



# Security Council

Seventy-fourth year

**8681**<sup>st</sup> meeting

Wednesday, 11 December 2019, 10 a.m.

New York

*Provisional*

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*President:* Mr. Barkin/Mr. Hunter . . . . . (United States of America)

*Members:*

Belgium . . . . .	Mrs. Van Vlierberge
China . . . . .	Mr. Liu Yang
Côte d'Ivoire . . . . .	Mr. Ipo
Dominican Republic . . . . .	Mr. Singer Weisinger
Equatorial Guinea . . . . .	Mrs. Mele Colifa
France . . . . .	Mrs. Gasri
Germany . . . . .	Mr. Schulz
Indonesia . . . . .	Mr. Syihab
Kuwait . . . . .	Ms. Alnaser
Peru . . . . .	Mr. Popolizio Bardales
Poland . . . . .	Ms. Wronecka
Russian Federation . . . . .	Mr. Kuzmin
South Africa . . . . .	Mr. Mabhongo
United Kingdom of Great Britain and Northern Ireland . .	Mrs. Dickson

## Agenda

### International Residual Mechanism for Criminal Tribunals

Note by the Secretary-General on the International Residual Mechanism for Criminal Tribunals (S/2019/622)

Letter dated 18 November 2019 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2019/888)

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*The meeting was called to order at 10.05 a.m.*

### **Adoption of the agenda**

*The agenda was adopted.*

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

#### **Note by the Secretary-General on the International Residual Mechanism for Criminal Tribunals (S/2019/622)**

#### **Letter dated 18 November 2019 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2019/888)**

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

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 Council members to document S/2019/622, which contains a note by the Secretary-General on the International Residual Mechanism for Criminal Tribunals.

I also wish to draw the attention of Council members to document S/2019/888, which contains the text of a letter dated 18 November 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 am most honoured to present the fifteenth progress report of the International Residual Mechanism for Criminal Tribunals (S/2019/888, annex I) and to do so under the Security Council presidency of the United States.

At the outset, allow me to sincerely thank all the members of the Council for their continued support to the Mechanism and acknowledge in particular the contributions that have been made over the past two years by the outgoing members, namely, Côte d'Ivoire, Equatorial Guinea, Kuwait, Poland and, of course, Peru, which has so capably chaired the Council's Informal Working Group on International Tribunals. I take this opportunity to congratulate the incoming members of the Council, whom I look forward to working with in 2020. I also thank the Office of Legal Affairs for its wonderful assistance. Furthermore, I would like to acknowledge and sincerely thank the Mechanism's outstanding host States, the United Republic of Tanzania and the Kingdom of the Netherlands.

I am proud to represent the Mechanism, which was established in 2010 by the Security Council to carry out the residual functions of the International Criminal Tribunal for Rwanda (ICTR) and the International Tribunal for the Former Yugoslavia (ICTY). In doing so, the Security Council affirmed the extraordinary role played by the two ad hoc Tribunals in carving out a new kind of justice, and the pressing need to protect their precious legacies in order to continue to guard against impunity and ensure the rule of law. Believe me, the principals, Judges and staff of the Mechanism are aware of the weight of the responsibilities entrusted to us and of the importance of succeeding in our mission. We are working tirelessly to ensure that we discharge our duties as effectively and efficiently as possible. I take this opportunity to thank and praise my colleagues and all staff at the Mechanism for their ongoing efforts. The report before the Council outlines the activities of the Mechanism over the past six months and highlights a number of key developments, as I shall explain.

In terms of the existing judicial workload, I am pleased to report that, at the Mechanism's Arusha branch, the review hearing in the *Prosecutor v. Augustin Ndirabatware* case was successfully held from 16 to 24 September. That was the first time the courtroom at the Arusha branch had been used for an evidentiary hearing. The smooth manner in which the proceedings were held represented a remarkable team effort between staff from different sections at both branches. Just a few days later, on 27 September, months ahead of schedule, the Appeals Chamber delivered its review judgment in the case. The Appeals Chamber rejected Mr. Ndirabatware's attempt to show that the four key witnesses underpinning his convictions had truthfully

recanted their trial testimonies and decided that the appeal judgment against him remains in force.

Another significant development in Arusha also concerns Mr. Ngirabatware. I am referring to the confirmation by the single Judge on 10 October of an indictment against him concerning allegations of contempt and incitement to commit contempt of the ICTR and the Mechanism. Mr. Ngirabatware pleaded not guilty at his initial appearance on 17 October, and on the following day the Prosecution requested that that new contempt case be joined to the existing contempt proceedings in *Prosecutor v. Maximilien Turinabo et al.* case. I can share with the Council that, only yesterday, the request for joinder was granted by the single Judge. Mr. Ngirabatware's contempt case will therefore be joined to the *Turinabo et al.* case, which will now proceed against six accused persons rather than five.

In the *Turinabo et al.* case, the reporting period saw the continuation of an extremely active pre-trial phase, with more than 53 decisions being issued by the single Judge. Two status conferences were held and the trial, which was originally scheduled to commence on 7 October, was postponed following a request by the Prosecution to substantially amend the indictment. The joinder of the new *Ngirabatware* contempt case will also have an impact on the start of the trial. However, in the decision issued yesterday, the single Judge rejected a request by Mr. Ngirabatware for a start date in August 2020 and indicated that the trial will commence within months of the date anticipated before the request for joinder was filed. It is therefore expected that the joint contempt trial will commence in the first half of 2020 and conclude by December 2020.

Regarding our judicial activity in The Hague, I am pleased to report that the current caseload remains on track. In the *Stanišić and Simatović* retrial, the defence case commenced on 18 June. The defence for Mr. Jovica Stanišić concluded the presentation of its evidence in October, while the defence for Mr. Franko Simatović began presenting its evidence on 12 November. In line with previous forecasts, it is expected that the trial will be concluded and judgment delivered by the end of 2020. Likewise, I can confirm that the appeal proceedings in the *Mladić* case are progressing smoothly. The preparations for the appeal hearing are currently under way and the judgment is anticipated to be delivered by the end of next year.

In addition to the legal work, I would like to draw attention to some of the Mechanism's other activities during the past six months. In particular, the Mechanism has made significant efforts, indeed great strides, in harmonizing practices and procedures between its Arusha and Hague branches. The Council will recall that this is one of the main priorities of my presidency, and I am heartened that the Mechanism's Prosecutor and Registrar also share this goal.

Most notably, as Council members will see in the report, after seven years a common filing system for both branches has finally been launched. I am referring to the unified judicial database. By the end of the year, the transition is expected to be finalized, and all judicial records from the ICTR, the ICTY and Mechanism cases will be available through one database, not only to Mechanism staff but also to the general public. I note that the development of a unified database was one of the recommendations arising out of the 2018 evaluation by the Office of Internal Oversight Services (OIOS) of the methods and work of the Mechanism, which was of particular interest to the Security Council, as reflected in resolution 2422 (2018).

A judicial records and court operations unit has also been created in Arusha, increasing the capacity of that branch to seamlessly manage court hearings and filings, and forming an important counterpart to the Hague unit. A duty roster of Arusha staff members has likewise been established. These changes will ensure greater consistency between the branches and more streamlined operations, and they are extremely welcome. However, we will not stop there. Let me affirm that the principals, management and staff of the Mechanism, as well as its Judges, are committed to identifying further areas where harmonization can be enhanced and efficiencies optimized.

Having outlined some of the Mechanism's activities and achievements in the past six months, allow me to share with the Council what the Mechanism is looking forward to in the coming year. As members will appreciate, 2020 is shaping up to be an extremely important year for the Mechanism, and therefore also for the Security Council. There are many milestones within our grasp.

First, we look forward to completing most of our judicial caseload in 2020, and to thereafter becoming a leaner residual institution. Indeed, with the exception of any potential appeals, the Mechanism expects to

conclude all existing cases within the next 12 months. To clarify, that does not mean that the Mechanism will close once the cases are completed. On the contrary, the Mechanism was tasked by the Security Council to perform numerous residual functions that will continue for many years into the future unless the Council decides otherwise. The Mechanism will therefore be in a position to focus primarily on its continuous residual functions after 2020, in the absence, I should add, of any fugitive trials or review proceedings. In so doing, it will be able to truly fulfil the Security Council's vision of the institution as a

“small, temporary and efficient structure, whose functions and size will diminish over time, with a small number of staff commensurate with its reduced functions”. (*resolution 2422 (2018), para. 5*)

I am sure the Council will agree that that is a very appealing prospect.

Secondly, we look forward to engaging in 2020 with the Security Council regarding its forthcoming review of the Mechanism. As the Council surely recalls, the Mechanism was tasked to operate for an initial period of four years and for subsequent periods of two years following reviews of its progress by the Council. The third such review of the Mechanism's progress by the Security Council will take place in 2020. In addition, the OIOS commenced a further evaluation of the methods and work of the Mechanism in October, which will carry into next year. Officials of the OIOS Inspection and Evaluation Division visited the premises in The Hague last week and are currently in Arusha. These processes will be complemented by several ongoing and pending audits by the OIOS, as well as the Board of Auditors.

As in the past, the Mechanism takes such accountability processes extremely seriously. It therefore looks forward to opportunities to assess its progress and find new ways of increasing the efficiency and effectiveness of its operations, including through further harmonization between the branches, and measures to improve staff morale and performance. The Mechanism is ready to engage in frank discussions for the purposes of identifying areas where improvements can be made, as well as areas where best practices have already been implemented. It notes, however, that these processes are intensive in terms of time and resources and reduce its ability to perform core functions.

Thirdly, the Mechanism looks forward to the continued and increased cooperation of Member States in relation to key aspects of its residual functions. Here I will mention the enforcement of sentences. Currently, 50 persons convicted by the ICTR, the ICTY or the Mechanism are serving their sentences in 14 Member States, and the Mechanism is deeply grateful for their ongoing assistance. It welcomes the cooperation of those and other States as it endeavours to expand its enforcement capacity and to identify enforcement States for the convicted persons who await transfer. Separately, in relation to enforcement, I also look forward to continuing to improve the quality and transparency of the Mechanism's approach to early release and related matters. An updated Practice Direction will be forthcoming once the usual consultation process is complete.

I will also mention the eight remaining fugitives indicted by the ICTR. The arrest and prosecution of those individuals is a top priority of the Mechanism and a primary focus of the Office of the Prosecutor. The Mechanism is prepared to conduct a trial in the event that a fugitive is apprehended, but in order to do so it will require the continued cooperation and assistance of Member States, as indeed called for by the Council on several occasions. In that regard, the Mechanism trusts that South Africa, as one of the current members of the Council, will decide to honour its Chapter VII obligations, as well as the values that unite the Council, by securing the arrest of the fugitive that was located on its territory in 2018, almost 18 months ago. South Africa has done so in the past by arresting and transferring ICTR fugitives on two occasions, in 1999 and again in 2004. The Mechanism strongly regrets the current lack of progress, particularly since, as we all heard in this very Chamber in July of this year (see S/PV.8576), South Africa believes that States have an international obligation to cooperate with the Mechanism and the Prosecutor.

The issue of the nine persons who were acquitted or released by the ICTR, but remain in a Tanzanian safe house, is another area in which the Mechanism looks forward to the meaningful cooperation of Member States. As I have stated before, the Mechanism finds itself with the day-to-day responsibility for those persons, even though that was never part of the Mechanism's mandated functions. As time passes, the situation of those men becomes more and more untenable. A permanent solution must be found on

an urgent basis, and the Mechanism will rely on the Council's renewed interest and resolve to take action.

Fourthly and finally, we look forward to enjoying the continued support and assistance of the Security Council and the broader United Nations membership, particularly with respect to the Mechanism's budgetary requirements, as we work together towards our common goals. In that regard, members of the Council will be aware that the Mechanism's budget proposal for 2020 will soon be under consideration by the Fifth Committee of the General Assembly. As I have outlined, the Mechanism is poised to complete the bulk of its existing caseload in 2020. It strives every day to meet the expectations of the Security Council, which are indeed high. The Mechanism is prepared to do its work and to dispose of the remaining cases as efficiently and effectively as possible, but it will require the necessary resources to do so and all the support that the Council can provide.

Just as in the past, I have confidence that the international community will not let us down and that it will remember why the ad hoc Tribunals and the Mechanism were established in the first place. We were vividly reminded of why those institutions were, and still are, necessary earlier this year, which marks 25 years since the 1994 Genocide against the Tutsi in Rwanda, just as we will be reminded in 2020 when we gather to commemorate 25 years since the genocide in Srebrenica. For all those reasons, I trust that the prevailing scepticism regarding international criminal justice will be set aside so that the mandate of the Residual Mechanism, as determined by the Council, can continue to be fulfilled. I thank all those present in advance, and I look forward to our joint achievements in the coming year.

**The President:** I thank Judge Agius for his briefing.

I now give the floor to Mr. Brammertz.

**Mr. Brammertz:** I am grateful for the 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 (S/2019/888, annex II) provides details about our activities and results during the reporting period. Today I would like to highlight a few important issues.

Events during the reporting period demonstrated that our residual functions remain important and

necessary. In The Hague, my Office remains committed to meeting all court-imposed deadlines and effectively presenting our arguments in the retrial of the case *Prosecutor v. Jovica Stanišić and Franko Simatović* and the appeal of the case *Prosecutor v. Ratko Mladić*.

At the Arusha branch, my Office has taken significant steps to carry out our mandate from the Council to ensure the continued protection of witnesses and prosecute contempt of court offences under the Mechanism's statute. In September, the Appeals Chamber rejected the request for review submitted by Augustin Ngirabatware, and affirmed the appeal judgment against him. A few weeks later, a single Judge likewise confirmed our indictment against Mr. Ngirabatware, charging him with two counts of contempt of court and one count of incitement to commit contempt of court. Augustin Ngirabatware is a former Rwandan Government minister who was convicted in 2014 for inciting, instigating and aiding and abetting genocide and was sentenced to 30 years in prison.

In 2016, he asked the Appeals Chamber to reverse his convictions on the basis of an alleged new fact. Specifically, he submitted that four witnesses who testified against him at trial had recanted their testimonies. In the course of investigating that matter, my Office uncovered extensive evidence of a broad criminal scheme involving many individuals over three years, aimed at influencing those four witnesses to recant their prior testimonies. With that evidence, we successfully defended Ngirabatware's conviction for genocide and have now indicted six individuals for contempt of court, including Mr. Ngirabatware himself. Those results are a clear demonstration to all witnesses who testified before the International Criminal Tribunal for Rwanda (ICTR), the International Tribunal for the Former Yugoslavia (ICTY) and the Mechanism that they continue to enjoy the Mechanism's protection.

For the fair administration of justice, it is necessary that the Mechanism provide the opportunity to convicted persons to seek review of their convictions when legitimate new facts arise. At the same time, my Office will firmly stand against any attempt to undermine the judgments of the ICTR, the ICTY and the Mechanism through the commission of further crimes. Such contempt of court, as in that case, constitutes a form of genocide denial that must be opposed, for the sake of peace, reconciliation and the truth.

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 ICTR. That is one of my Office's most important residual functions. Over the past two years, our reforms and renewed efforts have generated a number of important actionable leads.

Unfortunately, I must report today that we are not obtaining the cooperation that we need from some Member States. I deeply regret South Africa's long-standing failure to execute a Mechanism arrest warrant. Since my Office was officially notified in August 2018 that one of the fugitives had been located in South Africa, I have endeavoured to work with South African authorities to secure the fugitive's arrest. At all times we have sought to handle this matter with discretion and respect for South Africa's sovereignty. During discussions that have taken place over the past year, South Africa provided changing reasons as to why it could not act. For each and every challenge that was posed, my Office sought to work with South Africa and find solutions to overcome them. To our disappointment, the situation remained the same, which obliged me to raise this matter during my previous two briefings (see S/PV.8576 and S/PV.8416).

After assurances in July that cooperation would be forthcoming, I was cautiously optimistic that the arrest would take place expeditiously. My Office was greatly surprised then to receive in September a formal response from South Africa informing us, for the first time after more than a year of discussions, that it could not cooperate because it lacked the necessary domestic legislation. We quickly responded by reaffirming South Africa's obligation to cooperate under Chapter VII of the Charter of the United Nations and reiterating our request for the fugitive's prompt arrest.

After we had submitted our critical written report to the Security Council, South Africa last week informed us that it had finally submitted the arrest warrant to the competent judicial authorities for execution. While we welcome that procedural step after nearly one and a half years of inaction, the fact is that while we are speaking today, the fugitive remains at large. At this late stage, neither the victims nor the Council can be satisfied with anything less than the fugitive's immediate arrest.

In other areas we are also facing challenges in obtaining cooperation. My Office is generating valuable intelligence and leads — telephone numbers, places of

residence, identification documents, travel details and more. We have submitted numerous urgent requests for assistance, particularly to countries in East and southern Africa, to follow up on those leads. However, many time-sensitive, important requests have remained unanswered for more than a year. Among other issues, we have credible information that some fugitives have been able to illegally and corruptly procure passports from a number of different countries, which has enabled them to freely cross borders and evade our efforts. National authorities have not, however, provided us with access to the persons and information that we need, or otherwise treated our requests with urgency. The Security Council has repeatedly urged Member States to provide all necessary cooperation in the search for the fugitives. That message, sadly, is not being heard by some States. And when a member of the Council fails for 16 months to arrest a fugitive wanted for genocide, it definitely sends the wrong signal.

This year marked the twenty-fifth anniversary of the Rwandan genocide. The victims have waited far too long to see those fugitives brought to justice. Our success depends on timely and effective cooperation from Member States.

In relation to national prosecutions of crimes committed in Rwanda and the former Yugoslavia, my written report provides detailed insight into their current status and challenges. It is clear that much more remains to be done to achieve more justice for more victims. My Office continues to receive a large number of requests for assistance from national authorities, which is a tangible demonstration of the fact that domestic investigations and prosecutions are under way. Unfortunately, however, the glorification of convicted war criminals and the denial of crimes — including genocide denial — continue to pose significant challenges to accountability and reconciliation.

While my Office is undertaking significant efforts to locate the eight remaining fugitives indicted by the ICTR, Rwandan authorities are searching for at least 500 additional fugitives suspected to have participated in the genocide. We remain committed to supporting the Prosecutor General of Rwanda and his Office in those efforts, and our cooperation continues to develop in a positive direction. Nonetheless, there are still concerted efforts to deny the Rwandan genocide, particularly among Rwanda diaspora communities. Some promote revisionist accounts that minimize the scale of the genocide. Others continue to deny that the

crimes were committed with the intent to destroy the Tutsi group in whole or in part.

In relation to the former Yugoslavia, national authorities now have primary responsibility for achieving justice for war crimes. Thousands of cases still need to be processed by national courts, which will be possible only with significant improvements in regional judicial cooperation.

Our support for colleague prosecutors remains an important area of development. At the request of the War Crimes Prosecutor of the Republic of Serbia, last week my Office provided a five-day induction training for new deputy prosecutors and legal assistants, which was generously funded by the Netherlands. Early next year my Office will similarly deliver an advanced training programme on prosecuting sexual violence for the Prosecutor's Office of Bosnia and Herzegovina, at its request.

Yet at the same time, for a number of years my written reports have underscored that the denial of crimes and the glorification of convicted war criminals are pervasive throughout the former Yugoslavia, and the situation continues to get worse. Such a climate has a negative impact on national justice for war crimes, and it is impossible to speak about meaningful reconciliation when communities are growing further apart, not closer together. To understand the problem, one need only look at the actions of some politicians. They do not seek votes by promising reconciliation or by building bridges to other communities. Instead, politicians believe that they win elections by denying atrocities and glorifying those responsible. Some promote revisionist histories, while others try to gain votes by commemorating, rather than condemning, war criminals.

In Rwanda and the former Yugoslavia, prosecutors, judges, civil society and others continue fighting to bring the perpetrators of the most horrific crimes to justice, establish the rule of law and promote reconciliation. They need our help and support as much as ever.

In conclusion, my Office is firmly focused on completing our remaining functions efficiently and effectively. In that regard, we fully support the evaluation currently being conducted by the Office of Internal Oversight Services.

My Office needs the Council's support in the search for the fugitives. Some Member States are not adhering to their obligations of providing the needed cooperation. The Council can send a clear message to all Member States underscoring that the search for the fugitives is still vital to international peace and security today. We also remain committed to providing our support to national authorities in their continued implementation of the ICTR and ICTY completion strategies so that greater justice can be achieved. We are grateful for the continued support of the Council in all of our efforts.

**The President:** I thank Prosecutor Brammertz for his briefing.

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

**Mr. Popolizio Bardales (Peru)** (*spoke in Spanish*): We are grateful for the convening of this meeting and for the insightful briefings given by Judge Carmel Agius, President of the International Residual Mechanism of the International Tribunals, and its Prosecutor, Mr. Serge Brammertz.

I would like to underscore the importance that the work of the Residual Mechanism has in the strengthening and promotion of international justice, which contribute not only to combating impunity and deterring against the perpetration of the most heinous crimes, but also to promoting reconciliation and offering effective responses to victims.

We commend the positive, efficient and transparent manner in which the Mechanism executed its activities during the period covered by the report (see S/2019/622), including on its judicial agenda such functions designed to reinforce international criminal law as responding to requests for assistance, preserving historic archives, monitoring cases referred to national courts and participating in commemorative ceremonies and conferences on the application of universal justice.

The cooperation of States is essential to the fulfilment of all of those functions, including the work of the Prosecutor, as it is States that are responsible for enforcing the sentences and orders issued and responding to requests for assistance and prosecution. We would therefore like to draw special attention to the continued support offered by diverse African and European Governments to ensure that convicted persons can serve their sentences in their respective countries.

We also welcome the emphasis that has been placed on standardizing work across the Residual Mechanism's branches in The Hague and Arusha, particularly efforts aimed at harmonizing work systems and applying best practices, and on cooperation with the International Committee of the Red Cross in relation to the verification of detention centres.

Also commendable are those initiatives that the Mechanism has put in place to strengthen capacities for prosecuting war crimes in the former Yugoslavia and Rwanda, which are based on generating synergies with national authorities, transmitting lessons learned and providing specific assistance.

We also welcome the efforts made to make the work of the Mechanism more accessible to interested members of the public by facilitating their participation in public meetings and hosting study visits and training programmes for delegations of professionals from various countries.

To fulfil and maintain these objectives, it will be necessary to guarantee the provision of adequate financing for the Mechanism, bearing in mind the time periods foreseen in the report. It is also essential that States lend it their political support in order to continue strengthening the Mechanism's important work and awareness thereof.

I wish to conclude by highlighting the invaluable support provided by the Secretariat and the United Nations Office of Legal Affairs, both to the Mechanism and to the Informal Working Group on International Tribunals, which Peru has the honour to chair. At the same time, I wish to underline the need for the Council to remain united in its support for the Residual Mechanism and its vital and historical work, as well as the preservation of its legacy.

**Ms. Wronecka** (Poland): I would like to thank President Carmel Agius and Prosecutor Serge Brammertz for their comprehensive briefings. Let me express our appreciation for their firm commitment to, and skilful leadership of, efforts to ensure accountability, contributing to the efficient functioning of the International Residual Mechanism for Criminal Tribunals.

Poland is encouraged by the priorities identified. We commend the focus on the expeditious completion of judicial proceedings while maintaining the highest due-process and fair-trial standards. We also appreciate

the activities aimed at harmonizing practices and procedures between the Mechanism's two branches, thereby optimizing its efficiency and fostering high staff morale and performance, which are crucial given the heavy workload and downsizing. Moreover, there is a need to recognize the work undertaken to locate and arrest the eight remaining fugitives indicted by the International Criminal Tribunal for Rwanda (ICTR) and in providing capacity-building and assistance to national jurisdictions prosecuting international crimes committed in the former Yugoslavia and in Rwanda. We must also acknowledge the steps taken to provide protection and support to victims and witnesses and allow for the enforcement of sentences and the resettlement of the acquitted and released persons currently living in Arusha.

We welcome the significant progress that the Mechanism has achieved, thanks to the dedicated efforts of its President, Prosecutor and staff, in carrying out the essential residual functions of the ICTR and the International Criminal Tribunal for the Former Yugoslavia. We also welcome the prospects for further progress. We note with appreciation the President's direction to Mechanism staff to cooperate fully with the evaluation of the Office of Internal Oversight Services. Consequently, we agree with the positive assessment of the Mechanism's functioning in the reporting period and look forward to its further achievements.

Poland acknowledges the challenges that the Mechanism faces, including those related to the availability of resources, cooperation with regard to locating, arresting and surrendering the fugitives and the relocation of acquitted and released persons residing in Arusha. We would like to reiterate the Security Council's repeated call upon all States to intensify cooperation with, and render all necessary assistance to, the Mechanism. There is a need for full cooperation with the Mechanism in the arrest and transfer of fugitives and the enforcement of sentences, as well as in finding a permanent solution in order to relocate the acquitted and released persons residing in Arusha. We call on States to demonstrate their support for accountability and reconciliation by providing support for the processes leading towards those goals, countering the denial of crimes and the glorification of convicted criminals and increasing judicial cooperation with other States. We also urge States to show support for international criminal justice by stepping up cooperation with the Mechanism and approving its

budget, which would allow it to conclude most of its existing judicial work in 2020 and focus on carrying out its mandated remaining residual functions thereafter.

Let me reiterate that international criminal justice institutions, including the Mechanism, often play a crucial role in fighting impunity, which can contribute to the deterrence of the most serious crimes of international concern and to the maintenance of an international rules-based order. Poland remains committed to all of the aforementioned and continues to support the Mechanism and stands ready to cooperate with it. We reiterate our call on others to adopt the same stance.

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

China takes note of the gradual progress in the Mechanism's judicial activities in the past six months. Based on the Mechanism's earlier projections, the remaining cases will be completed by the end of 2020. China hopes that the Mechanism can continue to make headway with the cases concerned in a pragmatic and efficient manner on the basis of the set timelines.

China notes that during the reporting period, the Mechanism, led by President Agius, has made continued efforts to ensure the efficient and timely conclusion of residual judicial proceedings, enhance inter-branch coordination and foster a better working environment for its staff, inter alia. A remote plenary was also held to increase communication among all judges. 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. All these measures have had 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 the persons convicted. We hope that the Mechanism will continue to take steps to implement the recommendations of the United Nations Office of Internal Oversight Services in its related audit and evaluation reports, with a view to the continuous improvement of its work.

China wishes to reiterate that, pursuant to the Council resolutions adopted on this matter, the IRMCT is a small, temporary and efficient structure, the function and size of which will diminish over time. We hope to see the Mechanism continue to carry out its activities in accordance with Council resolutions in this regard.

Finally, I wish to take this opportunity to thank Peru, as Chair of the Informal Working Group on International Tribunals, as well as the Office of Legal Affairs of the United Nations Secretariat, for their coordination between the Council and the Mechanism.

**Mrs. Gasri** (France) (*spoke in French*): I, too, would like to start by thanking President Agius and Prosecutor Brammertz for their presentation of the fifteenth report of the International Residual Mechanism for Criminal Tribunals (S/2019/888, annexes I and II). I wish to assure them of my delegation's full support as the Mechanism's first biennium as an autonomous institution draws to a close.

France welcomes the significant efforts made to close the cases currently under way by the end of 2020. With regard to The Hague branch, France takes note of the preparations for a hearing in the *Mladić* appeal, which we hope will be announced soon. France also welcomes the progress of the work in trial proceedings for the *Stanišić and Simatović* case. With regard to the Arusha branch, we welcome the revised judgment handed down by the Appeals Chamber in September and take note of the possible joinder of the two cases of false testimony and contempt.

Furthermore, we welcome the changes in the practice followed by the President to decide on requests for early release by taking into account all aspects related to the rehabilitation of the prisoner in question and the points of view of all stakeholders. We note the prospect of updating the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence and Early Release of Persons Convicted by the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda and the Mechanism, and we continue to encourage the Mechanism to adopt a conditional early-release regime as well, in accordance with resolution 2422 (2018). We believe that such a regime will usefully enhance international jurisprudence.

With regard to cooperation, France would like to point out that every State is required to cooperate with the Mechanism in the search for, arrest and transfer of the eight fugitives indicted by the International Criminal Tribunal for Rwanda (ICTR) and to execute the issued arrest warrants. We regret that some States are not doing everything they can to comply with that obligation. France has been fully cooperating in that effort by responding every year to the Mechanism's multiple requests for mutual assistance in criminal matters. With regard to the cases that the ICTR has transferred to the French judicial authorities, the period since the last briefing (see S/PV.8416) has been marked by the conclusion of the *Munyeshyaka* case by the judgment issued on 30 October by the Court of Cassation, France's highest court, which upheld its dismissal. France reaffirms its full commitment to bringing the *Bucyibaruta* case to a conclusion. We hope that a trial date for that case will be announced in the near future.

As President Agius underscored, the work of the Mechanism is not limited to judicial activities. The protection of the more than 3,000 witnesses is extremely important, and we welcome the efforts of the Kigali and Sarajevo branches in that regard. We also welcome the projects that have been carried out with the European Union since the beginning of the year with the aim of raising awareness in the communities affected and among the younger generations in the countries of the former Yugoslavia with regard to the Criminal Tribunal's legacy and the Mechanism's ongoing work. Such efforts to preserve memory are particularly essential in the context of recent controversies arising from acts committed during the conflicts of the 1990s in the Western Balkans and especially in Kosovo in 1999. We urge all leaders involved to refrain from statements denying the established facts and the crimes committed. Denials of genocide and the glorification of war criminals convicted by the International Tribunal for the Former Yugoslavia, the ICTR and subsequently the Mechanism, following impartial and independent proceedings, are unacceptable. The national justice systems that are seized of these matters must also be able to carry out their work with complete impartiality and independence.

In order to carry out all these activities on two continents and complete its proceedings before the end of next year, the Mechanism must be able to count on adequate financial resources. It also has to continue

sharing resources between the two divisions, as exemplified by the establishment of a shared archival database. That is crucial if it is to function effectively and consistently, which will continue in a truly residual fashion after 2020. The Security Council's review of the work of the Office of Internal Oversight Services will provide an occasion to discuss these matters once again.

**Mr. Syihab** (Indonesia): Let me begin by thanking Judge Carmel Agius and Prosecutor Serge Brammertz for their respective reports and interesting and insightful briefings on the ongoing work of the International Residual Mechanism for Criminal Tribunals. At this juncture, I want to reaffirm Indonesia's commitment to strengthening the rule of law and promoting justice by supporting the work of the Mechanism as an instrument of the Security Council for ending impunity and ensuring accountability. Today I will focus on three issues.

My first point concerns the Mechanism's functional activities. We are encouraged by the Mechanism's priorities, and especially its focus on the timely completion of its judicial proceedings, while maintaining the highest international standards for due process and fair trials. We also commend the determination of the principals, judges and staff of the Mechanism to deliver meaningful justice and to fulfil all aspects of its mandate effectively and efficiently. Additionally, the innovative and efficient solutions that the Mechanism has adopted to streamline its working methods across its branches and foster high staff morale, thereby optimizing efficiency, deserve recognition. In that regard, since 2020 will be key to the success of the Mechanism and its ability to meaningfully downsize, as envisaged in resolution 1966 (2010), we must be able to render the Council assistance in securing adequate funding and the necessary political support to ensure that it is moving closer to the post-2020 scenario.

My second point concerns the Mechanism's engagement with Rwanda and the States of the former Yugoslavia. We commend its continuing efforts to foster a stronger relationship with the Governments and peoples of Rwanda and the States of the former Yugoslavia, including victims' groups. In line with that, we encourage the Mechanism to continue its important activities to provide effective assistance to the national authorities of Rwanda and the States of the former Yugoslavia and take on its responsibility to monitor cases that have been referred to national

courts. As States have the primary responsibility to end impunity and bring to justice those who are responsible for the most serious crimes under international law, it is important that the national judicial authorities are advised, assisted and supported.

That leads to my last point, which is the cooperation of States. We want to remind the Council that States are required to cooperate with the Mechanism, including by complying with orders and requests for assistance related to cases before it. We note the requests by the Prosecutor pertaining to the arrest and surrender of the remaining fugitives. We would therefore like to call on States, particularly those where fugitives are suspected to be at large, to intensify their cooperation with and assistance to the Mechanism, in accordance with the relevant Security Council resolutions. At the same time, we must constructively engage with the States concerned in order to find the best possible way forward. It is crucial to ensure that their international obligations can be fulfilled, but that at the same time their specific concerns can also be addressed.

Lastly, Indonesia would like to take this opportunity to applaud the commitment of all countries that continue to consistently support and cooperate with the Mechanism, whether in enforcing sentences or in other areas. And since this will be the last briefing under Peru's leadership of the Council's Informal Working Group on International Tribunals, let me also express our sincere appreciation to Peru and its entire delegation for their dedication and excellent work in steering the Informal Working Group.

**Mr. Singer Weisinger** (Dominican Republic) (*spoke in Spanish*): We are pleased to welcome today's briefers, Judge Agius and Prosecutor Brammertz, to whom we express our gratitude for their comprehensive reports.

The existence of bodies such as the International Residual Mechanism for Criminal Tribunals is crucial to achieving societies free of impunity. The work of the Residual Mechanism reaffirms the commitment of the United Nations to the protection of human rights and the world peace that we all long for. We commend the Mechanism's progress in the cases of *Turinabo et al.*, *Stanišić and Simatović*, and *Karadžić and Mladić*. We hope to see the conclusion of the outstanding cases by 2020, as anticipated by President Agius in his assessment in May (S/2019/417, annex I). We also recognize the work that this judicial body has done to protect and support some 3,150 witnesses.

The Dominican Republic reiterates its support for the work of the President of the Residual Mechanism, whom we especially commend for his dedication to the task of unifying and harmonizing the requirements, working methods and processes of the Chambers that make up the Mechanism with a view to increasing productivity and consistency and achieving its goals for 2020. We also support Mr. Agius's call to the international community to join the bilateral and multilateral efforts to cooperate on the relocation of released persons and those who have served their sentences, who have a right to have their documents restored to them and to be reintegrated into society, in keeping with the relevant international standards.

Security Council members also have an obligation to work with the bodies and offices established under its mandates. We therefore consider it vital to support the Mechanism's budget in the relevant United Nations forum. Even with the cuts and administrative adjustments that the President of the Mechanism has made, there can be no question that the allocation of sufficient funds is essential to the Mechanism's success.

On another note, we congratulate the Office of the Prosecutor on the progress made in prosecuting fugitives, as described in its most recent report (S/2019/888, annex II). We urge the international community to show solidarity and cooperate on the identification, investigation and capture of individuals sought by the Mechanism. In addition, we would like to touch on the subject of orders for the early release of convicted persons. We are concerned about the fact that such orders are not yet regulated by a specific set of conditions, despite what was agreed in paragraph 10 of resolution 2422 (2018). We believe that it is vital to set up an early-release regime that provides for the participation of victims and the States or communities affected.

Finally, we would like to take this opportunity to express our gratitude to Peru, the outgoing Chair of the Informal Working Group on International Tribunals, for its excellent work during its two years leading the group.

**Mr. Mabongo** (South Africa): At the outset, I would like to thank the President and Prosecutor of the International Residual Mechanism for Criminal Tribunals for their detailed briefings this morning. We commend their significant efforts to constantly improve the functioning of the Mechanism.

South Africa places great emphasis on women, peace and security, and when we read the report of the President (see S/2019/622), our attention was drawn to the significant work that has been done to achieve gender parity among the personnel. While it is regrettable that only 45 per cent of the staff overall are female, it is particularly encouraging that there has been a 2 per cent increase in the members of the female professional staff of the Mechanism since the previous reporting period. That bodes well for achieving gender parity across all staff. South Africa also welcomes the recent adoption of a code of conduct for preventing harassment, including sexual harassment, at United Nations system events, as well as the continued work on a Mechanism-specific policy on harassment.

Regarding the issue of fugitives, the Prosecutor expressed regret about South Africa's lack of action so far on the Mechanism's requests for assistance in arresting and surrendering a fugitive who, according to available information, appears to be in South Africa. We echo that regret. South Africa fully respects its obligation to provide assistance to the Mechanism in the investigation and prosecution of crimes within its jurisdiction, in accordance with article 28 of the Mechanism's statute, and the delay in positively responding to the Prosecutor should in no way be regarded as a repudiation of that obligation.

South Africa has been in regular communication with the Prosecutor's Office and has met with the Prosecutor on several occasions to explain the steps we are taking to implement the request. Following active engagement at the national level, I am pleased to announce that the international arrest warrant has been endorsed in accordance with South Africa's domestic law, paving the way to giving effect to the request for assistance. We appreciate the Prosecutor's efforts to open channels of communication with the relevant South African authorities, and the constructive dialogue that has since ensued. We take our international obligations seriously and assure the Mechanism and the Security Council that we are firmly committed to combating impunity and implementing this request for assistance. We will continue to cooperate with the Prosecutor's Office in order to ensure that the fugitive is brought to justice.

In conclusion, we thank the Prosecutor and his Office for their commendable work during the reporting period.

**Mr. Kuzmin** (Russian Federation) (*spoke in Russian*): We wish to welcome Mr. Carmel Agius and Mr. Serge Brammertz, the President and Prosecutor of the International Residual Mechanism for Criminal Tribunals.

Today, on 11 December, we can sum up the year's results. Unfortunately, the international community is still dragging around the useless remains of a pair of tribunals established a quarter of a century ago, now in the new incarnation of the Residual Mechanism. The Security Council's attempts to shut it down in 2010 and 2014 were futile.

The systemic problem of the International Criminal Tribunal for the Former Yugoslavia (ICTY) was that having been established in a specific political context, it went on to embrace the worst features of politically driven justice. The statistics and content of its judgments are a stark testament to which side in the tangle of disputes in the Balkans was deliberately pronounced guilty. We should remember the cruel irony of those years regarding the status of the standard principle of the presumption of innocence in the ICTY, which was that everyone is presumed innocent until proven to be a Serb.

Alas, the Residual Mechanism has inherited a flawed legacy. It is driven neither by justice nor by fairness but rather by that same matrix, flawed from the very beginning. During the reporting period, the sentence of Radovan Karadžić, a Serb, was reviewed and extended for the maximum period possible. A 40-year prison sentence for a 74-year-old man was apparently too lenient, in the judges' view, so he was sentenced to life. We would like to draw the attention of the Tribunal's leadership to the importance of ensuring that the accused, especially Ratko Mladić, receive timely and appropriate medical care. We hope that he receives high-quality care and adequate treatment in the Mechanism's detention facilities. We are still prepared to accommodate him for treatment in the Russian Federation. We also call on the Mechanism to adhere strictly to its functions in its work in the context of Rwanda.

The leaders of the Residual Mechanism have designated this a watershed year, and so it should be. We await the completion of all cases according to the established schedule. The same applies to the so-called contempt-of-court cases, which appear to have multiplied of late. In the light of the Security Council's

upcoming review of the Mechanism's activities, we hope that 2020 will bring it significantly closer to its end. For our part, we are ready to do whatever we can to enable that to happen.

**Mrs. Van Vlierberge** (Belgium) (*spoke in French*): I wish to begin by thanking Judge Carmel Agius and Prosecutor Serge Brammertz for their written reports (see S/2019/888) and their informative briefings.

Belgium continues to fully support the proceedings of the International Residual Mechanism for Criminal Tribunals, which plays a vital role in the process of intercommunal reconciliation both in Rwanda and in the countries of the former Yugoslavia. The Mechanism, like the two International Criminal Tribunals from which it took over, is part and parcel of the arsenal of relevant measures in the realm of justice, broadly speaking, that have been adopted by Security Council for post-conflict transition.

The fight against impunity and ensuring that justice is handed down for the most serious crimes under international law are among the core obligations that are incumbent primarily upon each State. For that reason, it is of vital importance for all countries to cooperate not only among themselves but also with the Mechanism. In that respect, recent developments are alarming. Indeed, one of the eight indicted persons before the International Criminal Tribunal for Rwanda apparently remains at large.

Belgium recalls that all States Members of the United Nations are duty-bound to cooperate with the Mechanism, in line with its statute and the numerous resolutions adopted by the Security Council. We therefore thank South Africa for today's statement and invite it to render all necessary assistance so that the fugitive in question can be apprehended and transferred.

On the other hand, while we acknowledge and commend the progress that has been achieved in dealing with certain cases at the national level, the Office of the Prosecutor pointed to persistent reports regarding the denial of crimes and the glorification of war criminals in all communities and all countries of the former Yugoslavia. The same holds true *vis-à-vis* regional judicial cooperation, which is at its lowest level in years. These alarming observations reflect practices that are at variance with the values and principles that lie at the heart of both the United Nations and the European Union. This trend must be promptly reversed so that the perpetrators of war crimes do not remain

unpunished and so that an end can be put to hate speech and any ideology advocating discrimination.

I wish to conclude by commending the efforts of the President of the Mechanism to streamline its working methods and thereby maximize its efficiency. At the same time, Belgium encourages the General Assembly to provide the Mechanism with adequate financing for the forthcoming budget cycle. Lastly, we welcome the fact that the President of the Mechanism is considering possible amendments to the Practice Direction *vis-à-vis* early release.

The challenges faced by the Mechanism are a reminder of just how important its mandate is. The memory of the hundreds of thousands of victims of the wars in the Balkans and the genocide in Rwanda must prompt us to continue to support it and other mechanisms in the realm of justice, broadly speaking, in order to prevent the recurrence of such atrocities.

**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 Security Council today.

It has now been two years since the Residual Mechanism assumed full responsibility for the residual functions of the International Tribunal for the Former Yugoslavia (ICTY) alongside those of the International Criminal Tribunal for Rwanda (ICTR). During that time the Mechanism has continued to make commendable progress in carrying out its mandate. However, there is still more to do to guarantee the legacy of the ICTY and the ICTR.

The year 2020 will be a significant one for the Mechanism, with the ambitious plans to complete the *Stanišić and Simatović* retrial and the *Mladić* appeal at The Hague branch, and the *Ngirabatware* and *Turinabo at al.* cases in Arusha. This will be in addition to the other mandated functions. We commend the ongoing work to find efficiencies and to harmonize and apply the most effective practices and approaches across the branches, including the unified judicial database, making it a truly unified institution.

The United Kingdom will continue to support the Mechanism for the remainder of its mandate. However, there is much to do, since, as well as ongoing cases, among other things witnesses need protection, missing persons need to be found and domestic prosecutions

need assistance. The Mechanism will need the ongoing support of Member States to ensure that its mandated functions are completed.

I am pleased to note that the process for appointing a successor to Judge Ben Emmerson, for whose contribution the United Kingdom is grateful, is well under way, and we hope that it will be concluded soon, bolstering the judicial roster of the Mechanism. At this point, may I also take this opportunity to thank Peru for its effective chairing of the Informal Working Group on International Tribunals.

We congratulate the Mechanism on the successful conclusion of its first review hearing and welcome the outcome of the *Ngirabatware* case. We also welcome the subsequent indictments against Ngirabatware and the five accused in the *Turinabo et al.* case. It is vital that witnesses be protected and the integrity of the proceedings conducted by the Mechanism maintained. We therefore welcome these important steps to hold accountable those who interfere with witnesses. We note the decision yesterday, mentioned by the President, that the *Ngirabatware* contempt case would be joined with the *Turinabo et al.* case, and are pleased that this will not result in a significant delay to these cases.

I would also like to remind Member States of the importance of cooperating with the Office of the Prosecutor to find the eight remaining Rwandan fugitives still at large so that they can be transferred to the Mechanism without further delay. We agree with the Prosecutor that this is vital to international peace and security. Acting to apprehend fugitives must be treated as a priority by States if the painstaking work undertaken by the Prosecutor's Office is going to lead to concrete results. We also at this stage express our serious concern at the denial of the Rwandan genocide, as mentioned by the Prosecutor.

Turning to The Hague, we 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. However, despite some progress between certain countries of the Western Balkans, we are disappointed at the fact that regional judicial cooperation, denial of war crimes and glorification of war criminals remain significant challenges to accountability and ending impunity in the region. When leaders signed the joint declaration of war crimes at the 2018 London Western Balkans Summit, they agreed to underline the importance of supporting, and removing impediments

to, effective regional cooperation and to reject the use of hate speech and the glorification of war crimes. The United Kingdom calls on them to ensure that they are taking every step possible to honour their commitments, including improved cooperation with the Mechanism.

In the week marking the International Day of Commemoration and Dignity of the Victims of the Crime of Genocide and of the Prevention of This Crime, it seems particularly appropriate for us all to seek to work together to try to ensure that the Mechanism makes progress in its very important work.

**Mr. Schulz** (Germany): Let me first of all thank both the President and the Prosecutor of the International Residual Mechanism for Criminal Tribunals for their work in general and for their insightful presentations this morning.

The work of the Tribunals is based on the conviction that there can be no peace without justice. Over the past decades there have been remarkable achievements in establishing accountability for the most serious crimes and supporting peace and reconciliation. The International Tribunals, complemented by national law-enforcement efforts, played a key role in ensuring this progress. The Mechanism completes the important work of the International Criminal Tribunal for Rwanda (ICTR) and the International Tribunal for the Former Yugoslavia (ICTY) in an efficient way. Germany deems it highly important that the pending cases at the Mechanism are being completed and that war criminals are being held accountable.

I should like to say a few words on the Mechanism's work relating to the countries of the former Yugoslavia.

First, we should like to congratulate the President on the fact that the remaining cases from the ICTY appear to be on track. The Mechanism will keep its promise to finish these cases in time and to further downsize. This is yet another example of the impressive work that the Mechanism has accomplished. We will remain committed to cooperating with the Mechanism. Germany leads as an example and has accepted four convicted persons to serve their sentences in German prisons. Germany encourages other Member States to join us and accept the transfer of ICTY convicts into their appeals system.

Despite the good work of the Mechanism, the issue of war crimes remains an open wound in the Western Balkans. We see with concern a rise in

incendiary rhetoric and historical revisionism with regard to war crimes in the region, which is a major hurdle for much-needed reconciliation and also an impediment for strengthening good-neighbourly relations, especially between Kosovo and Serbia. We therefore urge political leaders in the region to actively work on ensuring accountability for war crimes and in promoting reconciliation.

On the Mechanism's work relating to Rwanda, all States Members of the United Nations have the legal obligation to cooperate with the Office of the Prosecutor in its efforts to locate and apprehend the remaining fugitives. Germany sincerely urges all States specifically called upon by the Prosecutor to follow requests by the Mechanism to assist in apprehending fugitives for whom arrest warrants have been issued. Every individual case counts, and, as members of this Council, we have to lead by good example. It remains critically important to ensure accountability and fight impunity. Accordingly, we support the request made by both the President and the Prosecutor of the Mechanism in this context this morning.

Germany will continue to politically and financially support the Mechanism. We consider it very important for the legacy of the institution that the Court finish its courtroom activities in good order as it has done in previous years.

Before concluding, let me also take this opportunity to thank our colleagues from Peru for their extremely able and professional leadership in chairing the Informal Working Group on International Tribunals over the last two years.

**Ms. Alnaser** (Kuwait) (*spoke in Arabic*): At the outset I would like to thank Judge Carmel Agius, President of the International Residual Mechanism for Criminal Tribunals, for his valuable briefing on the progress made in the work of the Mechanism. I would also like to thank Prosecutor Brammertz for his useful briefing.

The International Residual Mechanism for Criminal Tribunals, established by the Security Council pursuant to resolution 1966 (2010), was put in place to strengthen the principles of justice, the rule of law and non-impunity. Through the Mechanism, the Council reaffirms the importance of protecting the rights of victims of war crimes, genocide and ethnic cleansing.

We welcome the efforts of the President of the Mechanism to improve its performance and guarantee the completion of its residual judicial proceedings in a timely and efficient manner, while strengthening cooperation between the two branches of the Mechanism, pursuant to resolution 1966 (2010). We also commend the speed with which the Mechanism has carried out procedures for sentencing accused individuals, with an eye to concluding the work of the tribunals within the set time frame. We also value the efforts of the Prosecutor to uncover information that may lead to locating and arresting the eight outstanding fugitives. We renew our call to relevant Member States and international organizations to assist in strengthening the efforts of the Mechanism.

The Mechanism faces many challenges, which is why the international community must commit to providing full assistance to the Mechanism. We reiterate the need for the Mechanism to take proper steps towards addressing the concerns of the Member States set forth in resolution 2422 (2018) in order to achieve the desired goals in this regard.

In conclusion, I would like to thank Peru for chairing the Informal Working Group on International Tribunals and the Office of Legal Affairs for its efforts aimed at implementing the relevant Security Council resolutions.

**Mr. Ipo** (Côte d'Ivoire) (*spoke in French*): My delegation welcomes the convening of this biannual debate on the progress made with regard to the work of the International Residual Mechanism for Criminal Tribunals, and we thank Mr. Carmel Agius and Mr. Serge Brammertz, in their respective capacities as President and Prosecutor of the International Residual Mechanism, for their briefings. We have had the honour of working with them on the Security Council and wish them every success in implementing their mandate. We also thank the delegation of Peru for the remarkable work accomplished as Chair of the Informal Working Group on International Tribunals.

My delegation commends the progress made in the work of the Mechanism with regard to its judicial and administrative activities, namely, those pertaining to the enforcement of sentences, the protection of victims and witnesses, and archives management. We welcome the commitment of the President of the Mechanism to guaranteeing the greatest transparency in the review of requests for early release of persons convicted by the

International Criminal Tribunal for Rwanda (ICTR) and encourage the diligent establishment of conditions to perform this task in certain cases, in accordance with the recommendation in paragraph 10 of resolution 2422 (2018) of the Security Council. My country notes with satisfaction the Mechanism's implementation of the recommendations made by the Office of Internal Oversight Services, which were established in the evaluation and audit reports, and we urge the Mechanism to continue its efforts aimed at improving working conditions in order to increase its efficiency.

Despite the progress made, Côte d'Ivoire remains concerned with the relentless number of challenges to be addressed, particularly with regard to the cooperation between Member States and the Mechanism and the judicial cooperation among the countries of the former Yugoslavia. My delegation stresses the need to fight impunity and to that end urges Member States to cooperate fully with the Mechanism in the implementation of its mandate, in order to facilitate the search, arrest and transfer of the fugitives, as outlined in paragraph 10 of resolution 1966 (2010). In this regard, we appreciate the efforts made by the Mechanism to locate and apprehend the last eight fugitives indicted by the ICTR and would like to echo the recurrent appeals of the court to Member States to comply with their international legal obligations by providing necessary assistance to that end.

My country also believes that judicial cooperation among the countries of the former Yugoslavia is an indispensable tool for the search and arrest of perpetrators of war crimes who have found refuge in neighbouring States. We therefore urge national authorities to pool their efforts in the fight against impunity by taking measures to improve and strengthen judicial cooperation in the region.

In conclusion, my delegation reiterates its full support for the Mechanism in its search for methods and means to effectively accomplish its mission.

**Mrs. Mele Colifa** (Equatorial Guinea) (*spoke in Spanish*): I would like to thank the President of the International Residual Mechanism of the Criminal Tribunals, Judge Carmel Agius, and Prosecutor Serge Brammertz, for their enlightening and detailed briefings to the Security Council today.

Aware of the ongoing budgetary challenges faced by the Mechanism as a result of the budget reductions approved by the General Assembly in July 2018, we

applaud the continued efforts made by the Mechanism to carefully fulfil its mandate in the most efficient and effective manner, bearing in mind the need to ensure respect for due process and the fundamental rights of accused and convicted persons subject to its jurisdiction.

The Republic of Equatorial Guinea takes strong note of the significant progress of the work of the Mechanism in relation to judicial activities, administration, enforcement of sentences, protection of victims and witnesses, and management of archives during the reporting period. We are encouraged by the innovative strategies presented in the report of the President of the Mechanism (S/2019/888, annex I), to increase efficiency and harmonize practices and procedures between branches, such as having launched a unified filing system and a judicial records and archives database for both branches, and the creation of a Judicial Records and Court Operations Unit in Arusha to operate alongside its existing counterpart of the branch in The Hague, among important initiatives. Given the importance that we attach to these issues, we welcome the Mechanism's adoption of the Code of Conduct to Prevent Harassment, Including Sexual Harassment, at United Nations System Events.

With regard to the Practice Direction on the Procedure for the Determination of Applications for Pardon, Commutation of Sentence and Early Release of Persons Convicted by the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia or the Mechanism, we are pleased to learn that the President of the Mechanism is continuing consultations with other parties concerned and considering putting in place conditions on early release in accordance with resolution 2422 (2018). We hope that the work he is doing to introduce improvements to these procedures will be successful because of the relevance that these decisions have for the victims.

We also note the Prosecutor's unstinting work with and ongoing support for national authorities, which is reflected in the large volume of requests for assistance that the Office receives, as well as its provision of assistance in specific cases and the intensive training that its judicial authorities continue to undertake. It is our hope that despite the challenges facing the Office of the Prosecutor, the remaining eight fugitives indicted by the International Criminal Tribunal in Rwanda will be located and arrested.

The successful work of the Mechanism and its ability to render justice to the victims depends to a large extent on the efforts and cooperation of States, especially with regard to operations for the location, apprehension and surrender of fugitives and the relocation of released persons. In this regard, we call for the full cooperation of the States Members of the United Nations to strengthen the much-needed assistance to the Mechanism, as mandated in resolution 2422 (2018). Providing the Mechanism with the resources that it requires is another way to ensure the success of its mandate, which is why we hope that its budget proposal for the coming year will be approved. We must not forget that the Mechanism stands among the international criminal justice institutions that combat impunity, which can contribute to deterring and preventing the most serious crimes of international significance and to maintaining the peace and security that we seek.

In conclusion, and bearing in mind that this will be our last statement on this issue, we wish to clearly reaffirm that the Republic of Equatorial Guinea, in its unwavering commitment to strengthening the rule of law and promoting justice, supports the Mechanism in all aspects of its work as an instrument mandated by the Security Council to administer justice and end impunity to achieve the international peace and security that we seek. We would also like to thank and commend the Mission of Peru for transparently, efficiently and dynamically chairing the Council's Informal Working Group on International Tribunals.

**The President:** I shall now make a statement in my capacity as the representative of the United States.

I thank President Agius and Prosecutor Brammertz for their briefings. We are grateful for the unwavering commitment of the judges, attorneys and staff in Arusha, The Hague, Kigali and Sarajevo to pursuing justice for the victims in Rwanda and the former Yugoslavia.

We welcome the efforts of President Agius aimed at improving efficiencies and harmonizing the operations of the two branches of the Mechanism as the remaining cases pending before the Tribunal draw to a close. This focus is helping to achieve the lean operations envisioned by the Security Council when it established the Mechanism in 2010. We are looking forward to the Council's review next year of the progress of the work of the Mechanism, pursuant to resolution 1966 (2010).

The report delivered by President Agius (S/2019/888, annex I) predicts that 2020 will mark an important year for the conclusion of the vast majority of the current judicial work of the Mechanism. The conclusion of appellate proceedings in the case of *Prosecutor v. Ratko Mladić* will be a landmark in the history of international criminal law. Let us be very clear about exactly what kind of acts were committed that bring us to this meeting today.

General Ratko Mladić served as the commander of the Bosnian Serb Army, and his forces systematically murdered Muslim Bosnian men and boys in Srebrenica, raped women and girls, shelled the civilian population of Sarajevo and brutalized Muslim and Croat prisoners, all with the horrifying objective of permanently removing Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory. We therefore welcome and celebrate the Tribunal's work to rule on General Mladić's responsibility for grave crimes committed during the war.

Similarly, we support the work of the Mechanism in the retrial of Jovica Stanišić and Franko Simatović on charges of crimes against humanity and war crimes for their alleged roles in the unlawful, forcible removal of non-Serbs from Croatia and Bosnia and Herzegovina. We also support the contempt proceedings in the cases of *Prosecutor v. Maximilien Turinabo et al.* and *Prosecutor v. Augustin Ngirabatware*. Attempts to interfere with witnesses or otherwise undermine court proceedings are a grave threat to the rule of law and must be dealt with seriously.

We also commend the endeavours of the Mechanism to support national judicial efforts, from the Balkans to Rwanda. These proceedings remain vital to ensuring that the pursuit of justice will not end even as prosecutions at the Mechanism conclude. We note Rwanda's progress in continuing to try cases related to the genocide and urge Balkan States to improve their cooperation across national systems.

We also continue to support the efforts of the Mechanism to apprehend the remaining eight Rwandans still wanted for their roles in the 1994 genocide. The United States continues to offer rewards of up to \$5 million for information that leads to the arrest, transfer or conviction of any of the remaining fugitives. We strongly urge all countries to cooperate fully with the Mechanism and to bring these people, who are wanted for some of the worst crimes in history,

to justice. To this end, it is absolutely essential that requests for cooperation be met by Member States with the swiftness and utmost seriousness that the victims and survivors deserve. When we do not cooperate with the Mechanism, fugitives remain at large and impunity reigns.

It is deeply troubling that the Prosecutor continues to report the ongoing challenge of genocide denial and the non-acceptance of historical truths in both Rwanda and the Balkans. We cannot bring back those whose lives were lost, but if we do not act forcefully when leaders seek to turn certain populations into scapegoats for society's ills or deny historical facts, we will fail to ensure justice for the victims and their loved ones.

In her guilty plea to the International Criminal Tribunal for the Former Yugoslavia, former Bosnian Serb leader Biljana Plavšić spoke from her own experience, warning that where leaders rely on stoking fear and prejudice, thereby become victimizers, the result is "graves, refugees, isolation and bitterness against the whole world". We must recommit to protecting the welfare of civilians during armed conflict and holding those who do not to account. The Mechanism has been an important part of this work, and we continue to support its efforts on behalf of victims.

I now resume my functions as President of the Council.

I give the floor to the Assistant Minister of Justice of Serbia.

**Mr. Backović** (Serbia): Due to time constraints, I will address two important points for Serbia.

First, I ask Security Council members to take a look at our written statement, in which they will find data and details supporting the fact that Serbia's efforts and cooperation in the prosecution of war crimes are second to none.

Secondly, let me draw the attention of the Council to the issue of serving sentences. In its statement to the Council, my country argued that the decades-long practice regarding the conditions of serving the sentences pronounced by the International Tribunal for the Former Yugoslavia (ICTY) and the International Residual Mechanism for Criminal Tribunals (IRMCT) should be somewhat changed. In the reports of the Mechanism, however, including in the most recent one, for the period of 16 May to 15 November (see S/2019/888, annex II), requests are bandied about to

amend rule 151 of the Rules of Procedure and Evidence relative to pardon, commutation of sentences and early release. Resolution 2422 (2018), in paragraph 10, "encourages the Mechanism to consider an appropriate solution, including by considering putting in place conditions on early release in appropriate cases".

The IRMCT President, Judge Carmel Agius, it is reported, has already taken the encouragement into consideration, while the IRMCT Prosecutor, Mr. Serge Brammertz, is "seriously concerned" over the fact that the vast majority of the sentenced persons have been unconditionally released after serving only two-thirds of their sentences. The consideration and the concern indicate that, in all likelihood, unjustifiable changes will be made in the work of the IRMCT on this issue.

That worries me, for it is hard to believe that the consideration of this question comes at a time when the conditions have been met this year for several Serbian nationals to be released early, after having served two-thirds of their respective sentences, is only accidental. Most of them have filed early release applications to the IRMCT President. None of them have yet received a reply and no explanation has been provided. Let me point out that the sentenced persons are of an advanced age and in poor health so that, for reasons of humanity, a fair solution for these cases should be acted upon.

Serbia has faced the silence of the administration on a number of occasions, including regarding two letters that the Minister of Justice of Serbia sent to the Mechanism in the case of General Pavković. No reply to either of them has been received. The Minister had written with regard to the event of 2 July, when the war crimes Prosecutor of so-called Kosovo, Ms. Drita Hajdari, made an attempt to interrogate General Pavković in the Kylmakoski prison in Finland under cover of "international" legal assistance following a letter rogatory in connection with an order to conduct an investigation.

Only the Mechanism has jurisdiction over this case. Under article 25, item 2, of its Statute, it has the power to supervise the enforcement of sentences, including the implementation of sentence enforcement agreements entered into by the United Nations with Member States, as well as other agreements with international and regional organizations and other appropriate organizations and bodies. It is not clear who allowed the attempt to conduct the interrogation just as a clarification is due as to whether the Mechanism

gave a nod of approval to the representative of so-called Kosovo, a territory, a United Nations protectorate under resolution 1244 (1999) and neither a State nor a Member of the United Nations. How did it come about?

The indications that the early release provisions will be amended touch on Serbia's initiative, launched 10 years ago, calling for serving, in Serbia, the sentences pronounced to its nationals by the ICTY. The initiative is motivated by the resolve of my country to take up the responsibility for the enforcement of the sentences. The purpose of punishment includes, inter alia, the resocialization of the punished persons. It is hard to expect that this purpose will ever be achieved if these persons serve their sentences in faraway countries whose language they do not understand and in which visits by friends and relatives are all but precluded.

I take this opportunity to draw the Council's attention to the difficult situation of Milan Martić and Dragomir Milošević, two Serbian nationals sentenced by the ICTY and serving their sentences in Estonia. The respective former and current ICTY Presidents, Judge Meron and Judge Agius, have been advised of their situation by the Ministry of Justice and the Ministry of Foreign Affairs of the Republic of Serbia, the International Committee of the Red Cross and the sentenced persons themselves on a number of occasions.

Let me emphasize the fact that Serbia is ready to accept international supervision of the enforcement of the sentences of these persons that is precisely defined and provides positive guarantees that these persons will not be released early except through appropriate decisions of the Mechanism or any other United Nations agency to be mandated with dealing with these issues in the future.

Once again, we call on the representatives of the IRMCT, and those of relevant institutions to be mandated by the Secretary-General, to visit Serbia, tour its prison facilities and see for themselves the situation in the prisons that would be used for this purpose.

At the time when the completion of the work of the Mechanism is in sight, it is of paramount importance for the Security Council to remain actively seized of all outstanding issues. Its decision-making should be transparent. My country expects answers soon, all the more so since Serbians' cooperation with the IRMCT has once again been second to none and widely commended.

**The President:** I now give the floor to the representative of Bosnia and Herzegovina.

**Mr. Vukobratović (Bosnia and Herzegovina):** At the outset, let me congratulate you, Mr. President, on assuming the presidency of the Security Council for the month of December. I would also like to thank Judge Agius and Mr. Brammertz, the President and the Prosecutor of the International Residual Mechanism for Criminal Tribunals, for their respective reports and for today's comprehensive briefings.

We note the continued progress by the Mechanism in fulfilling the residual activities of the International Tribunal for the Former Yugoslavia (ICTY). In addition, we 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, the cooperation of Bosnia and Herzegovina with the ICTY and its successor has been steadfast and full, as evidenced by the Tribunal's reports. In the same vein, we remain committed to contributing actively to the Mechanism's efforts to accomplish its mission.

Accountable, independent and impartial judicial institutions that enjoy public trust throughout the entire country are a precondition not only for bringing perpetrators to justice, but also for achieving reconciliation among the three constituent peoples of Bosnia and Herzegovina, namely, Bosniaks, Croats and Serbs. That is of crucial importance for long-term stability in the country and the region. We recognize that there is a need for the adoption of a revised national war crimes strategy for Bosnia and Herzegovina.

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 with regard to strengthening the human and material resources of the judicial institutions that are processing war crimes and general capacity-building. Bosnia and Herzegovina reiterates the importance of the consistent cooperation among the Prosecutors' Offices and the relevant authorities of Bosnia and Herzegovina and its neighbouring countries, Croatia and Serbia, in accordance with the principles of international justice and the rule of law, which is crucial to investigating and prosecuting war crimes.

In conclusion, I would like to emphasize that Bosnia and Herzegovina remains committed to investigating, prosecuting and punishing all persons responsible for war crimes. We will continue to work on strengthening the national judicial system. More justice means more trust and stability.

**Mr. Šimonović** (Croatia): I welcome the President of the International Residual Mechanism for Criminal Tribunals, Judge Agius, as well as Prosecutor Brammertz, and thank them for their comprehensive briefings today, as well as for their respective reports.

Let me start by reiterating Croatia's full support for the mission and work of the Mechanism. Croatia remains a strong supporter of international criminal justice. Croatia has done its part in ensuring accountability. Many trials have been completed to date, and some are still ongoing as our institutions continue to investigate and prosecute war crimes committed during the war in the 1990s.

When it comes to the Mechanism's ongoing work, 2020 will be a significant year with the completion of important cases, in particular the appeal of the case *Prosecutor v. Ratko Mladić* and the *Prosecutor v. Jovica Stanišić and Franko Simatović* trial case. They are of the utmost importance to the legacy of accountability for aggression against Croatia and Bosnia and Herzegovina in the last decade of the twentieth century, especially because the crucial case against former Serbian President Slobodan Milošević unfortunately did not end up with a verdict.

More than a quarter century after the establishment of the International Tribunal for the Former Yugoslavia (ICTY), thousands of victims and their loved ones are still waiting for justice to be served. We expect all cases to be completed within the planned deadlines and without any delays, and we encourage the Mechanism to maximize its efforts to that end. Also, we hope that the contempt of court proceedings in the *Prosecutor v. Petar Jojić and Vjerica Radeta* case will soon be resolved, and we once again underline the need for Serbia to fully cooperate with the Mechanism.

Croatia is committed to continuing constructive and effective judicial cooperation with other States of the region in war crimes matters. We recognize the increasingly urgent need to end impunity and overcome the legacy of the past, including through justice for all victims of past atrocities. As time passes, it becomes more and more difficult to hold perpetrators

accountable for their crimes. But as we have said many times, meaningful cooperation is not a one-way process, and we expect other States to show their willingness to actively engage and contribute to improving relations.

Croatia is continuously undertaking activities towards Bosnia and Herzegovina and Serbia, with the aim of improving cooperation in the prosecution of war crimes. In the past two years, the Ministers of Justice of Croatia and Serbia have met several times and two joint commissions have been established. One would work on a bilateral agreement on cooperation regarding the prosecution of war crimes and the other on the exchange of lists of persons accused or convicted of war crimes. The commissions have worked but have not made any recommendations yet. We express our hope that the commissions will resume their work shortly. Also, with respect to Bosnia and Herzegovina, we expect improvement in the transfer of cases from Bosnia and Herzegovina to Croatia.

Last month, Croatia marked another mournful anniversary of the tragedies and atrocities of war in the autumn of 1991. Besieged for three long months and levelled to the ground, the city of Vukovar and its inhabitants suffered a fate unseen in Europe from the Second World War up until that point. White crosses at the Vukovar cemetery stand today as a reminder of the massacre and of the victims exhumed from mass graves in and around the city. A few days before the anniversary, a memorial plaque commemorating the commander of the Yugoslav People's Army and the Serbian paramilitary forces during the attack on Vukovar was unveiled in a Serbian army complex in the city of Novi Sad. That is only one recent example that shows that Serbia is still, unfortunately, not willing to face its own past and its role in the war that it initiated in the 1990s. Such decisions and moves by Serbian authorities go against Croatia's efforts to build good-neighbourly relations, and we call on Serbia to stop glorifying war crimes. Croatia stands ready to cooperate with its neighbours and assist them in overcoming the remaining obstacles to facing the past as a precondition for lasting peace and meaningful reconciliation.

The unresolved fate of missing persons is highly ranked on Croatia's list of priorities. The suffering of the families of missing persons demands that of us, and we are pursuing all our efforts to trace and identify the fate of our missing nationals or their remains. To that end, Croatia is also holding dialogue with other States and international organizations in the hope

of accomplishing results, and every year headway is made. Unfortunately, Serbia still shows no readiness to open all its archival records. Political will should be shown in Belgrade, and we call on the Serbian political leaders to focus on those efforts rather than on divisive political rhetoric, which only perpetuates antagonism. Cooperation in addressing the issue of missing persons remains a key element of our dialogue and a part of the criteria that Serbia needs to meet under its European Union accession negotiations. We are ready to continue dialogue that will produce tangible progress on those issues.

Croatia remains firmly committed to the development of good relations and cooperation with neighbouring States, and we strongly support their

aspirations towards European Union membership based on the full compliance with clear and well-known criteria, especially with regard to the rule of law, including full cooperation with the Mechanism. Our commitment to the European path of the whole Western Balkans region is visible in the priorities of the forthcoming Croatian presidency of the Council of the European Union during the first half of 2020. We will strive to keep the enlargement of the European Union as one of the key topics on our European agenda.

In conclusion, Croatia stands ready to continue to extend our full support to the Mechanism, expecting it to complete its mandate in time.

*The meeting rose at 11.55 a.m.*