre-trial decisions of the single Judge, and is making its best efforts to ensure that these are adjudicated as expeditiously as possible in order to allow the trial to start on time.

Another contempt case, the case of *Petar Jojić and Vjerica Radeta*, is presently back before the Mechanism. In 2018, this case was referred to the authorities of Serbia for trial, but was subsequently remanded back to a single Judge following an appeal by the Amicus Curiae Prosecutor. In May of this year, the single Judge revoked the previous referral order and requested Serbia to transfer the accused to the Mechanism without delay. While the two accused have not filed an appeal against this decision, Serbia has, and the matter is currently pending before the Appeals Chamber.

What the Council has just heard relates to the most visible aspect of the Mechanism's mandate, namely, its residual judicial workload. It is clear that our trials and appeals, and especially our decisions, orders and judgments, are followed closely not only by the countries most affected by our work — Rwanda and those in the region of the former Yugoslavia — but also by other States Members of the United Nations and numerous stakeholders around the world. Less attention, however, is paid to the Mechanism's additional statutory functions, which include protecting victims and witnesses, monitoring cases referred to national jurisdictions, preserving the archives of the ICTR, the ICTY and the Mechanism itself, addressing requests for assistance from national jurisdictions and supervising the enforcement of sentences. I would therefore like to share some of my reflections, since assuming the presidency, on what it means to manage some of these residual matters, and will focus my remarks here on enforcement issues.

My first observation may be an obvious one, namely, that justice does not end with the delivery of a judgment. I am referring here to post-conviction matters, which are a little-understood but crucial part of the Mechanism's work. The legal framework of the Mechanism grants me, as President, broad powers to supervise the enforcement of sentences, and I do not take those responsibilities lightly. Determinations as to where a convicted person will serve his or her sentence, whether he or she should be transferred to continue a sentence elsewhere, or whether a person may be eligible to be considered for early release, pardon or commutation of sentence, are extremely

important. There are also very sensitive issues relating, *inter alia*, to the rights of detainees and to sentences imposed as a result of painstaking, often lengthy trials and appeal proceedings concerning the gravest violations of international criminal law. My duty remains to apply the law, and I will continue to do so responsibly, thoroughly and with as much transparency as possible. I recall that, pursuant to the Mechanism's legal framework, such decisions involve the exercise of discretionary functions by the President and require a careful case-by-case assessment and balancing of factors.

Secondly, as a judicial institution, the Mechanism is bound to strictly observe its duty to safeguard the rights of all its detainees, whether subject to pending or ongoing proceedings or awaiting transfer to an enforcement State. As of 5 December 2018, the Mechanism has been implementing a new regulatory framework on detention matters that I believe can serve as a model for other institutions. In that regard, the Mechanism has been guided by the need to harmonize practices between the Arusha and The Hague detention facilities, and by standards enunciated by the General Assembly through its adoption of the Nelson Mandela Rules. Moreover, it has sought to build upon those standards through detailed procedures governing visits, communications, complaints and disciplinary matters in a detention setting. The Mechanism will continue to focus on ensuring that its implementation of this framework is also reflective of best practices in detention management.

Thirdly, in undertaking its enforcement functions, the Mechanism will continue to rely on the support of Member States and other key stakeholders. It is evident that in order to have an enduring impact on international peace and justice, we must all remain committed not only to having trials and appeals and active judicial processes, but also to what comes afterwards. In my six months as President, I have come to appreciate even more how complex the enforcement of sentences can be and how precious such commitment is. In this regard, I would like to praise the critical role performed by Enforcement States that voluntarily assume additional responsibilities to further the cause of international justice. In particular, I wish to thank Austria, Benin, Denmark, Estonia, Finland, France, Germany, Italy, Mali, Norway, Poland, Senegal, Sweden and the United Kingdom for their generosity and ongoing support with regard to the Mechanism's enforcement functions.

This exemplary cooperation is not only vital to the Mechanism's ability to fulfil its broader mandate; it is also a sign of the trust and credibility that our institution enjoys in the eyes of the international community. For that reason, I am compelled to raise a challenging and most unfortunate situation under the Mechanism's purview. I am referring to the fate of the nine acquitted and released persons that remain in Arusha, one of them since 2004, and they remain there in an unacceptable legal limbo. These persons should be free to start a new life, having served their sentences or never been convicted in the first place, and yet they cannot. While the Mechanism is doing everything it can to find a long-term solution, the fate of these nine individuals is a responsibility it shares with the States Members of the United Nations, as was noted in resolution 2422 (2018). More can and must be done to resolve this situation.

It is of course a double pleasure for me to appear before the Security Council on the occasion of the Day of International Criminal Justice — a day celebrating the achievements of international criminal courts and tribunals in delivering justice and holding to account those responsible for violations of international law. Today we pay tribute to the vision and the commitment of all of the individuals, organizations and stakeholders that have advocated, and continue to advocate, for justice to be more than an abstract ideal. The underlying reason for this important day, namely, the adoption of the Rome Statute of the International Criminal Court, would not have been possible without the ICTY and the ICTR having paved the way for such a remarkable endeavour. The establishment of the Mechanism as the successor institution to the two *ad hoc* Tribunals further demonstrates the Security Council's commitment to principled accountability and its members' resolve to ensure that the closure of the Tribunals will not open the way for impunity to reign once more.

On this day, we are also called upon to remember that international criminal justice is not the responsibility of courts alone. All those who are committed to the rule of law have a vital part to play in the fight against impunity — and particularly now, when there is a resurgence in genocide denial and revisionism in both the former Yugoslavia and Rwanda. Such an effort includes defending judicial processes and pronouncements and speaking out against those who try to distort the truth as established by international and domestic courts. Consequently, those who deny the legitimacy of the findings of the ICTY, the ICTR and

the Mechanism must be reminded that this body, the Security Council, mandated these institutions — and no one else — to investigate, prosecute, adjudicate and punish the crimes committed in the former Yugoslavia and Rwanda. Likewise, they must be reminded that the domestic courts are entrusted with continuing to carry out these functions and not politicians or individuals. I therefore call upon the Council to defend and protect our judicial legacy, which established time and time again, beyond a reasonable doubt, that what the world witnessed both in 1994 and in 1995 was genocide, together with the gravest and most brutal of other international crimes.

International criminal justice concerns us all, because justice is in the service of peace, and peace must be maintained on a daily basis, as this distinguished Council knows all too well. The extent of the world's yearning for justice was made clear to me this year when I attended the twenty-fifth commemoration of the genocide against the Tutsi, in Kigali, and again last week in Potočari, where I attended the twenty-fourth commemoration of the Srebrenica genocide. These occasions reinforced in me the firm belief that, while international justice takes time and costs money, it is always worth it for the victims and affected communities, offering not only some form of closure but also a powerful way forward. However, we must be mindful that justice has enemies as well, who are constantly seeking to make sure that countless atrocities throughout the globe remain unanswered.

I am determined to do my utmost to maximize the Mechanism's ability to deliver meaningful justice and to fulfil all aspects of its mandate in an effective and efficient manner. My colleagues — the other judges — and the Mechanism's principals, together with our exceptional staff, are equally committed to this task. However, we cannot do it alone. The success of international justice depends on sustained support and cooperation, today and every day. I hope and trust that the Mechanism will continue to find such help in the esteemed States members of the Security Council. For their support thus far, I am extremely grateful.

Before concluding, please allow me, Mr. President, to commend you on your presidency for the month of July and to thank you in particular for your personal commitment and outstanding leadership as Chair of the Council's Informal Working Group on International Tribunals. My recognition also goes to the Office of Legal Affairs and its dedicated team for their invaluable

support. And last but not least, I wish to express my sincere gratitude for the continuing and excellent support provided by the two Host Countries of the Mechanism, the Kingdom of the Netherlands and the United Republic of Tanzania.

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

I now give the floor to Mr. Brammertz.

**Mr. Brammertz**: I thank you, Mr. President, for this opportunity to address the Security Council about the activities of the Office of the Prosecutor of the International Residual Mechanism for Criminal Tribunals. My written report provides details about our activities and results during the reporting period in relation to our three primary priorities (S/2019/417, annex II). Today, I would like to highlight just a few important issues.

My Office's first priority as always is to expeditiously complete the ad hoc trials and appeals under the Mechanism's jurisdiction. During the reporting period, at The Hague branch, my Office made important progress towards finalizing the remaining proceedings transferred from the International Criminal Tribunal for the Former Yugoslavia (ICTY). Most importantly, on 20 March, the Appeals Chamber of the Mechanism affirmed the conviction of Radovan Karadžić for genocide, crimes against humanity and war crimes. The Appeals Chamber further granted my Office's appeal and entered a sentence of life imprisonment.

As President of the Republika Srpska, Karadžić stood at the apex of power, which he abused to manipulate his people and commit atrocities that shocked our collective conscience. For 13 years, he was one of the world's most wanted fugitives. He has now been held accountable by an international court for his crimes. This case is a powerful demonstration that when the international community remains determined, justice can and will prevail.

In relation to the *Stanišić and Simatović* retrial, my Office completed the presentation of its evidence and the defence cases have now begun. In that regard, I note the efforts of the Republic of Serbia to ensure full cooperation with my Office by quickly responding to a number of important requests for assistance.

Regarding the *Mladić* appeal, my Office finished preparation of the written appeals arguments and

also litigated a number of other matters in this case, including motions for additional evidence.

At the Arusha branch, on 7 December 2018, the single Judge decided not to refer the *Turinabo et al.* contempt case to Rwanda and ordered that it be conducted by the Mechanism. Since that time, my Office has been engaged in intense pre-trial preparation and litigation, while concurrently litigating the related review proceedings in the *Ngirabatware* case.

Serious crimes against the justice process must be detected and prosecuted, as the Council recognized in adopting the Mechanism's statute. My Office is determined to carry out our mandate by ensuring that witnesses are protected from interference and by safeguarding the integrity of our judgments.

As I have previously reported to the Council, my Office has been taking a number of important measures to strengthen our activities to locate and arrest the remaining eight fugitives indicted by the International Criminal Tribunal for Rwanda (ICTR). Over the past year, our reforms and renewed efforts have generated important actionable leads. Critically, my Office has developed credible intelligence on the current whereabouts of several fugitives. We accordingly approached a number of Member States to seek their cooperation.

Unfortunately, I must report that there are a number of issues in State cooperation that have negatively impacted our work. While many Member States have committed to providing cooperation, more can be done to ensure that their authorities deliver on that commitment. In part, the challenges we are facing are symptomatic of a more general lack of capacity in terms of inter-State cooperation in criminal matters, including in the search for transnational fugitives. We are committed to supporting our partners to overcome those challenges.

At the same time, it also appears that some countries do not prioritize cooperation with my Office in bringing genocide fugitives to justice. Since August of last year, my Office has been seeking urgent cooperation from South Africa in relation to the arrest of a fugitive located on its territory. We have continually renewed our requests and repeatedly sought to engage directly with South African authorities. Unfortunately, until yesterday, we had received only pro forma responses that our requests had been forwarded to the appropriate authorities and were being considered.

South Africa confirmed yesterday by note verbale that it is fully committed to cooperating with my Office. I hope that this time it will actually deliver on that commitment immediately.

This year marked the twenty-fifth anniversary of the Rwandan genocide. It is time for the remaining fugitives indicted by the ICTR to be brought to justice. The victims have waited for far too long. It must also be underlined that this is not just an issue of the past. Some fugitives remain threats to international peace and security today by promoting conflict and exploitation. We will utilize all tools available to us to address the challenges we face, including formal reports of non-cooperation to the Security Council, if needed.

In relation to national prosecutions of crimes committed in Rwanda and the former Yugoslavia, my written report provides detailed insight into the current status and challenges.

It is clear that much more remains to be done to achieve more justice for more victims. Rwandan authorities continue to search for more than 500 fugitives. In the former Yugoslavia, thousands of cases still need to be processed by national courts. Our national counterparts are unanimous that they need more support, assistance and advice to successfully implement national war crimes strategies. Last year, we received more than 300 requests for assistance to provide evidence — more than ever before — and current trends indicate that this year we will again receive a record number of requests.

Regional cooperation is another area where strengthened engagement will have an impact. I am pleased to report that with my Office's support, at the recent conference in Belgrade the region's chief prosecutors agreed to transfer specific cases involving mid-level officials from the countries where the crimes were committed to the countries where suspects are living now. They further requested my Office to facilitate that process.

The countries of the former Yugoslavia have made commitments to increasing the pace of war crimes prosecutions and significantly reducing the backlog of unresolved cases. National prosecutors have made clear that achieving those goals will depend on continued and strengthened assistance, and the international community has an important role to play by ensuring the requested assistance is provided.

The final topic that I would like to address is the denial of crimes and the glorification of war criminals.

In relation to Rwanda, genocide denial, in all of its forms and manifestations, unfortunately continues. Efforts to minimize the scale of the death and destruction or point to other factors to detract attention from the facts of the genocide are unacceptable.

As for the former Yugoslavia, I first reported to the Council about this topic five years ago. Unfortunately, since that time the situation has dramatically worsened. It cannot be tolerated that, just last week, a Government minister called the Srebrenica genocide false, while a member of Parliament congratulated Ratko Mladić on the genocide, which he said was a brilliant military operation. The truth is that during the conflicts there was untold human suffering caused by leaders who used fear, division and hatred. No one emerged unharmed — not in Bosnia and Herzegovina, in Croatia, in Kosovo or in Serbia — but the denial of the crimes causes profound pain to the victims. Their suffering was immense, yet some are determined to insult and torment them even more.

The glorification of war criminals punishes young people. What they learn in the classrooms and from their leaders drives them apart, rather than bringing them together. The consequence is clear. Denial and glorification are destabilizing the region and preventing reconciliation. And so, to begin to move forward, glorification must stop.

Important lessons can be learned from the Rwandan example. Every year the Rwandan people join together for 100 days to commemorate all victims of the genocide and renew their commitment to ensuring that such crimes are never repeated. The international community failed the victims in Rwanda and the former Yugoslavia by standing by as the crimes were committed. We cannot fail them again now by not speaking out against denial and glorification.

In conclusion, my Office is firmly focused on completing our remaining functions efficiently and effectively. In the search for the fugitives, my Office is generating credible intelligence on the current whereabouts of several fugitives. However, we are not yet receiving the cooperation needed to secure arrests, so we call upon all Member States to adhere to their international obligations and provide full cooperation to our efforts.

We also remain committed to providing our support to the continued implementation of the ICTR and ICTY completion strategies by national authorities so that more justice can be achieved for more victims. We are grateful for the continued support of the Council in all of our efforts.

**The President** (*spoke in Spanish*): I thank Prosecutor Brammertz for his briefing.

I shall now make a statement in my capacity as the representative of Peru.

I would like to thank Judge Carmel Agius, President of the International Residual Mechanism for Criminal Tribunals, and Prosecutor Serge Brammertz of the International Residual Mechanism for Criminal Tribunals, for their important presentations.

Today, 17 July, as we are celebrating international justice, we underscore the significance of the fight against impunity and the need to provide justice to the victims of war crimes, crimes against humanity and genocide. We therefore reaffirm the importance of access to justice to achieving lasting peace, and we stress in that context the work of the Residual Mechanism, the heir to the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda.

In that connection, we welcome the priorities identified in the report (see S/2019/417) by both the President of the Residual Mechanism, whom we welcome, and the Prosecutor of the Mechanism. We also welcome the rapid, efficient and transparent manner in which the Residual Mechanism is carrying out its intense judicial activities, and we encourage it to continue its efforts to strike a balance between the civil and common law legal systems.

We must remember that the success of the Mechanism, including the work of the Office of the Prosecutor, hinges on the cooperation of States to implement judgments, respect orders and respond to requests for assistance. That is why we wish to highlight the support that several African and European Governments have been providing so that convicted persons can serve their sentences in their respective countries.

On the other hand, we note with special interest the measures that are beginning to be taken by the President of the Mechanism in responding to the concerns raised in resolution 2422 (2018) on the early

release of convicted persons, some of whom have not expressed regret for their crimes, which includes not only systematic consultation with other judges of the Mechanism, but also with the Governments concerned.

I conclude by underscoring the important support lent by the Secretariat and the United Nations Office of Legal Affairs, while stressing the need for the Council to remain united in its support for the Residual Mechanism and its far-reaching and landmark work.

I now resume my functions as President of the Council.

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

**Mr. Moriko** (Côte d'Ivoire) (*spoke in French*): My delegation welcomes the convening of today's debate on the progress of work of the International Residual Mechanism for Criminal Tribunals and commends Judge Carmel Agius and Mr. Serge Brammertz, in their respective capacities as President and Prosecutor of the Mechanism, for their briefings.

My country takes note of the progress of the work of the Mechanism related to judicial and administrative activities, the enforcement of sentences, the protection of victims and witnesses and the management of archives. It welcomes the commitment of the President of the Mechanism to undertake expanded consultations to ensure greater transparency and better examine the impact of early releases and urges him to consider establishing conditions for early releases in appropriate cases, as recommended by paragraph 10 of resolution 2422 (2018).

My delegation also notes with interest the leading role of national courts in the investigation and prosecution of the perpetrators of the war crimes, crimes against humanity and genocide committed in the former Yugoslavia and Rwanda. In this regard, it welcomes the multifaceted assistance, including capacity-building and the sharing of best practices, provided by the Mechanism to those jurisdictions to enable the principle of complementarity to be effective and national authorities to assume responsibility for post-conflict accountability.

Stepping up cooperation between States Members of the United Nations and the Mechanism is necessary for increasing the effectiveness of this entity in carrying out its mission. Unfortunately, my country notes with regret the insufficient judicial cooperation of the

countries of the former Yugoslavia, which raises the risk that perpetrators of the aforementioned crimes will find refuge in neighbouring States. In this context, my delegation welcomes the constructive dialogue initiated by the Office of the Prosecutor of the Mechanism with the prosecutors and national authorities of the region, with a view to promoting regional judicial cooperation in the area of war crimes, crimes against humanity and crimes of genocide.

It also encourages Serbia's initiative to organize a regional conference of prosecutors for those crimes and urges all countries to participate. In addition, the Mechanism needs enhanced cooperation from all Member States in the prosecution of the remaining fugitives suspected of committing genocide, the enforcement of sentences and the rehabilitation and reintegration of acquitted persons.

In conclusion, my delegation reiterates its support for the Mechanism in its quest for optimal effectiveness and, to that end, urges it to continue to implement the recommendations of the Office of Internal Oversight Services, contained in its evaluation report of 8 March 2018 and its audit report of 5 March 2019.

**Mr. Fize** (France) (*spoke in French*): I thank President Agius and Prosecutor Brammertz for their reports (S/2019/417, annexes I and II) and their briefings.

I would like to thank President Agius and warmly commend him on delivering his first briefing to the Security Council as President of the International Residual Mechanism for Criminal Tribunals. France reiterates its confidence in him and knows that it can count on his unwavering commitment to an impartial and high-quality international criminal justice system, as President of the International Tribunal for the Former Yugoslavia, until 2017, and now as President of the Mechanism. He can rest assured that France lends its full support to the work of the Mechanism.

With regard to the judicial activities of the Mechanism during the reporting period, France welcomes the successful outcome of the *Prosecutor v. Radovan Karadžić* case. This decision constitutes an important milestone for justice and the fight against impunity in the Balkans, as well as for international criminal justice as a whole. Like the Prosecutor, France hopes that the facts definitively established in that case will be accepted unequivocally and that they will serve as a basis for reconciliation.



The *Prosecutor v. Ratko Mladić* case will be another important milestone for the Mechanism and the fulfilment of its mandate with regard to the countries of the former Yugoslavia. France hopes that the date of the hearing in the appeal will be set in the coming months.

With regard to the Rwandan cases, we note that the single judge decided not to refer the *Prosecutor v. Maximilien Turinabo et al.* case to the Rwandan authorities and ordered that the trial be held before the Mechanism. In this regard, we note that this is the first major contempt case brought before the Mechanism.

France also notes that President Agius stated his desire to see decisions in pending cases rendered without delay, and to the extent possible, before the end of 2020. We rely on the professionalism of the judges and the Office of the Prosecutor to conclude all ongoing proceedings and trials in a timely manner.

With regard to cooperation, France recalls that States are required to cooperate with the Mechanism in the search and arrest of eight fugitives indicted by the International Criminal Tribunal for Rwanda (ICTR). In this regard, we note the recent requests made by the Prosecutor and call on the States concerned to cooperate. The crimes committed by those fugitives cannot go unpunished.

France welcomes the assistance provided by the Mechanism to national courts responsible for prosecuting perpetrators of international crimes committed in the territory of the former Yugoslavia. We call for enhanced inter-State cooperation in the region, which must make further progress, to complement the legal assistance offered by the Mechanism, which must have the means to respond to it.

With regard to Rwanda, the two cases referred by the ICTR to the French courts have undergone significant developments during 2018, as mentioned in the reports presented to the Council and in our previous statement (see S/PV.8416). France will, of course, continue to address those cases with all the necessary diligence and rigour. In this regard, we would like to inform the Council of President Macron's decision to enhance the material and financial resources dedicated to the prosecution of parties to the genocide who are present in France. The objective of such reinforcements is twofold: to quickly initiate proceedings against all such parties residing in France and to prosecute them more expeditiously.

We take note of the Prosecutor's comments with respect to the cooperation provided to his Office by the countries of the former Yugoslavia. We are concerned by its renewed negative assessment of regional judicial cooperation, which is "at its lowest level in years" (S/2019/417, annex II, para. 61). For France and the European Union, the countries of the former Yugoslavia must both fully cooperate with the Mechanism and themselves fight against impunity for crimes committed in the former Yugoslavia that do not fall within the jurisdiction of the Mechanism. These are two inseparable and essential dimensions for reconciliation and regional stability, which are themselves essential for the future of the Western Balkan countries. Moreover, during his official visit to Serbia earlier this week, the President of the Republic recalled France's commitment to strengthening the rule of law and ensuring the lasting stabilization of the region.

I would also like to echo the concern once again expressed by Prosecutor Brammertz in his report with respect to the denial of crimes and responsibility by some individuals convicted by international criminal tribunals upon their release. In that regard, we recall that the denial of genocide is subject to criminal punishment in France. We will spare no effort to counter the rhetoric of denial of well-established facts. In that context, on the occasion of the recent twenty-fifth anniversary of the Rwandan genocide, the President of the Republic designated 7 April as an official day of commemoration of the Tutsi genocide.

With regard to the issue of requests for early release, resolution 2422 (2018) must be fully respected, and we note the determination of the President and the Prosecutor in that regard. We encourage the Mechanism to continue its discussions and deliberations with a view to establishing a clear regime under clear conditions, which will usefully enhance international jurisprudence.

With respect to the Mechanism's functioning, France welcomes the willingness shown by the President and the Prosecutor to promote more than ever a unified and coordinated working culture among the divisions and the policy of a single Mechanism and a single Prosecutor's Office. That is an essential condition for its effectiveness and the coherence of its action.

In conclusion, allow me note, like President Agius, that 17 July is the Day of International Criminal Justice and marks the anniversary of the adoption of the Rome

Statute. On this occasion, France reiterates its full support for the International Criminal Court.

**Mr. Syihab** (Indonesia): Let me begin by thanking Judge Carmel Agius, in his role as President of the International Residual Mechanism for Criminal Tribunals, and Prosecutor Brammertz for their respective reports and insightful briefings on the ongoing work of the International Residual Mechanism for Criminal Tribunals. Our gratitude also goes to you, Mr. President, for your leadership of the Council's Informal Working Group on International Tribunals.

Before I continue, I wish to reiterate Indonesia's support for the effective contribution of the Mechanism to fighting impunity and ensuring accountability for the most serious crimes under international law. I will focus on three issues today:

My first point concerns the workload of the Mechanism. We carefully note that in this reporting period alone, 225 decisions and orders were issued by the Mechanism. That is a very impressive output despite a number of challenges faced by the Mechanism. We also note with satisfaction that the working methods implemented by the Mechanism have enabled the judges to expeditiously render judgments in the smaller legal proceedings. In that regard, we fully support those efficient working methods and we encourage the Mechanism to continue on that path. We also note that, of those 225 decisions and orders, 142 of them, or approximately three in five, related not to the adjudication of the core crimes but instead to the adjudication of requests pertaining to other residual functions.

One such aspect leads to my second point, which is on assistance to national jurisdictions. Indonesia attaches particular importance to capacity-building programmes to develop the national judicial capacity of relevant States in order to ensure that all referred cases are conducted in full compliance with the standards of due process. As States bear the primary responsibility for ending impunity and investigating and prosecuting those responsible for the most serious crimes under international law, it is important that national judicial authorities be assisted, supported and advised in fulfilling their responsibilities. We encourage the Mechanism to continue those very important activities. However, it must be done without losing sight of the goal of fulfilling the mandate of the Mechanism to conclude the remaining trials in a timely and effective manner.

Turning to my last point, which is the trial of fugitives, we believe that the Mechanism cannot fully complete its work until it brings the principal indictees to justice. Justice cannot be fully served as long as the remaining fugitives are still at large. The system must be able to bring them to justice, no matter when or where they are apprehended. Indonesia therefore stresses the paramount importance of enhancing cooperation among States in the service of justice. The Mechanism relies on the Council's support and political will of Member States in relation to that vital matter, and my delegation strongly appeals to Member States to take that responsibility very seriously.

In that regard, we note the significant challenges pointed out in the report (S/2019/417, annexes I and II) regarding national prosecutions of war crimes in the former Yugoslavia and Rwanda. We share the concern that the victims of the Rwandan genocide are still waiting for more justice and that all those who committed crimes in it must be held accountable. In view of the well-known cliché that justice delayed is justice denied, we urge Member States to help to ensure that justice is served soonest.

Finally, I wish to reiterate the firm commitment of Indonesia to continue to cooperate with the Mechanism to ensure that their mandates are fully discharged.

**Ms. Wronecka** (Poland): I would like to thank President Carmel Agius and Prosecutor Serge Brammertz for their informative and insightful reports and briefings. On International Criminal Justice Day, it is fitting to commend the President's and the Prosecutor's commitment and contribution to international criminal justice. Let me express Poland's appreciation for their dedicated leadership in efforts to ensure accountability, reflected by the efficient and effective functioning of the International Residual Mechanism for Criminal Tribunals and its Office of the Prosecutor, notwithstanding the difficult challenges they face. Given the fact that today's briefing is the first by President Agius in this capacity, allow me also to warmly welcome him in particular and to assure him of Poland's continuing commitment to accountability, as well as its support for and cooperation with the Mechanism. Allow me also to praise your efforts and leadership, Mr. President, as Chair of the Informal Working Group on International Tribunals.

Poland is encouraged by the priorities set out by the President and the Prosecutor. Their focus on the timely

completion of judicial proceedings while maintaining highest international standards of due process and fair trial are particularly appreciated. The innovative and efficient solutions adopted to that end are welcome. The priority attached to increasing the branch coordination and harmonization of procedures and to fostering a working environment that encourages high staff morale and performance also deserves recognition. Moreover, we commend the efforts to provide protection and support services to the victims and witnesses as well as assistance to national jurisdictions. We also welcome the considerate and careful approach to and work conducted on the issue of early release. The significant progress in many other spheres thanks to the determination and efforts of the International Residual Mechanism's President, Prosecutor and staff should be acknowledged as well. We therefore agree with the positive assessment of the Mechanism's functioning during the reporting period and we look forward to its further achievements.

We note the challenges that the Mechanism faces, including those related to resources, fugitives and acquitted and released persons. In that context, we would like to recall that the Security Council has repeatedly urged States, particularly those where fugitives are suspected to be at large, to intensify cooperation with and assistance to the Mechanism. We call on all States to cooperate fully with the Mechanism, in accordance with the relevant Security Council resolutions, and to render as soon as possible all necessary assistance to it, in particular with regard to the location, arrest and surrender of all remaining fugitives indicted by the Mechanism and the relocation of acquitted and released persons.

We encourage them also to demonstrate support for accountability by increasing cooperation among them on the relevant issues and for international criminal justice by agreeing to a budget for the International Residual Mechanism's commensurate with its needs and allowing it to carry out its mandated functions in a timely manner.

International criminal justice institutions, including the Mechanism, play an important role in fighting impunity, which can contribute to the deterrence and prevention of the most serious crimes of international concern and to the maintenance of an international rules-based order. Let me reassure the Council of Poland's commitment to all of the aforementioned, continued support for the Mechanism and readiness to

cooperate with it. We reiterate our call on others to take the same stance.

**Mr. Licharz** (Germany): I thank our two briefers for their comprehensive and substantive briefings. I would also like to welcome the Minister of Justice of Serbia, Ms. Kuburović, and the State Secretary for Political Affairs of Croatia, who will both speak to us later. Their presence shows the importance that they attach to this meeting. I would also like to thank President Theodor Meron for his excellent service to the International Residual Mechanism for Criminal Tribunals and wish the new President, Judge Carmel Agius, all the best in his work. We are confident that President Agius will guide the Mechanism well through the upcoming tasks with his tremendous experience and expertise.

We welcome the main priorities that President Agius just outlined to us, in particular, first, concluding proceedings in an efficient and timely manner while ensuring the principles of due process and fair trial standards; secondly, a unified work culture, better inter-branch coordination and the harmonization of practices and procedures; and, thirdly, fostering a productive work environment. We appreciate the further development of the Mechanism's legal and regulatory framework and the continuous efforts to implement the recommendations of the Office of Internal Oversight Services.

The work of the Tribunals is based on the conviction that there is no peace without justice. Therefore, we want to remind the international community of the work that still needs to be done. Based on its own past, Germany can testify to the crucial importance of the prosecution of core international crimes: genocide, war crimes, crimes against humanity and the crime of aggression. A country or region paralysed by those horrifying crimes can only start the important reconciliation process and rebuild the fabric of its society based on the knowledge that justice will prevail.

We support the Mechanism's efforts to find the eight fugitives indicted by the International Criminal Tribunal for Rwanda. Their whereabouts remain unknown to the Mechanism. We call on the States in which fugitives may reside to intensify the activities of their law enforcement authorities in order to arrest and surrender all remaining fugitives. Germany sincerely hopes that all States specifically called upon by the Prosecutor in his most recent report (S/2019/417,

annex II) will follow the requests of the Mechanism to assist in the apprehension of fugitives for whom arrest warrants have been issued. We very much appreciate hearing that South Africa is actively working to that end in a concrete case, and we encourage all to reach its speedy conclusion.

We express concern about the lack of progress and efficiency of the trials under way at the national level in the countries of the former Republic of Yugoslavia, and we urge the States of the region to take the necessary measures to ensure fair and speedy trials. Germany condemns the glorification of convicted war criminals, as well as the denial of the fact that war crimes were committed within the former Republic of Yugoslavia. In view of last week's twenty-fourth anniversary of the genocide committed in Srebrenica, Germany appeals to the Government institutions in all countries in the region to actively fight against that bias.

Five persons convicted by the International Tribunal for the Former Yugoslavia (ICTY) remain at the United Nations detention unit in The Hague, awaiting transfer to enforcement States. Germany decided to lead by example and has accepted four out of the 18 persons convicted, and we encourage other Member States to join us and accept the transfer of ICTY convicts into their penal systems.

Finally, as we mark the Day of International Criminal Justice, let me express our appreciation and gratitude to all those who dedicate their work to carrying out international criminal justice and reassure them of Germany's full support for all international criminal tribunals and mechanisms that serve the purpose of international criminal justice.

**Mr. Kuzmin** (Russian Federation) (*spoke in Russian*): We welcome the presence of the new leadership of the International Residual Mechanism for Criminal Tribunals — President Agius and Prosecutor Brammertz — to the Chamber and thank them for their detailed reports (S/2019/417, annexes I and II).

Given the particular circumstances, such words of gratitude for the detailed reports and activities paradoxically mean that the body that has been entrusted to them is in a state of permanent breach of the main purpose of resolution 1966 (2010). Contrary to the guidelines provided by the Security Council, the Tribunals, established 25 years ago, show a rare degree of dynamism under this new arrangement.

The symbolism of that juncture has already been evoked. Some delegations are commemorating 17 July — the date of the adoption of the Rome Statute of the International Criminal Court — as the Day of International Criminal Justice. However, we see no reason for celebration. We believe that, in the context of the subject of today's meeting, other events carry much greater weight. Unfortunately, they are tragic events.

Twenty years ago, NATO air forces launched a military operation against Yugoslavia, and for several months they carried out missile and bombs strikes against the Federal Republic of Yugoslavia. The targets of those operations were predominantly civilian facilities, including residential areas of Belgrade, bridges and schools. Those attacks claimed the lives of hundreds of people, including children.

At that time, the International Tribunal for the Former Yugoslavia (ICTY) refused to investigate those criminal attacks. Instead, the ICTY created the myth about Belgrade's single-handed responsibility for the war in the Balkans and brutally punished the Serbs, while justifying the participation of others in the civil war. All will recall the appalling acquittals of Lieutenant General Ante Gotovina, Field Commander Naser Orić and the Kosovo-Albanian Ramush Haradinaj.

That torch was taken up by the Residual Mechanism. During the reporting period, contrary to the first instance judgment, there was a retrial and an inordinately more severe conviction handed down to the Serb Radovan Karadžić. Appeals proceedings are still pending on the verdict involving the life imprisonment of Ratko Mladić. Such sentences are always complemented by aggressive media campaigns and media pressure on judges.

We were surprised by the appearance on the agenda of the Residual Mechanism of the contempt case initiated by the ICTY in the context of the trial of Vojislav Šešelj. We view such measures as yet another attempt to artificially extend the existence of that body. Ensuring that the accused receive timely and appropriate medical care remains a pressing issue. We are very concerned about the health of Ratko Mladić. We are unable to confirm from independent sources that he has been receiving quality care and adequate treatment in the Mechanism's penitentiary facilities.

With the change in leadership of the Residual Mechanism, we expect improvements both within and beyond that subsidiary body of the Security Council.

For the time being, we will not contribute any funding to the part of the United Nations budget that has been designated for that structure.

In conclusion, I would like to make a personal request to Prosecutor Brammertz. In his briefing, he said the following, and I will quote in English:

*(spoke in English)*

“No one emerged unharmed — not in Bosnia and Herzegovina, in Croatia, in Kosovo or in Serbia”.

*(spoke in Russian)*

I would like to ask the Prosecutor explain to his speechwriters that any reference to Kosovo in the Chamber must be accompanied by the following well-established remark, which I will also quote in English:

*(spoke in English)*

“All references to Kosovo shall be understood as being in full compliance with resolution 1244 (1999).”

**Mr. Mabhongo** (South Africa): I wish to take this opportunity to congratulate Judge Agius on assuming the presidency of the International Residual Mechanism for Criminal Tribunals. We are convinced that the Mechanism will make further substantial headway in its work under his leadership. At the same time, I wish to express gratitude to Judge Meron for his dedicated and significant leadership of the Mechanism, which achieved much under his guidance.

I also wish to thank the Prosecutor of the Mechanism, Mr. Serge Brammertz, for his comprehensive briefing on the work undertaken by his Office.

We welcome the efforts of the Mechanism in terms of its administration, functioning and activities during the reporting period, which are indeed commendable. We wish in particular to emphasize the President's focus on addressing gender issues within the Mechanism, as well as enhancing its efficiency. In relation to gender parity, we are particularly pleased to see that 50 per cent of the professional staff members at the Mechanism are women. We would, of course, like to see the same percentage reflected in the overall staff numbers. The increased emphasis on the efficiency of the Mechanism is indeed positive. We are therefore encouraged by the innovative strategies presented in the report of the President (S/2019/417, annex I) to enhance efficiency,

such as increased inter-branch coordination and harmonized practices and policies.

Turning to the briefing by the Prosecutor, we wish to thank him for his report (S/2019/417, annex II). We are particularly impressed with the work carried out by the Prosecutor and his Office during the reporting period and their tireless efforts in fulfilling the mandate of the Mechanism. We note the concerns raised by the Prosecutor in relation to the challenges experienced, particularly with regard to cooperation with States. We believe that States have an international obligation to cooperate with the Mechanism and the Prosecutor. South Africa, like other States, takes its international obligations seriously. We do not support impunity. Therefore, with regard to the request for assistance that was made of South Africa, our competent domestic authorities are actively seized of the matter and have been in contact with the Office of the Prosecutor with a view to finding solutions.

South Africa wishes to commend the Prosecutor and his Office for their efforts beyond prosecutorial obligations. In particular, we wish to emphasize the activities undertaken in relation to capacity-building through the provision of appropriate practical training on investigative and prosecutorial techniques. Such capacity-building is instrumental to ensuring that efforts undertaken now to dispense justice are sustainable in the future.

In conclusion, we are grateful for the work carried out by the Mechanism, under circumstances that are often not ideal, and wish to commend it for its efforts. We are convinced that the Mechanism will continue to strive towards the fulfilment of its mandate under its current effective leadership.

**Mr. Alajmi** (Kuwait) *(spoke in Arabic)*: At the outset, I sincerely thank Judge Agius, President of the International Residual Mechanism for Criminal Tribunals, for his briefing on the progress made in the work of the Mechanism. It is his first briefing since he assumed the leadership of the judicial hierarchy of the Mechanism. We wish him every success in his new duties.

I thank his predecessor, Mr. Theodor Meron, for his tireless efforts throughout his term of office at the helm of the Mechanism. I also thank Prosecutor Serge Brammertz for his valuable briefing today.

The establishment by the Security Council, pursuant to its resolution 1966 (2010), of an international mechanism to continue the work of the former International Tribunal for the Former Yugoslavia and International Criminal Tribunal for Rwanda so as to achieve justice for the victims of war crimes, genocide and ethnic cleansing, committed on the basis of religion and race and in violation of international humanitarian law, is a new dimension in the role of the Security Council to anchor justice, address impunity and uphold the rule of law in order to maintain international peace and security. In our discussion today, I would like to highlight the following points.

At the outset, we welcome the efforts of the President of the Mechanism, who, since assuming his new role, has adopted priorities that will improve its functioning and ensure the conclusion of the remaining legal proceedings, while taking into account the factors of time and efficiency, the promotion of inter-branch cooperation and the improved professionalism among the staff. Without prejudice to the mandate of resolution 1966 (2010) and notwithstanding the challenges faced by the Mechanism, such priorities include the following.

First, there was a surge in judicial activities concerning requests for reviews of rulings, access to confidential information and allegations of contempt of court, as a result of the discontinuation of the support provided by the two Tribunals when they closed.

Secondly, the General Assembly did not approve the proposed budget of the Mechanism for 2018-2019. Therefore, the Mechanism revised and reduced its budget by laying off several staff members, which may have an adverse effect on its functioning and the implementation of its mandate, not to mention on the morale of its staff. It is therefore important to adopt the new budget without any revision or reduction so that the Mechanism can assume its functions, in particular as it envisages judicial milestones, such as the conclusion of all remaining cases in 2020.

Thirdly, we commend the speedy measures implemented by those in charge of the Mechanism, including the Prosecutor and the Registry, in trials reviewed by the Mechanism's judges, which would expedite rulings against indictees. One example is the appeals sentence in the case *Prosecutor v. Radovan Karadžić* last March. We look forward to the rulings in other cases considered by the Mechanism within the time frame set.

Fourthly, we commend the efforts of the Mechanism to transform itself into a small, temporary and efficient structure whose functions and size will become leaner over time, in accordance with its founding resolution, by adopting measures to reduce expenditures without affecting its functioning.

Fifthly, we commend the efforts of the Mechanism's Prosecutor. However, we believe that the responsibility to locate and detain the eight fugitives does not lie with the Mechanism alone. There must be cooperation among States and relevant international organizations to promote the efforts of the Mechanism, enabling access to important information regarding the location and detention of the fugitives.

Sixthly, we reiterate the importance of taking the measures necessary to address the concerns of Member States reflected in resolution 2422 (2018) regarding early release. We also stress the need for the Mechanism to take into account the observations of Member States on its functioning in order to achieve the desired goals.

In conclusion, I sincerely thank Peru for its work as Chair of the Informal Working Group on International Tribunals, as well as the Office of Legal Affairs and the United Nations Office of Internal Oversight Services for their efforts to implement resolution 1966 (2010).

**Ms. Pierce** (United States of America): We thank President Agius and Prosecutor Brammertz for their briefings. We appreciate the work of the International Residual Mechanism for Criminal Tribunals and the tireless dedication of its judges, attorneys and staff.

We also thank President Agius for his leadership over the last six months. His stated priorities of ensuring timely and efficient proceedings, while ensuring fair trials for defendants, harmonizing operations at the Arusha and The Hague branches and fostering a positive work environment are very welcome. We particularly commend President Agius' commitment to taking action on allegations of sexual harassment and discrimination at the Mechanism. We are also encouraged by the announcement of a new approach to early releases, which will allow for consultation with stakeholders to increase transparency and allow for the consideration of the full impact of a decision on early releases.

The ongoing work of the mechanism includes very important cases, including the appellate proceedings in the *Mladić* case, the ongoing *Stanišić and Simatović*

trial, and pre-trial proceedings for *Turinabo et al.* We should also take a moment to highlight the ruling of the Appeals Chamber regarding Radovan Karadžić in March, upholding his convictions for genocide, crimes against humanity and war crimes, because we are just one week past the anniversary of the genocide in Srebrenica.

Twenty-four years ago, after 30,000 Bosnian Muslim women, children and elderly men were forcibly removed from Srebrenica, more than 8,000 men and boys were murdered. The Appeals Chamber upheld the Trial Chamber's determination that these murders — the largest mass killing in Europe since the Second World War — were the direct result of the decision made by Karadžić and his accomplices to destroy the Bosnian Muslims of Srebrenica. To accomplish these evil ends, Karadžić and others first engaged in a propaganda campaign to depict Bosnian Muslims and Bosnian Croats as enemies of the Serbs, exploiting distrust and suspicion to create the kind of climate in which genocide became possible.

It is because we continue to live in the shadow of that crime that we are deeply alarmed when we see convicted war criminals being glorified and unscrupulous leaders rewriting historical events. Those who deny the truth, manufacture distrust in the institutions of justice, deny the common humanity of their neighbours and exploit the pain of victims for their own purposes must be condemned. We do a grave injustice to those who lost their lives when we are silent in the face of the politics of division and hatred. Although Karadžić hid for over a decade, the fact that he was found and prosecuted is a powerful testament to the courage of the victims who testified and their devotion to justice.

But the burden is not on victims to bring justice to those who perpetrated crimes against them, but rather on States. We applaud the Mechanism's continued search for the eight Rwandans still wanted for their roles in the 1994 genocide, twenty-five years ago. These individuals are accused of being responsible for some of the most appalling acts of our time: Félicien Kabuga, who allegedly financed the genocide; Protais Mpiranya, who led the Presidential Guard battalion and is accused of being responsible for the killing of many moderate politicians and United Nations peacekeepers; and Augustin Bizimana, who led the Ministry of Defence. These men and five others remain at large and it is all of our responsibility to bring them to justice.

Since 1998, the United States has offered financial rewards for information leading to the arrests of Rwandan indictees and fugitives from the former Yugoslavia. We continue to offer up to \$5 million for any information leading to the arrests of these eight individuals. Let this and the Karadžić case be a message to them. We will not stop looking.

If there is anything all States need to stand behind, it is justice for victims of genocide. We welcome South Africa's stated commitment to cooperating fully with the Mechanism, but we were disappointed to hear that it had not yet taken action on the Mechanism's requests. We urge the Government to coordinate closely with the Mechanism in the search for fugitives.

Finally, this is a transition phase for the Mechanism as its role ensuring accountability winds down. The responsibility increasingly lies with national authorities to finish the task of prosecuting remaining cases. Just as the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda were pioneers in international criminal law, the Mechanism is a trailblazer now, showing how knowledge and skills can be transferred to national jurisdictions. We also commend the Mechanism's work to build capacity in national judiciaries in Africa and in the former Yugoslavia in order to build new generations of attorneys able to prosecute atrocity crimes in their own systems.

As the Prosecutor reported, the Mechanism has received an unprecedented number of requests for assistance. This demonstrates its immense and ongoing value in national systems. The United States would like to emphasize its continued commitment to accountability for perpetrators and justice for victims. We will continue to remember those who lost their lives in Rwanda and the former Yugoslavia and stand with their families and communities in their efforts to attain justice.

**Mr. Pecsteen de Buytswerve** (Belgium) (*spoke in French*): First of all, I would like to thank Judge Carmel Agius and Prosecutor Serge Brammertz for their written reports (S/2019/417, annexes I and II) and the briefings they have just delivered to the Security Council. I also congratulate Judge Agius on his appointment as President of the International Residual Mechanism for Criminal Tribunals.

Belgium commends the work of the Mechanism, which of course has been marked over the past six

months by the verdict of the Appeals Chamber in the *Karadžić* case, sentencing him to life imprisonment. Despite a reduced budget, the Mechanism continues to demonstrate a high level of activity while upholding the Security Council's vision of being a small, effective entity of a temporary nature.

Fighting impunity and ensuring justice for the most serious crimes under international law are fundamental obligations that are primarily the responsibility of the States concerned. The efforts of Member States, supported by the Mechanism, contribute directly to the process of intercommunal reconciliation. That is why it is essential that all the countries concerned cooperate, not only among themselves but also with the Mechanism.

In this regard, it is regrettable that eight individuals indicted by the International Criminal Tribunal for Rwanda are still at large. Belgium recalls that all United Nations Member States have an obligation to cooperate with the Office of the Prosecutor in its efforts to locate and prosecute the remaining fugitives. Council members must, of course, set an example for others to follow and we are delighted that South Africa has expressed its willingness to cooperate. We support the Prosecutor's appeal for the South African authorities to now honour that commitment in practice as soon as possible, which will contribute significantly to the fight against impunity for the crimes of genocide and crimes against humanity that were committed in Rwanda.

In the same vein, Belgium is very concerned by the persistent reports from the Office of the Prosecutor regarding the denial of crimes and the glorification of war criminals in some countries of the former Yugoslavia. The role of the Mechanism in combating hate speech and any ideology advocating discrimination is paramount, but it requires the full cooperation of the States of the region. My country also regrets a further slowdown in regional judicial cooperation in the Balkans, without which those responsible for war crimes will go unpunished. We therefore call on the States concerned to reverse the current trend and recall, in particular, the commitments they made in that regard a year ago at the Western Balkans Summit in London as part of the Berlin process.

In resolution 2422 (2018), the Council encouraged the Mechanism to consider the introduction of a conditional early release scheme. The aim was to respond to the concerns expressed by some Member

States following the early release of several sentenced persons. Belgium welcomes the new Chairman's intention to consult with other interested parties and is currently considering appropriate solutions in this regard. It is indeed essential that the Mechanism be able to continue its activities in a peaceful atmosphere.

The mandate of the Mechanism is unique. In addition to its judicial activities, it has other residual functions such as assistance to national courts. The latter is directly involved in States' responsibility to investigate, prosecute and adjudicate the perpetrators of serious violations of international humanitarian law. Belgium fully supports the Mechanism in the pursuit of its mandate, which allows hundreds of victims of the Balkan wars and genocide in Rwanda to make their stories heard and to testify about the atrocities of the 1990s so that they will never be forgotten. The Mechanism is thus a model that the Security Council is rightly highlighting today, 17 July, Day of International Criminal Justice.

**Mrs. Dickson** (United Kingdom): I would like to thank the President of the International Residual Mechanism for Criminal Tribunals, Judge Carmel Agius, and the Prosecutor, Mr. Serge Brammertz, for their briefings to the Council today.

At the outset, as this is the first meeting of the Council which Judge Agius has attended as President of the Mechanism, I would like to congratulate him formally, on behalf of the United Kingdom, on his appointment. We commend the priorities he has identified for his presidency and welcome the opportunity to work constructively with him, just as we did with his predecessor, Judge Theodor Meron, whose significant contribution as President we recognize.

Today, as has been noted, we mark the Day of International Criminal Justice. Support for international criminal justice and international humanitarian law is a fundamental element of the United Kingdom's foreign policy. We believe that justice and accountability for the most serious crimes of international concern are crucial to building lasting peace and security and to ensuring protection of human rights for all.

In January 2018, the Residual Mechanism assumed fully its responsibilities for the International Criminal Tribunal for the Former Yugoslavia (ICTY), alongside its responsibilities for the International Criminal Tribunal for Rwanda (ICTR). Since then, the Mechanism has continued to achieve commendable progress in



carrying out its mandate. It has delivered continuity in a wide range of functions, including the trials of the most senior fugitives from justice, the enforcement of sentences of those convicted — in this respect, the United Kingdom was pleased to voluntarily assist the Mechanism by enforcing one of these sentences — the protection of victims and the preservation of archives. In doing so, it has guaranteed the legacy of the ICTY and the ICTR.

Yet, the Mechanism continues to operate under its revised and significantly reduced budget for the 2018-2019 biennium. As has been highlighted previously, that has led to reduced staff numbers and resources, and utility and service cuts. Nevertheless, the Mechanism has been determined to continue to fulfil its mandate effectively and efficiently, and we are pleased that it continues to take the necessary steps to make this possible.

We would recall the introduction of the Mechanism's expenditure reduction plan and downsizing policy, both of which the Registry is continuing to develop and implement so as to ensure that the Mechanism remains on track to deliver its mandate in a fiscally responsible way in the face of budgetary constraints. However, we do need to remind ourselves of the breadth of the functions the Mechanism properly carries out. Along with its judicial functions, the importance of its other functions must also be recognized, and we therefore must be mindful of the need to balance cost-savings with effectiveness. The United Kingdom remains committed to supporting the Mechanism for the remainder of its mandate and calls on others to continue to provide the support the Mechanism needs, whether financially, logistically or politically.

We are following the developments in the Arusha branch with interest, including the ongoing contempt case of *Turinabo et al.*, as well as awaiting the outcome in the *Ngirabatware* review. We note that a number of Rwandan fugitives are still at large, and we call on all States to cooperate with the Prosecutor in his bid to have those fugitives transferred to the Mechanism. We also hope that States will assist with a solution to the problem of relocating the nine released and acquitted persons in Arusha.

Turning to The Hague, we welcome the outcome of the *Karadžić* appeal earlier this year. The increase in *Karadžić's* sentence for crimes that include genocide, from 40 years to life in prison, sends a powerful

message that those who carry out such atrocities will be held accountable for their actions and sentenced accordingly. We also note the progress made in the *Mladić* and *Stanišić and Simatović* cases, and are pleased that these are due to conclude by the end of next year.

While some progress has been made, the limited regional judicial cooperation between the countries of the former Yugoslavia still thwarts access to justice for many victims. The Mechanism can completely fulfil its mandate and deliver justice to victims only through the collective efforts of those countries. The joint declaration on war crimes, signed at prime ministerial level at the London Western Balkans Summit last year, underlined the importance of supporting and removing impediments to effective regional cooperation, while strengthening cooperation with and seeking the assistance of the Residual Mechanism. We urge the countries concerned to work closely with each other and the Mechanism, in particular the Office of the Prosecutor, to ensure accountability through effective cooperation. The United Kingdom is proud to support that objective with projects in the region.

Lastly, but perhaps most importantly, April marked the twenty-fifth anniversary of the Rwandan genocide and next year will see the twenty-fifth anniversary of the Srebrenica genocide. The anniversaries of these two devastating atrocities should lead us to reflect on the great contribution of the ICTY and the ICTR, and now the Mechanism, to ensuring that the perpetrators and instigators are held to account. While completing these trials will not bring back the thousands who were killed or erase the grief of their families, it sends a clear message that there will be no impunity for those who commit such crimes.

Twenty five years on, however, genocide denial for both atrocities continues. This is unconscionable and reprehensible. It is a direct threat to the maintenance of stability in both regions. We therefore hope that Council members and Member States will join the United Kingdom in supporting the Mechanism's measures to fight genocide ideology and its zero-tolerance approach to genocide denial in all its forms.

**Mr. Liu Yang** (China) (*spoke in Chinese*): China wishes to thank President Carmel Agius and Prosecutor Serge Brammertz for their briefings on the recent work of the International Residual Mechanism for Criminal Tribunals. During the reporting period, Judge

Agius assumed the presidency, four new judges were appointed, Registrar Elias was reappointed for another term and the work of the Mechanism continued to make progress.

China takes note of the gradual progress in the Mechanism's judicial activities in the past six months and its projections for the completion of the remaining cases. The Mechanism should make headway with the cases concerned in a pragmatic and efficient manner based on the estimated timelines.

China takes note of the in-person plenary of the judges hosted by President Agius and the three main priorities he proposed, including ensuring that the residual judicial procedures of the Mechanism are concluded efficiently in a timely manner to enhance the unique mandate of the Mechanism through better inter-branch coordination and other means and to foster a better working environment for its staff. We also note that the Office of the Prosecutor has continued its efforts to track down and apprehend the fugitives at large indicted by the International Criminal Tribunal for Rwanda (ICTR). All these measures have a positive impact on the advancement of the Mechanism's work.

China welcomes the measures taken by the Mechanism to implement resolution 2422 (2018) in order to take a more prudent approach to addressing the issue of the early release of persons convicted by the ICTR. We hope the Mechanism will continue to take actions to implement the recommendations of the Office of Internal Oversight Services in its related audit reports and evaluation reports with a view to continuing to improve its work.

China wishes to reiterate that, pursuant to resolution 1966 (2010) on this topic, the Mechanism is a small, temporary and efficient structure, whose functions and size will diminish over time. We hope the Mechanism will continue to act in accordance with resolution 1966 (2010) in this regard.

Last but not least, I would like to take this opportunity to thank Peru, Chair of the Informal Working Group on International Tribunals, and the United Nations Office of Legal Affairs, for their coordination of activities between the Council and the Mechanism.

**Mr. Singer Weisinger** (Dominican Republic) (*spoke in Spanish*): We are pleased to welcome today's briefers, President Agius and Prosecutor Brammertz,

and we thank them for their detailed briefings. We wish President Agius success in his new and difficult work.

The existence of such bodies as the International Residual Mechanism for Criminal Tribunals is crucial to achieving societies that are free of impunity. The work of the Mechanism reaffirms the commitment of the United Nations to protecting human rights and world peace.

We commend the progress that the Mechanism has made in the cases of *Prosecutor v. Maximilien Turinabo et al*, *Prosecutor v. Jovica Stanišić and Franko Simatović*, *Prosecutor v. Radovan Karadžić* and *Prosecutor v. Ratko Mladić*. We hope to see some of them concluded by the end of 2020, as indicated by President Agius in his May 2019 report (S/2019/417, annex I). We also welcome the work done by the Mechanism to protect and support the approximately 3,150 witnesses.

The Dominican Republic considers that the priorities of the new President of the Mechanism to be timely and valid. We support these priorities with their special emphasis on unifying and harmonizing the criteria, working methods and processes of the Chambers that make up the Mechanism in order to increase productivity and consistency, and thereby achieve the goals of the work for 2020. Similarly, we support the call by President Agius for the international community to join efforts, both bilaterally and multilaterally, to cooperate with the relocation of those who have been released or who have already served their sentences. These individuals have the right to receive their documents and to be able to reintegrate themselves into society.

Furthermore, the States members of the Security Council have a special commitment to cooperate with the bodies and offices created through mandates of the Council. We therefore consider it imperative to support the budget of the Mechanism at the United Nations. Despite the cuts and administrative adjustments carried out by the President, there is no doubt that proper allocation of funds is essential to the success of the Mechanism.

On another note, we congratulate the Office of the Prosecutor on the progress made in the pursuit of fugitives, as set forth in his May 2019 report (S/2019/417, annex II). We urge the international community to demonstrate solidarity and support the

identification, investigation and arrest of individuals sought by the Mechanism.

Lastly, we would like to make reference to the order for the early release of convicted persons. We express our concern that those orders are not yet subject to a specific regime of conditions, despite the provisions of paragraph 10 of resolution 2422 (2018). We believe it is essential to create an early-release regime that takes into account the need for victims and affected States and communities to participate.

**Mrs. Mele Colifa** (Equatorial Guinea) (*spoke in Spanish*): First of all, I would like to welcome Judge Carmel Agius and congratulate him on his appointment as President of the International Residual Mechanism for Criminal Tribunals on 19 January 2019, bearing in mind that this is the first time that he has appeared to brief the Security Council. We also welcome Prosecutor Serge Brammertz. We thank the both of them for their extensive briefings on the work of the International Residual Mechanism over the past six months.

Aware of the budgetary challenges facing the International Residual Mechanism of Criminal Tribunals as a result of the budgetary reductions approved by the General Assembly in July 2018, we applaud the efforts that the Mechanism continues to make in the timely conclusion of the pending legal work and the fulfilment of its mandate in the most efficient and effective way possible, taking into account the need to ensure respect for due process and the fundamental rights of accused and convicted persons under its jurisdiction.

In that regard, we applaud the President's efforts to improve the dynamics of interaction and cooperation between the two branches that make up the Mechanism by seeking to unify their criteria, as well as its records system, both in Arusha and in The Hague. There is no doubt that achieving a uniform management approach will have a positive impact on the operations of the Mechanism.

My country welcomes the will expressed in the Mechanism's new approach, in which it will seek the opinions of the States concerned, in particular those of the former Yugoslavia, because the relevant provision on evaluating the early release of convicted persons was not included in the mandate of the International Criminal Tribunal for the Former Yugoslavia. Convicted persons could be considered for early release on condition that they have served at least two thirds of their sentences.

We welcome the momentum with which the President has begun, with the numerous meetings he has held with the staff of the Mechanism, thereby encouraging a spirit of harmony among them, the plenary sessions with the judges and the large number of orders issued — all of which are proof of his dedication and great dynamism. With regard to the commitment to take action on gender issues, we emphasize that we do not disagree, but we hope that these actions will be implemented in a way that ensures that the Mechanism does not deviate from its initial mandate or require an increase in the already reduced budget.

We also note that the reporting period was characterized by an elevated number of judicial activities that were carried out, even if much more remains to be done, although we certainly commend the programmatic efforts to see all the pending cases concluded by the end of 2020 so as to fully take up the residual cases in the year 2021.

Bearing in mind that the success of the work of the Mechanism depends to a large extent on the full cooperation of States, especially with regard to operations related to tracking, arresting and surrendering fugitives and to relocating released persons, we call on those States Members of the United Nations to step up their willingness to increase the much-needed assistance to the Mechanism, as required by resolution 2422 (2018). We take this opportunity to join those who have preceded us in applauding the commitment of all those countries that continue to support and cooperate consistently with the Mechanism, whether in the enforcement of sentences or in other areas of interest.

In conclusion, the Republic of Equatorial Guinea reaffirms its strong commitment to strengthening the rule of law and promoting justice, by supporting the Mechanism in all aspects of its work as an instrument of the Security Council for administering justice and putting an end to impunity, thereby achieving the desired international peace and security. Finally, we thank the Mission of Peru for continuing to chair the Informal Working Group on International Tribunals in a transparent, efficient and dynamic manner.

**The President** (*spoke in Spanish*): I now give the floor to the Minister of Justice of Serbia.

**Ms. Kuburović** (Serbia): I am grateful for the opportunity to address the Security Council on behalf of the Republic of Serbia today.

As a potential witness to the completion of the work of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Residual Mechanism for Criminal Tribunals in the foreseeable future, I take this opportunity to share some of the key moments in Serbia's cooperation with these institutions. I shall shed light on certain tendencies taking shape in the work of the Mechanism at this juncture, which may foreshadow future developments.

The provision for the Mechanism to close in June 2020 is at odds with the assessments of the Mechanism's officials that some cases will not be completed by the end of that year. This fact calls into question the Mechanism's ability to complete the remaining cases prior to the projected closure and brings into focus the question of the institutional framework within which the issues unresolved at the deadline will be considered.

However, certain assertions contained in the progress report of the Prosecutor for the period from 16 November 2018 to 15 May 2019 (S/2019/417, annex II) are unfounded and a cause for concern. In paragraph 29, the report says that the European Union's policy of conditionality, linking membership progress to full cooperation with the ICTY and the Mechanism, remains a key tool for ensuring cooperation with the Mechanism. This position seeks to shape the political context of Serbia's cooperation with the European Union, replacing legal arguments with political ones. The Mechanism is seen as a tool for exercising political pressure. Neither the Prosecutor nor the Mechanism are entrusted with such a mandate.

Serbia's cooperation with the Mechanism has been successful and received wide acclaim. It has fulfilled the obligations it assumed and given the Mechanism free access to all evidence, documents, archives and witnesses. All the Mechanism's requests have been attended to with timely replies, and the documentation requested from the archives of Serbia's State organs have been forwarded to the Mechanism's Prosecutor, Chambers and Secretariat. Furthermore, witnesses have been allowed to testify, waiving their right not to with respect to State, military or official secrets.

In the last reporting period, Serbia made progress in its activities related to the so-called legacy of the Tribunal by responding to the call made for the establishment of a Belgrade information centre to house ICTY materials and make them accessible to the general public. Since the inception of the Tribunal, my

country's cooperation has yielded positive results, and its own judicial system has been changed and improved in the process. Making Serbia's progress to European integration conditional on extraneous issues would send a message that all those years of hard work and exceptional results have not been enough.

Furthermore, the report suggests that higher-ranking perpetrators have not been prosecuted, even though the President of the Federal Republic of Yugoslavia, the President of the Republic of Serbia, the Vice-President of the Federal Government, the Vice-President of the Government of the Republic of Serbia, three former Chiefs of the General Staff of the Army of Yugoslavia, the former Head of the State Security Service and many military and police generals were among the persons transferred to the Tribunal. No such requests were made of any other country. Others were spared for political reasons, even if there were surely legal reasons to prosecute them. This approach clearly falls outside the international legal order on which the United Nations is based.

Undoubtedly, the countries of the region need to work together to achieve mutual understanding, cooperation and reconciliation. Our future stability and economic development should be predicated on the normalization of relations rather than on political conditionality. The report's insistence on conditionality, especially against the backdrop of Serbia's extensive achievements in terms of cooperation with the Mechanism, is therefore unfair and ultimately unacceptable.

Cooperation in our region is on the rise and best illustrated by the following. Serbia's cooperation with Bosnia and Herzegovina in the field of legal assistance is at a high level. In the period from 1 November 2018 to 1 July 2019, exchanges of requests for legal assistance between our countries took place. The Prosecutor's Office of Bosnia and Herzegovina submitted 29 requests, 25 of which were fulfilled, while the Office of the War Crimes Prosecutor of the Republic of Serbia submitted 45 requests, 28 of which have received replies. Serbia's Prosecutor's Office has taken over three indictments from the competent authorities in Bosnia and Herzegovina.

It is our hope that our cooperation with Croatia will also improve. Following a meeting of Justice Ministers between our two countries in March 2018, two commissions were established to exchange lists of persons indicted or sentenced for war crimes and to

draft a bilateral criminal trials agreement. The first of the two commissions completed its task, while the other continues to hold meetings, the last of which took place in Belgrade last week. In addition, a ministerial meeting was held in Zagreb in February. These meetings and the work of the commissions are important steps being taken by Serbia and Croatia to address outstanding bilateral issues between our two countries.

Specifically, the State's Attorney Office of the Republic of Croatia submitted 21 requests, of which 9 have been fulfilled, while 11 are still under consideration. The Office of the War Crime Prosecutor of the Republic of Serbia submitted 18 requests, of which 6 have received replies, leaving 12 requests without a reply. These numbers show the progress achieved in comparison to the previous reporting period, when we received no reply from Croatia to any request for evidence and information.

Furthermore, meetings of the War Crimes Prosecutor of the Republic of Serbia with her colleagues in the region is proof of Serbia's ongoing efforts aimed at regional cooperation. The regional prosecutors conference on cooperation, benchmarks and standards in the prosecution of war criminals was held in Belgrade in May. In addition to high-ranking officials from the War Crimes Prosecutor's Offices of Bosnia and Herzegovina, Croatia, Montenegro and Serbia, the International Residual Mechanism's Prosecutor, Mr. Brammertz, took part in the conference. We therefore find it difficult to subscribe to the report's assessment that "regional judicial cooperation in war crimes matters is not satisfactory" (S/2019/417, annex II, para. 81). On the contrary, in comparison to the previous reporting period, regional cooperation today is much broader than before.

The adoption of the Prosecutorial Strategy for the Investigation and Prosecution of War Crimes in Serbia recognized the Office of the War Crimes Prosecutor as the primary organ for improving efficiency and effectiveness in prosecuting war crimes. Further, the Serbian Government has provided resources to improve the Office's capacities and increase the number of employees, in particular deputy prosecutors.

The Prosecutor's Office of the Mechanism also rendered support to improving the work of the Office of the War Crimes Prosecutor. The Mechanism's prosecutors were invited as instructors to a five-day training course for deputy and assistant prosecutors

in Belgrade last April. The course was organized by the Serbian Judicial Academy and provided practical training on investigating and prosecuting sexual violence in conflict as an international crime.

The Office of the War Crimes Prosecutor sought six indictments in the period from 1 November 2018 to 1 July 2019. Three of them were taken over from the competent authorities of Bosnia and Herzegovina. Currently, 20 cases are being tried, while 54 persons in six cases are being investigated. In the reporting period, the Higher Court in Belgrade delivered judgments in five cases, while the Office of the War Crimes Prosecutor reached a guilty plea agreement with one person. All persons involved are Serbs. Serbia continues its practice of no trial in absentia with respect to war crimes committed against the Serbian population. Twenty-seven cases, involving 132 persons, have been suspended on that basis.

In the light of efforts to make my statement informative and to bring before the Security Council my country's cooperation with the Tribunal and the Mechanism, which is second to none, I feel disappointed by the contention in paragraph 83 of the report, in which it is stated:

"Nonetheless, it is of significant concern that [as of the present], no senior or mid-level official has yet been held accountable [...] for the ethnic cleansing of 800,000 civilians in Kosovo in March and April 1999."

The allegations of ethnic cleansing and of 800,000 civilian victims thereof have been made in very poor taste. The allegations are wrong, while number games lead to blind alleys of bias and partiality and are often fraught with far-reaching and unforeseeable consequences. Those narratives have been churned out by propaganda mills to vindicate the 78-day bombing of my country exactly 20 years ago. The brutalization took place without any reason and was carried out, as the Council knows very well, without its decision.

No one seems to be held to account for or found guilty regarding the victims of that monstrous act and the loss of thousands of human lives, in which evidence has been collected through the judicial system of Serbia, except that the highest-ranking Serbian officials have been sentenced by the very Tribunal for criminal offences committed in the territory of Kosovo and Metohija. Their crime was the defence of their country.

Let me remind the Council that, under resolution 1244 (1999) of 10 June 1999, Kosovo and Metohija have been under the protectorate of the United Nations, the institution in which we convene today. Due to the widely known circumstances, the United Nations Interim Administration Mission in Kosovo has judicial competences over this part of Serbia's territory. Yet each and every attempt of my country to have the war crimes committed against its population in Kosovo and Metohija investigated and their perpetrators brought to justice has yielded no result. No one has been held accountable for the persecution and killing of Serbs and other non-Albanians. Justice for the victims of war crimes in Kosovo and Metohija continues to be unattainable.

Since their establishment by the Provisional Institutions of Self-Government in Pristina, the Specialist Chambers and Specialist Prosecutor's Office in The Hague have made no progress whatsoever. Likewise, the European Union's Rule of Law Mission (EULEX) Prosecutor's Office in Pristina extended no request for assistance to the Office of the War Crimes Prosecutor in Belgrade in the reporting period. However, under the mutual legal assistance procedures, the Serbian Prosecutor's Office extended 16 requests to the EULEX Office, out of which only one request has received a reply. That prevents the crimes committed against Serbs and other non-Albanians from being prosecuted and tried and is surely one of the reasons that no one is called to account for the persecution of the Serbs of Kosovo and Metohija.

Persons who have been sentenced before the Tribunal and served their sentences cannot be the topic of the Mechanism Prosecutor's report to the Security Council. Upon presentation of an indictment and, finally, upon the delivery of a judgment, the Prosecutor's job is ended. After serving a sentence, no one can be further sanctioned for whatever reason, nor can he or she be deprived of a personal or civil right.

Let me bring to the Council's attention another very important matter. As I said at the beginning of my statement, certain tendencies taking shape at the time the Mechanism is about to end its work may change the decades-long practice of serving the sentences handed down by the Tribunal and the Mechanism. It is my opinion that the issue should be resolved before the Mechanism completes its mandate.

The indications that certain changes will occur in respect of early release affect, in an indirect way, the initiative of Serbia, launched more than 10 years ago, to have its nationals sentenced before the Tribunal serve their sentences in Serbia. That initiative was motivated by Serbia's resolve to assume the responsibility for the serving of prison sentences handed down to its nationals by the Tribunal. The purpose of punishment includes, among other things, the resocialization of the sentenced persons. I believe that it is difficult to expect that that purpose will be achieved if the persons serve their sentences in faraway countries, whose language they do not speak and in which the possibility for them to receive visits from, and contact with, relatives is reduced to a bare minimum.

The situation in Serbia has changed drastically since the wars in the former Yugoslavia. I highlighted that fact in my previous statements to the Council and during the visits of the Mechanism's officials to Belgrade. Last November, I was reassured by the then President of the Mechanism, Judge Meron, that there were no obstacles to the realization of Serbia's initiative. I was advised to refer the issue of the initiative to the Security Council, which established the Tribunal and the Mechanism.

In my statements in June and December 2018 (see S/PV.8278 and S/PV.8416), I proposed that the Secretary-General request the Mechanism to prepare a comprehensive assessment of the problem in order to make it possible for the Security Council to proceed and review the existing practice relative to the serving of prison sentences and take a decision on requisite changes.

Serbia is ready to accept strictly defined international monitoring and to provide clear guarantees that the sentenced persons will not be released early, short of an appropriate decision by the Mechanism or another organ of the United Nations entrusted with the matter in the future. I once again call on the Mechanism's representatives and on the representatives of the relevant institutions that the Secretary-General may appoint for the purpose to visit Serbia, tour its penitentiary institutions and inspect them themselves.

We would welcome it if this esteemed institution presented its position regarding the serving of sentences by the persons sentenced before the Tribunal. It would be a very good sign. I therefore call on the Security Council to become actively involved. By realizing

the initiative, a positive message would be sent that perpetrators can resocialize by serving sentences in their country of origin.

In conclusion, let me point out that Serbia's cooperation with the Mechanism continues to be successful and that my country has no outstanding issues with the Mechanism. I continue to believe that our efforts will be recognized and reflected objectively in the next reports. I hope that I am not overly optimistic in that belief.

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

**Ms. Bušić** (Croatia): I would like to begin by acknowledging the work of Peru as Chair of the Council's Informal Working Group on International Tribunals. The honourable President of the International Residual Mechanism of the Criminal Tribunals, Judge Agius, as well as its Prosecutor, Mr. Brammertz, and I thank them for today's briefings. Allow me to pay tribute to former President of the Mechanism Judge Meron, whose leadership ensured important progress in ending impunity and pivotal achievements in the proper interpretation and application of international humanitarian law.

Today we mark the Day of International Criminal Justice — a powerful reminder of the importance of international courts and tribunals created to adjudicate crimes against humanity, war crimes, genocide and other serious offences. Although the Mechanism was established to carry out the essential functions of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) after their closure, it also plays an important role in the fight against the culture of impunity and represents an instrument for ensuring accountability. As we have said on many occasions, accountability is a prerequisite for peace, stability, development and the effective protection of human rights because there is no lasting peace without justice and no justice as long as there is impunity.

Both the ICTY and the ICTR represent a milestone in the development of international criminal law, having paved the way for the creation of the International Criminal Court, which Croatia strongly supports. On this day — the Day of International Criminal Justice — Croatia takes the opportunity to reiterate its support for international justice and the prosecution of the most serious violations of international law before

international and hybrid tribunals, as well as domestic courts, with full respect for fair trial standards.

The Mechanism has made important headway since the previous Security Council briefing in December 2018 (see S/PV.8416). The Mechanism's Appeals Chamber delivered its judgment by which Radovan Karadžić was sentenced to life imprisonment for the crime of genocide, crimes against humanity and violations of the laws or customs of war. Croatia welcomed the final judgment of one of the main ideologues and executors of a policy of brutal aggression and ethnic cleansing, who did not hesitate to commit genocide or other serious international crimes against Bosniaks and Croats in order to create so-called Greater Serbia.

The Appeals Chamber found that crimes of unprecedented scale were committed through four joint criminal enterprises aimed at permanently removing Croats and Bosniaks from certain areas in Bosnia and Herzegovina. We are aware that there is no punishment that will ever fully compensate for the evil that was done and that nothing can bring back the lives of innocent victims. Nevertheless, we hope that assignment of personal responsibility to Karadžić for some of the most horrific crimes committed after the Second World War, such as the genocide in Srebrenica, provide at least a minimum of satisfaction to the victims and their families.

The verdict is a clear warning to all those who continue to glorify war criminals that their policies are utterly unacceptable and that they have been internationally characterized as criminal. We regret that the Appeals Chamber has not established the responsibility of Karadžić as the perpetrator of genocide in other municipalities of Bosnia and Herzegovina besides Srebrenica, which we consider to be an inseparable element of his criminal policy. In addition, based on the evidence set forth in other ICTY judgments, we believe that, in the appeals process, Karadžić's involvement in a comprehensive joint criminal enterprise in Bosnia and Herzegovina should also be linked to the top political and military echelons of the then-Federal Republic of Yugoslavia under the leadership of Slobodan Milošević.

With regard to the Mechanism's ongoing work, Croatia stresses the importance of the completion of the case on appeal of *Prosecutor v. Ratko Mladić* and the trial case *Prosecutor v. Jovica Stanišić and Franko Simatović*. We also encourage the Mechanism to

maximize its efforts in this regard. We note the recent decision by the Mechanism's single judge to revoke the referral order in the contempt of court proceedings in the case *Prosecutor v. Petar Jojić and Vjerica Radeta*, requesting Serbia to transfer the accused to the Mechanism without delay.

We underline once again the need for Serbia to fully cooperate with the Mechanism, including by fully accepting and implementing all of its rulings and decisions. That is also clearly stated in the European Commission's 2019 report on Serbia, as well as in the 18 June 2019 conclusions of the European Council. Repeated challenges by Serbia, including at the highest levels, to the judgments of the ICTY and the Mechanism, together with the recent rally of the Serbian Radical Party led by convicted war criminal Vojislav Šešelj in the town of Hrtkovci — the symbol of suffering of Croats of Vojvodina — and its overall unwillingness to prosecute for command responsibility — meaning those most responsible for crimes — raise the question of whether the country has the sincere intention of dealing with the past.

We strongly support the Western Balkans countries' perspective on attaining membership in the European Union. The accession process is based on clear and well-known criteria, and full cooperation with the Mechanism is certainly among them. Croatia places great emphasis on continuing constructive judicial cooperation in war matters with other States of the region. Meaningful cooperation is not a one-way process, and we expect other sides to show their willingness to actively engage.

As reported earlier by the Serbian Minister of Justice, last year the Croatian and Serbian Ministers of Justice agreed to establish two joint commissions. One would work on a bilateral agreement on cooperation with regard to the prosecution of war crimes, and the other on the exchange of lists of persons accused or convicted of war crimes. We cannot say that we are overly satisfied with the way things have functioned over the past year. The commissions did engage in work but have not yet achieved any significant progress.

Croatia's position in the matter is clear: the State on which territory crimes were committed has primacy in prosecution. For us, Serbia's position that crimes committed on the territory of Croatia would fall under Serbian jurisdiction is unacceptable. Bilateral meetings

were also held between the Ministers of Justice of Croatia, Serbia and Bosnia and Herzegovina this year.

The search for missing persons is a humanitarian imperative to which we attach the utmost priority. Croatia welcomes the adoption of resolution 2474 (2019) on missing persons in armed conflict last month as the first Security Council resolution of its kind fully dedicated to this issue. We commend the Council's commitment in this regard.

Today, in Croatia, 1,892 persons remain unaccounted for from the war period. With the aim of clarifying the fates of missing persons, steps have been taken with regard to cooperation with Bosnia and Herzegovina and Montenegro, but the key is cooperation with Serbia. Unfortunately, Serbia still shows no readiness to open up its full archival records. Cooperation in addressing this issue is one of the key elements for further discussion between Croatia and Serbia and is an important criterion in the context of the negotiations on Serbia's accession into the European Union.

In conclusion, I would like to reiterate Croatia's firm support for the remaining work of the Mechanism. While the conclusion of the appeals proceedings in the Karadžić case represents an important step forward in the completion of its mandate, some of the most accountable have yet to receive a final verdict to be brought against them. We hope that justice in the remaining cases, which is long overdue, will come soon. Croatia stands ready to continue to extend its full support to the Mechanism, while expecting it to complete its mandate in time.

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

**Mrs. Rugwabiza** (Rwanda): First and foremost, I congratulate you, Sir, on assuming the presidency of the Security Council for this month and assure you of my delegation's full support.

I thank Judge Agius and Prosecutor Brammertz for their reports (S/2019/417, annexes I and II) and briefings today. We congratulate Judge Agius on his recent appointment as the President of the International Residual Mechanism for Criminal Tribunals. That transition of leadership is an opportune time to reflect on the legacy of the Mechanism over the past seven years. From our perspective, that legacy can be summarized in four points.



First, 11 genocide convicts were released before the end of their sentences. Secondly, none of the remaining eight fugitives indicted by the International Criminal Tribunal for Rwanda (ICTR) for crimes committed during the genocide against the Tutsi has been arrested or brought before the court. Thirdly, 23 genocide convicts sentenced by the ICTR have appealed their sentences and have either been acquitted or seen their sentences significantly reduced after retrial. Fourthly, nine genocide convicts released or acquitted by the court currently live comfortable live in Arusha and their living allowances and accommodation are paid from the budget of the Mechanism. That is, in sum, the appalling legacy of the previous leadership. I wish to elaborate on some of those points.

With regard to the early release of genocide convicts, at his sole discretion the former President of the Mechanism imposed an arbitral set of criteria for the early release of genocide convicts upon or soon after having served two-thirds of their sentences. None of the applications for early release, with the exception of three cases in 2018, has ever been reported to the Government of Rwanda, the representatives of genocide survivors, the communities in which they committed crimes or witnesses, who provided evidence of the crimes committed, at great personal risk.

The grounds on which early release applications were lodged, considered and approved have also been withheld from the Government of Rwanda, genocide survivors and other relevant stakeholders. In the future, we very much expect meaningful cooperation with the Government of Rwanda and all relevant stakeholders prior to the consideration of applications for early release. On that point, we wish to sincerely thank all members of the Council that have emphasized the importance of having clear criteria in the spirit and letter of resolution 2422 (2018).

In all cases of early release but one, decisions were made without conditions. The only case to which conditions were attached was that of Mr. Aloys Simba, a former lieutenant colonel who organized large-scale killings in the south of Rwanda and whose early release was sneaked through by the former President of the Mechanism, a week before the end of his tenure as President of the court. It is also worth noting that genocide convicts who were granted early release never expressed a shred of remorse for the crimes they committed during the genocide and, since their release, several of them have joined associations denying the

genocide or promoting the genocide ideology. And yet, they were considered by the Mechanism on the basis of reports received from prisons that they had been rehabilitated because they had demonstrated good behaviour, such as regularly attending prison mass services or participating in gardening — none of which, members will agree, is relevant to the crimes of which they were convicted.

We expect the President of the Mechanism to implement the spirit and letter of resolution 2422 (2018), adopted last year, and put in place clear conditions to any early release as a matter of agency and the prerequisite for considering new applications. It is only in doing so that we can make it costly for those released if they were to engage in activities promoting genocide ideology in the future.

With regard to fugitives still at large, the Office of the Prosecutor has noted in several of its reports that progress in locating, tracking and arresting the remaining eight indicted fugitives has been hampered by the failure of some Member States and other relevant authorities to cooperate with the requests. Furthermore, the Prosecutor General of the Republic of Rwanda has also sent out 1,000 indictments to more than 34 countries around the world, requesting their cooperation in arresting and prosecuting individuals who have been indicted or in transferring them to Rwanda to face justice.

We echo the call made by the Office of the Prosecutor to all Members to adhere to their international legal obligations and provide the assistance needed to locate and apprehend genocide fugitives. We thank Member States that have cooperated — in particular Canada, the Democratic Republic of the Congo, Denmark, Germany, Malawi, the Netherlands, Norway, Sweden and the United States of America — in the transfer to Rwanda or prosecution in their national courts of genocide convicts. We urge all Member States, in particular members of the Council, to walk the walk of commitment to international law, the rule of law and justice, either by prosecuting the individuals indicted and living on their territory or by transferring them to Rwanda to face prosecution.

In particular, we call for the arrest or trial of Dr. Vincent Bajinya, Emmanuel Nteziryayo, Charles Munyaneza, Célestin Ugirashebuja and Célestin Mutabaruka, who are still living freely in the United Kingdom. We also call for the cooperation of South

Africa in arresting Mr. Kayishema Fulgence, who is still living in South Africa, despite several calls for cooperation from the Prosecutor. We welcome France's efforts in bringing fugitives who took refuge in France to justice and encourage them to continue those efforts, in particular, with the cases of Dr. Sosthène Munyemana, Dr. Eugène Rwamucyo, Dr. Marcel Bivugabagabo and Dr. Charles Twagira, who are also still living in France.

The Prosecutor reported a very concerning trend of systematic retrials and appeals, where witnesses have been pressured or corrupted to change their positions. A case in point is the multi-accused contempt case in the *Prosecutor v. Maximilien Turinabo et al.* trial. We commend the Office of the Prosecutor in the case *Prosecutor v. Augustin Ndirabatware* of genocide convict Mr. Ndirabatware, where it was established that witnesses were corrupted in contempt of court. That, however, is far from being an isolated case. All previous retrials have been subject to similar practices.

With regard to the release of genocide convicts, as was mentioned by the President, Judge Agius, nine convicts released or acquitted by the court still live in Arusha at the expense of Member States, including Rwanda, as their living costs and accommodation are paid through Members' assessed contributions to the Mechanism's budget. That in itself symbolizes the tragic irony of the international justice system. Some Member States find it difficult to cooperate with the Office of the Prosecutor in bringing to book those who committed the most atrocious crimes, and yet find it normal that their taxpayers' money is used to offer living allowances to those released many years after their acquittal. In some cases, living expenses and allowances have been paid by the ICTR — and later, by the Mechanism — for more than a decade. In one case, these allowances have been paid for 15 years. Rwanda believes that they are unjustified and should simply be stopped.

In conclusion, the four points I have outlined reflect Rwanda's assessment of the poor performance of the Mechanism over the past seven years and its failure to deliver on its core mission to complete the unfinished work of the former ICTR and ICTY. Rwanda expects an improved performance and meaningful cooperation with the Mechanism under the leadership of Judge Agius. We are encouraged by his constructive dialogue and engagement with all stakeholders, including my Government, since he took office six months ago. We also call on Member States hosting genocide fugitives

to cooperate more effectively with the Office of the Prosecutor in order to hold them to account for the crimes committed in the 1994 genocide against the Tutsi in Rwanda.

To end on a more positive note, in today's Rwanda genocide survivors and perpetrators live side by side, on the same hills and in the same communities, in peaceful coexistence. The delivery of justice in Rwanda has been central to making this possible by fighting the culture of impunity, bringing communities back together and rebuilding the social fabric destroyed in 1994.

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

**Mr. Alkalaj** (Bosnia and Herzegovina): Let me congratulate you, Mr. President, on your assumption of the presidency of the Security Council for this month and for bringing this very important issue before the Council. I would also like to thank the leaders of the International Residual Mechanism for Criminal Tribunals, Judge Carmel Agius and Prosecutor Serge Brammertz, for their respective reports (S/2019/417, annexes I and II) and for today's comprehensive briefings. My remarks today will therefore be rather brief.

We note the continued progress made by the Mechanism in fulfilling the residual activities of the now closed International Tribunal for the Former Yugoslavia (ICTY). In addition, I would like to underline that the successful conclusion of the Mechanism's mandate in an efficient manner and within a reasonable time frame is of crucial importance for justice and reconciliation in Bosnia and Herzegovina and the region.

Throughout the years, Bosnia and Herzegovina's cooperation with the ICTY has been steadfast and full, as evidenced by the Tribunal's report. In the same vein, we remain devoted to actively contributing to the Mechanism's efforts to accomplish its mission. Prosecuting war crimes, regardless of the national or religious affiliation of the perpetrators or victims, is of essential importance to long-term stability in the country and the region.

We would like to highlight our appreciation for the support of the European Union, the Organization for Security and Cooperation in Europe and the United Nations Development Programme in terms of strengthening the human and material resources of judicial institutions that are processing war crimes and

in terms of general capacity-building. Furthermore, consistent cooperation among the Office of the Prosecutor and the relevant authorities of Bosnia and Herzegovina, Serbia and Croatia, in accordance with the principles of international justice and the rule of law, is crucial in investigating and prosecuting war crimes.

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

prosecuting and punishing the persons responsible for war crimes. We will continue to work on strengthening the national judicial system. More justice means more trust and stability within Bosnia and Herzegovina and the Western Balkans region.

*The meeting rose at 12.35 p.m.*