

23. International Residual Mechanism for Criminal Tribunals

During 2021, the Security Council held two meetings related to the work of the International Residual Mechanism for Criminal Tribunals.⁸⁵⁹ The two meetings took the form of debates, and no decisions were adopted by the Council under this item in 2021.⁸⁶⁰ More information on the meetings, including participants and speakers, is given in the table below.

On 8 June 2021, the Council heard the first semi-annual briefing by the President of the Mechanism and by its Prosecutor at which they presented the latest assessment and progress report on the work of the Mechanism, submitted pursuant to paragraph 16 of resolution [1966 \(2010\)](#).⁸⁶¹ At the outset, the President announced that the Mechanism's Appeals Chamber had just pronounced its judgment in the case against Mr. Ratko Mladić, dismissing Mr. Mladić's appeal and affirming his convictions, including for genocide, persecution and extermination, and also affirming his sentence of life imprisonment.⁸⁶² He added that with that delivery, the Mechanism had taken another tremendous step towards the finalization of its core judicial work and that the case was also a testament to what could be achieved through international justice processes when States had the will to cooperate and overcome geopolitical roadblocks. The President also provided updates with regard to the two other judgements to be issued during that month at the two branches of the Mechanism, the contempt case against Mr. *Anselme Nzabonimpa* et al., in Arusha and the *Stanišić and Simatović* retrial at The Hague. In addition, the President updated the Council on the case against Mr. Félicien Kabuga, who remained detained in The Hague following his transfer to the United Nations Detention Unit in October 2020. The President recalled that the Mechanism was mandated to carry out many other residual functions, amongst which was the supervision of the enforcement of sentences imposed by the International Criminal Tribunal for Rwanda (ICTR), the International Criminal Tribunal for the

⁸⁵⁹ For further information on the International Residual Mechanism for International Tribunals, see previous Supplements covering the period 2018-2020 and for the issues considered under this item, see also previous Supplements covering the period 1996-2007.

⁸⁶⁰ For more information on the format of meetings, see part II, sect. II.

⁸⁶¹ See [S/2021/487](#).

⁸⁶² See [S/PV.8790](#).

Former Yugoslavia (ICTY) and the Mechanism itself. In that context, he expressed his deepest appreciation for the invaluable contribution of the fifteen States Members of the United Nations in Africa and Europe that, in enforcing the sentence of one or more convicted persons, continued to assume significant additional responsibilities, despite the challenges brought by the COVID-19 pandemic. The President expressed hope that additional States would step forward and enter into enforcement agreements with the United Nations for that purpose. With regard to the situation of the acquitted and released persons in Arusha, the President underscored the fundamental importance that those individuals be resettled and regretted that a sustainable solution was yet to be found. The President also referred to his letter dated 11 May 2021 to the President of the Security Council informing of Serbia's non-cooperation with the Mechanism concerning the request by the ICTY to execute arrest warrants in relation to Petar Jojić and Vjerica Radeta. He added that Serbia's inaction not only undermined the effective administration of justice before the Mechanism, but also defied the international community by challenging the Security Council's authority and the Charter of the United Nations.⁸⁶³

The Prosecutor opened his statement highlighting the conviction of Ratko Mladić while acknowledging the work that the Mechanism still had ahead. He updated the Council on the remaining work of the Arusha Branch and its priorities, especially on the *Kabuga* case and the investigations and preparations for the commencement of his trial. With regard to the six remaining fugitives indicted by the ICTR, the Prosecutor recalled that he had informed the Council a few years before that his Office was reforming and strengthening their fugitive tracking activities and that those efforts had produced results, including the arrest of Felicien Kabuga. While his Office had viable leads on all remaining fugitives, he added that the primary challenge was the lack of full and effective cooperation from Member States. Expressing determination to account for the remaining fugitives as quickly as possible, the Prosecutor said that while his Office worked to resolve the challenges, the firm support of the Council would be vital. The Prosecutor reaffirmed that many other war crime perpetrators still needed to be held accountable for their crimes and that another strategic priority of his Office was to assist national jurisdictions prosecuting international crimes committed in the former Yugoslavia and in

⁸⁶³ See [S/2021/452](#).

Rwanda. In concluding, the Prosecutor updated Council members on three important developments. First, the arrest of Kabuga had brought renewed attention to continuing national efforts to prosecute alleged génocidaires and the Rwandan authorities had achieved important results in cases referred by the ICTR under rule 11 bis. Secondly, in both Bosnia and Herzegovina and Serbia, new national war crimes strategies were being put in place, which were important opportunities to clearly demonstrate national commitment to full accountability. Finally, the Prosecutor brought to the Council's attention the issues of genocide denial and the glorification of war criminals both in Montenegro and Serbia and in Rwanda, calling for urgent action in that regard.⁸⁶⁴

The Council discussed the progress achieved by the Mechanism during the reporting period. Speakers commended the Mechanism for maintaining the continuity of its work despite the constraints imposed by the COVID-19 pandemic on its activities. Council members especially noted the expected delivery of three judgements during the month of June, including the judgment in the appeal case of *Prosecutor v. Ratko Mladić* confirming his convictions and sentence of life imprisonment. In this regard, the representative of the Russian Federation stated that his country attached great importance to safeguarding the rights of individuals under detention, including the right to medical assistance, a position the Council had specifically adopted in resolution [2529 \(2020\)](#). He regretted that no information had been found on the current state of health of Mr. Mladić and insisted that a full independent examination and certification be conducted. In the same way, he expected the appointment of an independent medical expert to assess the advisability of transferring Felicien Kabuga to the facilities of the Mechanism in Arusha as well as his capacity to stand trial. Several Council members expressed their continuous concern about ongoing reports of denial of crimes and the glorification of perpetrators of genocide and war criminals convicted by international criminal tribunals.⁸⁶⁵ Some speakers welcomed the Mechanism's initiatives to raise awareness among communities affected and among the young generations of the legacy of the criminal tribunals and the work being done.⁸⁶⁶ With regard to the challenges to the implementation of the mandate of the Mechanism,

⁸⁶⁴ See [S/PV.8790](#).

⁸⁶⁵ United Kingdom, Tunisia, Mexico, France, Saint Vincent and the Grenadines, Niger, Ireland and Estonia.

⁸⁶⁶ France, Niger and Ireland.

most Council members called for the strengthening of efforts by Member States to provide the Mechanism with the necessary assistance, fulfilling their responsibility and obligation in accordance with Security Council resolutions, including in the search for fugitives at large. Furthermore, some speakers expressed concern about the Mechanism's referral of Serbia to the Council with regard to Serbia's non-compliance with regard to the surrender and arrest of two individuals, urging Serbia to comply with the Mechanism's order.⁸⁶⁷ Council members also encouraged the Mechanism to continue implementing effective steps to adhere to its schedule of completion of its judicial activity and other residual functions, realizing the Council's vision of a small, temporary and efficient structure, whose function and site would diminish over time.⁸⁶⁸ In this connection, the representative of Niger encouraged the management of the Mechanism to step up its efforts to implement the recommendations outlined in the 2020 report of the Office of Internal Oversight Services,⁸⁶⁹ as well as those outlined in the Office's 2018 report,⁸⁷⁰ as those recommendations had been only partially implemented.⁸⁷¹

On 13 December 2021, the Council heard the second semi-annual briefing by the President of the Mechanism and its Prosecutor in which they presented the latest progress report on the work of the Mechanism.⁸⁷² The President opened his remarks by stating that during the reporting period, resolution [2529 \(2020\)](#) had been largely implemented and assured the Council that the Mechanism would keep advancing that process as they prepared for the next two-yearly review by the Council in 2022.⁸⁷³ More specifically, the President drew attention to the main aspects of the resolution and how the Mechanism was implementing its provisions. Most notably, he stated that, during the reporting period, the Mechanism had been able to deliver on time all three judgments that had been projected for June of that year, namely, the appeal judgement in the *Mladić* case, as well as trial judgments in the *Prosecutor v. Jovica Stanišić and Franko Simatović* case and the *Prosecutor v. Anselme Nzabonimpa et al.* contempt case. The

⁸⁶⁷ United Kingdom, Mexico, United States, France, Saint Vincent and the Grenadines, Ireland, Norway and Estonia.

⁸⁶⁸ Viet Nam, Tunisia, India, Saint Vincent and the Grenadines and China.

⁸⁶⁹ See [S/2020/236](#).

⁸⁷⁰ See [S/2018/206](#).

⁸⁷¹ See [S/PV.8790](#).

⁸⁷² See [S/2021/694](#).

⁸⁷³ See [S/PV.8927](#).

President noted that as a result, the core driver of the Mechanism's activities — its pending judicial caseload — had further diminished and that the Mechanism had entered a new chapter in its operations. He added that while the current cases on the docket and other mandated functions of the Mechanism would continue for the durations indicated in the progress report, the change in the active caseload was significant as reductions in staffing and resources were a necessary consequence of the conclusion of key activities. Referring to paragraph 4 of resolution [2529 \(2020\)](#), relating to the nine acquitted or released persons living in a safe house in Arusha, the President thanked the exceptional efforts by the Registrar of the Mechanism and the exemplary cooperation with the Republic of Niger for having accepted for relocation on its territory all nine individuals, an agreement which had already been implemented with respect to eight of them. The President also referred to paragraph 2 of the resolution, wherein the Council more generally urged States to cooperate fully with the Mechanism. In that context, he called once more on Serbia to fulfil its international obligations by arresting and transferring Petar Jojić and Vjerica Radeta to the Mechanism.

The Prosecutor updated the Council with the main developments regarding the remaining trials and appeals at the Hague and the Arusha branches, which was his Office's first strategic priority. As his second strategic priority, the Prosecutor also said that his Office continued to actively search for the remaining six fugitives indicted by the ICTR, in accordance with the Council's mandate. He stressed that the success of their efforts depended on the full and effective cooperation of Member States, more specifically, of Zimbabwe and South Africa at that time. As for his Office's third strategic priority, namely, to assist national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda, the Prosecutor reported that his Office was not only receiving a high volume of requests for assistance but also requests of greater complexity and significance. As a final remark, the Prosecutor said that he brought to the Council's urgent attention once again the continued denial of crimes and the glorification of génocidaires and war criminals, which were used to prevent

reconciliation, provoke hatred, and destabilize peace and security in addition to condemn present and future generations to bear the burdens of the past.⁸⁷⁴

Speakers acknowledged the progress reported in the ninth report of the Mechanism despite restrictions imposed by the COVID-19 pandemic. In that connection, Council members noted the decisions in the *Mladić* case and the judgments in the *Stanišić and Simatović* and the *Nzabonimpa* cases as well as the progress in the *Kabuga* case during the reporting period. The representative of Viet Nam welcomed the President's commitment to the full implementation of resolution [2529 \(2020\)](#), including by providing a clear projection of timelines for the completion of the Mechanism's judicial activities and other residual functions. Echoing Viet Nam, some Council members commended the Mechanism for continuing to implement effective steps to adhere to its schedule of completion, realizing the Council's vision of a small, temporary and efficient structure, whose functions and size would diminish over time.⁸⁷⁵ The representative of China expressed the hope that the Mechanism would conduct its activities in accordance with the mandate set forth in Council resolutions, respecting the projected timetable and completing the judicial proceedings for outstanding cases in a timely and efficient manner, allocating financial resources rationally, focusing on ensuring the fulfilment of judicial activities.⁸⁷⁶ The representative of the Russian Federation, on the other hand, stated that the Mechanism was a temporary structure and created as such. He added not to have seen any concrete steps to bring the Mechanism's activities to a close. Like the International Tribunal for the Former Yugoslavia (ICTY), he said that the Mechanism was systematically prolonging all its trials and thereby artificially extending its existence. Given the Security Council's review of the activities of the Residual Mechanism framework, he called not only to finally put together a plan for how the Court will be brought to a close, but also to firmly keep to that plan.⁸⁷⁷ Council members commended the Government of Niger for the assistance extended to the Mechanism regarding the nine acquitted and released persons residing in Arusha. In that connection, the majority of Council members recalled that States' cooperation with the Mechanism remained crucial for

⁸⁷⁴ See [S/PV.8927](#).

⁸⁷⁵ Viet Nam, China, Kenya, United States, Tunisia and Saint Vincent and the Grenadines.

⁸⁷⁶ China.

⁸⁷⁷ Russian Federation.

enabling the fulfilment of its mandates, in accordance with their international obligations, and to assist and support the Mechanism, where needed, including in the search for fugitives at large. In a similar vein, speakers continued to call on Serbia to comply with the arrest and surrender warrants issued in the *Jojić and Radeta* case and to condemn denials of genocide and the glorification of convicted war criminals.⁸⁷⁸

During the period under review, the Council also took note of the intention of the Secretary-General to appoint the judges nominated to fill the vacancies resulting from the passing of one judge and the resignation of one judge of the Mechanism for the remainder of the respective terms of office.⁸⁷⁹

Meetings: International Residual Mechanism for Criminal Tribunals

<i>Meeting record and date</i>	<i>Sub-item</i>	<i>Other documents</i>	<i>Rule 37 invitations</i>	<i>Rule 39 and other invitations</i>	<i>Speakers</i>	<i>Decision and vote (for-against-abstaining)</i>
S/PV.8790 8 June 2021			Bosnia and Herzegovina, Croatia, Rwanda and Serbia	President of the Mechanism, Prosecutor of the Mechanism	All Council members, all invitees ^a	
S/PV.8927 13 December 2021			Bosnia and Herzegovina, Croatia, Rwanda and Serbia	President of the Mechanism, Prosecutor of the Mechanism	All Council members, all invitees	

^a Serbia was represented by its President (via videoconference). The President of the Mechanism and the Prosecutor of the Mechanism participated in the meeting also by videoconference.

⁸⁷⁸ Estonia, United Kingdom, Ireland, United States and Norway.

⁸⁷⁹ See [S/2021/674](#), [S/2021/675](#), [S/2021/1064](#) and [S/2021/1065](#). For more information on the actions of the Council concerning judges of the Mechanism, see part IV, sect. I. D. 3 and part IX, sect. IV.