

25. International Residual Mechanism for Criminal Tribunals

In 2023, the Council held two meetings related to the work of the International Residual Mechanism for Criminal Tribunals.⁸⁵⁰ The two meetings took the form of a debate.⁸⁵¹ More information on the meetings, including on the participants and speakers is given in the table below.⁸⁵²

On 12 June, the Council heard the first semi-annual briefing by the President of the Mechanism and by its Prosecutor,⁸⁵³ in which they presented the latest developments and progress reports on the work of the Mechanism.⁸⁵⁴ In her remarks, the President stated that with the handing down of the Appeals Chamber judgment in the *Stanišić and Simatović* case, the cases against all 161 persons indicted by the International Tribunal for the Former Yugoslavia (ICTY) had been concluded, which left only the case against Félicien Kabuga, indicted by the International Criminal Tribunal for Rwanda (ICTR).⁸⁵⁵ In that regard, the President reported that the judges on the bench had decided that Mr. Kabuga was not fit to stand trial and that the Chamber would nevertheless continue the proceedings through an alternative findings procedure. In addition, the President outlined three main areas that required urgent attention by the Council and vigorous backing: the enforcement of sentences and the transfer of the four convicted persons at The Hague awaiting transfer to an enforcement State, the relocation of the acquitted or released persons who had been relocated to Niger in 2021, consistent with resolution [2637 \(2022\)](#), and the attempts to undermine the work of the Mechanism and the judgements issued by the ICTY, including the failure of Serbia to arrest and surrender Petar Jojić and Vjerica Radeta for their alleged interference with the administration of justice. In the face of what she described as the disturbing trend of genocide denial, glorification of war criminals and provocative

⁸⁵⁰ For more information on the International Residual Mechanism for Criminal Tribunals, see previous supplements covering the period 2018 to 2022; for further information on issues considered under the item, see also previous supplements covering the period 1996 to 2007.

⁸⁵¹ For more information on the format of meetings, see part II, sect. I.

⁸⁵² See also [A/78/2](#), part II, chap. 9.

⁸⁵³ See [S/PV.9344](#).

⁸⁵⁴ See [S/2023/357](#).

⁸⁵⁵ See [S/PV.9344](#).

statements by convicted persons, the President vowed to make the consolidation, safeguarding and more accessibility of the legacy of the ad hoc Tribunals and the Mechanism one of her priorities. Furthermore, she noted that the Mechanism was poised to start its drawing down phase and that, while decisions on bigger institutional changes and the transfer of the mandated activities of the Mechanism would ultimately lie with the Council, the Mechanism would continue to streamline its activities wherever it could.

In his statement, the Prosecutor expressed satisfaction with the arrest in South Africa on 23 May of Fulgence Kayishema, the Mechanism's most wanted Rwandan fugitive, describing it as a signal moment in the global effort to punish perpetrators of genocide and demonstrating what could be achieved through international and national cooperation in law enforcement. Also noting the last judgment in the *Stanišić and Simatović* case, the Prosecutor recalled that, over 30 years of work, the ICTY and the Mechanism were able to successfully prosecute senior political, military and police officials from all sides of the conflict and had demonstrated that accountability for the most serious international crimes was possible. While noting that these were significant steps bringing the Mechanism closer to finalizing its judicial activities, the Prosecutor recognized that his Office and the Judges of the Mechanism would still have important work to do, focusing on their mandate to assist national jurisdictions to continue the accountability process for international crimes committed in Rwanda and the former Yugoslavia. Lastly, the Prosecutor added that genocide denial and the glorification of war criminals remained significant concerns and added that as the international community was determined to bring war criminals to trial, it should be equally committed to promoting the truth after those trials were completed.

Following the briefings, the Council discussed the progress achieved by the Mechanism during the reporting period and commended its efforts to successfully perform its residual functions, pursuant to resolution [1966 \(2010\)](#). Council members highlighted the successful conclusion of the *Stanišić and Simatović* case and the continuing efforts in the *Kabuga* case as well as the close collaboration between the Mechanism and the local authorities in that regard. Council members also welcomed the recent arrest of Fulgence Kayishema, with the support of South Africa and other countries, and called on all States to cooperate with the

Mechanism, including in the arrest and surrender of fugitives. In that connection, some speakers expressed concern regarding the non-cooperation by Serbia in the execution of outstanding arrest warrants.⁸⁵⁶ In addition, a number of Council members expressed concern about the increasing trend of glorification of war criminals convicted by the international criminal tribunals, historical revisionism and denial of crimes committed in the Western Balkans as well as in Rwanda.⁸⁵⁷ Council members also expressed concern regarding the situation of the acquitted or released persons and called on the States concerned for full cooperation with the Mechanism in that regard.⁸⁵⁸ Some members expressed concern in particular about the situation of the eight persons acquitted or released who had been resettled in Niger.⁸⁵⁹

The representative of Gabon, speaking on behalf of the Chair of the Informal Working Group on International Tribunals, welcomed the fact that the Office of the President had maintained its focus on implementing the road map, a strategy developed in the previous year, with particular emphasis on a transition towards the definitive completion of the Mechanism's residual functions. Echoing Gabon, several Council members welcomed the President's initiatives to continue the transition of the Mechanism into a genuinely residual body.⁸⁶⁰ Some Council members further underscored the need for the Mechanism to envisage the path towards the conclusion of all of its activities in a clear and reasonable timeline.⁸⁶¹ The representative of the Russian Federation stated that, given that the transformation of the Mechanism into a genuinely residual structure had been delayed by at least a decade, a significant acceleration in the pace of the efforts to draw down its work was required, and called on the Office of Internal Oversight Services (OIOS) to develop a set of recommendations and scenarios for the Mechanism to help it finally comply with the Council's instructions, as set out in resolution [1966 \(2010\)](#).

⁸⁵⁶ United States, Albania, United Kingdom and Croatia.

⁸⁵⁷ Gabon, Switzerland, France, Mozambique, Malta, Albania, United Kingdom, Ecuador and United Arab Emirates.

⁸⁵⁸ Switzerland, France, Mozambique, Ghana, United States, Brazil Malta.

⁸⁵⁹ Switzerland, France, Ghana and Malta.

⁸⁶⁰ France, Mozambique, United States, Malta Russian Federation, United Kingdom and Ecuador.

⁸⁶¹ Brazil, Japan, China, and United Arab Emirates.

At the second semi-annual briefing on 12 December further to the latest progress report,⁸⁶² the President reported that since she had previously addressed the Council in June, the Mechanism was in a very different position as decisive events had taken place and the Mechanism had finally transitioned to its new, truly residual phase.⁸⁶³ In that regard, she noted that there were no more active trials or appeals related to core crimes, following the indefinite stay of proceedings in the case against Félicien Kabuga in September and that only two ICTR fugitives remained to be tried in Rwanda. The Mechanism was focused on planning for the future and winding down its operations to fully respond to the related elements of resolution [2637 \(2022\)](#), as well as recommendations previously made by OIOS. The President reported that she had just presented to the Informal Working Group on International Tribunals a draft framework of operations to complete functions, in line with her priorities of a more future-oriented approach, which also included effective leadership and good governance as well as ensuring that the Mechanism's legacy was preserved.

In his briefing, the Prosecutor also noted that his Office was firmly focused on its remaining residual functions, the most important of which was the assistance provided to national authorities, continuing the accountability process for crimes committed in Rwanda and the former Yugoslavia so that national courts fully took over responsibility from the ICTR and the ICTY.⁸⁶⁴ He added that, consistent with the completion strategy, the Council had instructed his Office to respond to requests for assistance from national partners, and outlined the three forms of assistance his Office was providing upon request, namely, providing access to evidence and information, legal assistance and expert support concerning fugitives. The Prosecutor stated that the evaluation by the OIOS would focus on the cooperation of the Mechanism with Member States, including how his Office responded to the needs of Member States and how it contributed to domestic justice processes. Referring to the seventy-fifth anniversary of the adoption of the Convention on the Prevention and Punishment of the Crime of Genocide, the Prosecutor concluded by stating that the ad hoc Tribunals had successfully prosecuted genocide crimes committed in Rwanda and the former Yugoslavia, significantly advancing the punishment of that

⁸⁶² See [S/2023/566](#).

⁸⁶³ See [S/PV.9502](#).

crime. He said that, in addition, the Tribunals had greatly developed the jurisprudence of that crime, notably by recognizing that crimes against women and girls, including rape and forcible transfer, could be integral to genocidal plans.

In the subsequent discussion, most speakers welcomed the fact that the Mechanism was transitioning to a truly residual institution. A number of Council members commended the President's focus on future planning initiatives, in particular the presentation of the draft framework of operations to complete the Mechanism's residual functions as well as to identify options for the transfer of the Mechanism's activities.⁸⁶⁵ The representative of the Russian Federation while recognizing that some steps had been taken in the right direction, expressed her dissatisfaction with the lack of specific dates for the drawdown of the Mechanism, with only a forecast for the conclusion of some of its functions, with time frames which went as far as 2055. Speakers called on States concerned to cooperate closely with the Office of the Prosecutor with a view to the locating and arresting of the remaining fugitives.⁸⁶⁶ Several Council members also recognized the need for the Mechanism to continue its work on its assistance to national jurisdictions.⁸⁶⁷ Council members further called attention to the resettlement issue concerning the acquitted and released persons.⁸⁶⁸ Some expressed specific concern with regard to the situation of the seven individuals who had been relocated to Niger, pursuant to the agreement between the United Nations and the Government of Niger, particularly given the political instability in that country, and urged for efforts to find a durable solution regarding those individuals.⁸⁶⁹ Finally, a number of Council members continued to express deep concern about the denials of the commission of crimes, hate speech and the glorification of war criminals and perpetrators of genocide who had been convicted by international criminal tribunals following impartial and independent proceedings.⁸⁷⁰ In that connection, speakers also underscored the importance of the

⁸⁶⁵ Gabon, United States, Switzerland, Brazil, Malta, Albania and Japan.

⁸⁶⁶ Gabon, United Kingdom, United States, China, Brazil, Malta, Ghana, France, Ecuador and Rwanda.

⁸⁶⁷ Malta, Albania, Ghana, France and United Arab Emirates.

⁸⁶⁸ Mozambique, China, Brazil, Ghana and France.

⁸⁶⁹ Mozambique, United Kingdom and Switzerland.

⁸⁷⁰ Gabon, United Kingdom, Switzerland, France, United Arab Emirates and Ecuador.

role of the Mechanism in increasing access to the public judicial records of the ad hoc Tribunals and consolidating the legacy of the Mechanism.⁸⁷¹

During the period under review, the Council also took note of the intention of the Secretary-General to appoint the judge nominated to fill the vacancy resulting from the death of one judge for the remainder of the term of office ending on 30 June 2024.⁸⁷²

Meetings: International Residual Mechanism for Criminal Tribunals, 2023

<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.9344 12 June 2023			Bosnia and Herzegovina, Croatia, Rwanda and Serbia	President of the International Residual Mechanism for Criminal Tribunals, Chief Prosecutor of the International Residual Mechanism for Criminal Tribunals	All Council members, all invitees	
S/PV.9502 12 December 2023	Note by the Secretary-General on the International Residual Mechanism for Criminal Tribunals (S/2023/566)		Bosnia and Herzegovina, Croatia, Rwanda and Serbia	President of the Mechanism, Chief Prosecutor of the Mechanism	All Council members, all invitees	

⁸⁷¹ United States, Malta, Albania and Ecuador.

⁸⁷² See [S/2023/347](#), [S/2023/348](#) and [S/2023/386](#). 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.