



Repertoire of the Practice of the Security Council

18th Supplement

2012-2013

Department of Political Affairs - Security Council Affairs Division
Security Council Practices and Charter Research Branch

27. Items relating to International Tribunals for the former Yugoslavia and Rwanda¹

Overview

From 2012 to 2013, the Security Council held nine meetings and adopted five resolutions² related to the work of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (ICTY) and the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States between 1 January 1994 and 31 December 1994 (ICTR).³ Throughout the period under review, the Council received semi-annual briefings by senior officials of the ICTY and ICTR and considered the completion strategies of the Tribunals, as set out in resolution [1966 \(2010\)](#), requesting the ICTY and the ICTR to take all possible measures to expeditiously complete all their remaining work no later than 31 December 2014, to prepare their closure and to ensure a smooth transition to the International Residual Mechanism for Criminal Tribunals (Mechanism).

¹ This study covers the following three agenda items: (i) International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (ICTY); (ii) International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States between 1 January 1994 and 31 December 1994 (ICTR) and (iii) ICTY; ICTR.

² All resolutions except resolution [2038 \(2012\)](#) were adopted under Chapter VII of the Charter.

³ For more information on the mandate of ICTY and ICTR, see part IX, sect. IV, A and B.

The Council also appointed the President and the Prosecutor of the Mechanism for a term of four years,⁴ and acting under Chapter VII of the Charter, authorized permanent and ad litem judges of both Tribunals to serve beyond the expiry of their terms of office.⁵

The table at the end of the section lists the meetings at which the respective item was considered, and gives information on, inter alia, invitees, speakers and decisions adopted.

Briefings on the implementation of the completion strategies and establishment of the Arusha Branch of the Residual Mechanism

In the semi-annual briefings on 7 June and 5 December 2012, the Presidents and Prosecutors of the ICTY and ICTR provided the Council with their assessments of the implementation of the completion strategies, including management reforms aimed at accelerating the remaining trial and appeal proceedings and circumventing difficulties related to staff attrition and recruitment due to the pending closure of the Tribunals.⁶ At the December briefing, the ICTY President and the ICTR Prosecutor, speaking also as the President and the Prosecutor of the Mechanism, respectively, updated the Council on the preparations for the commencement of the work of the Mechanism, whose ICTR branch had begun its operations on 1 July 2012 in Arusha, and for the ICTY branch, at the Hague, which was set to begin one year later, as spelled out by resolution [1966 \(2010\)](#).

Speakers generally welcomed the progress made by the Tribunals in expediting their work despite some setbacks, and in taking measures towards preparation for a smooth transition to the Mechanism. In that regard, speakers urged the Tribunals to continue to strengthen their efforts towards finalising their caseloads and ensuring compliance with the completion strategy as provided for in the relevant resolutions. Most speakers called on Member States to fully cooperate with the Tribunals, especially regarding the arrest of

⁴ See an exchange of letters between the Secretary-General and the President of the Council dated 23 February and 27 February 2012 ([S/2012/112](#) and [S/2012/113](#)) and resolution [2038 \(2012\)](#).

⁵ Resolutions [2054 \(2012\)](#), [2080 \(2012\)](#), [2081\(2012\)](#) and [2130 \(2013\)](#). For more information on the procedure of authorization, see part IV, sects. I. D.3 and 4 with regard to election of judges of the Tribunals and the International Residual Mechanism.

⁶ [S/PV.6782](#), pp. 3-6 (President of the ICTY); pp. 6-8 (President of the ICTR); pp. 8-10 (Prosecutor of the ICTY); and pp. 10-11 (Prosecutor of the ICTR); [S/PV.6880](#), pp. 3-7 (President of the ICTY and of the Mechanism); pp. 7-10 (President of the ICTR); pp. 10-11 (Prosecutor of the ICTY); and pp. 11-14 (Prosecutor of the ICTR and of the Mechanism).

fugitives still remaining at large, as well as the relocation of acquitted individuals and those who had completed their sentences. Speakers also expressed support for the referral of cases to the respective national judicial systems with a view to reducing the overall workload of the Tribunals and to reinforcing the rule of law at the national level. Stating that the Mechanism had been established within parameters that would enable it to conduct substantive work, including trials and appeals, the representative of the Russian Federation reaffirmed the intention of his country to seek completion of the work of ICTY in accordance with the deadlines set down in resolution [1966 \(2010\)](#), and called on the President of the Tribunal to provide a detailed timetable for the finalization of its work, upon which the Russian Federation would base its consideration for the extension of the terms of the judges.⁷ Finally, representatives of the Member States whose cooperation with the Tribunals was under discussion, presented accounts of their cooperation efforts during the respective reporting periods.⁸

Extension of tenures of ICTY judges

On 17 December 2012, the Council adopted resolution [2081 \(2012\)](#) by which acting under Chapter VII of the Charter, it extended the terms of office of 21 judges of the ICTY.

The representative of the Russian Federation criticized the interminable trial delays and the inability of the Tribunal to execute its mandate. He explained that his delegation had abstained in the voting because his country's suggestion to conduct an independent analysis of the legal and administrative activities of the ICTY in order for the Council to develop practical steps to help the Tribunal to fulfil resolution [1966 \(2010\)](#) was not included in the draft resolution.⁹ The representatives of the United Kingdom and the United States, on the other hand, supported the steps that the Tribunal had taken under the leadership of its President to improve its efficiency and to complete its work as expeditiously as possible, and emphasized that only two trials resulting from the arrests in 2011 after the adoption of

⁷ [S/PV.6782](#), pp. 22-23 and [S/PV.6880](#), pp. 16-17.

⁸ [S/PV.6782](#), pp. 24-25 (Croatia); pp. 25-26 (Rwanda); and pp. 26-27 (Serbia); and [S/PV.6880, pp. 29-33 \(Serbia\); pp. 33-34 \(Croatia\); pp. 34-35 \(Bosnia and Herzegovina\); and pp. 35-37 \(Rwanda\).](#)

⁹ [S/PV.6889](#), pp. 2-3.

resolution [1966 \(2010\)](#) would not be completed before the original target date of 31 December 2014.¹⁰

Updates on the implementation of the completion strategies

On 12 June and 5 December 2013, the Presidents and Prosecutors of the ICTY, ICTR and the Mechanism updated the Council on the status of trial and appeal proceedings, the main challenges preventing the completion of the mandates of the Tribunals, as well as on the transitional process to the Residual Mechanism.¹¹

During those meetings, speakers generally praised the progress made by both ICTY and ICTR on the implementation of their completion strategies and welcomed the smooth transition from the ICTR to the Mechanism, as well as the upcoming commencement of the Hague branch, which was to be opened on 1 July 2013. Speakers again urged the relevant Member States to cooperate with the ICTR and the Arusha Branch of the Mechanism in bringing the remaining nine fugitives at large to justice and assisting with the resettlement of those who had been acquitted or had already served their sentences, which remained one of the most serious challenges to the successful completion of the ICTR mandate. Two decades after the establishment of the ICTY, speakers also reflected on the legacy of both ad hoc Tribunals to the advancement of international criminal justice and international humanitarian law, which was consolidated with the establishment of the International Criminal Court. The representative of the Russian Federation, expressing disappointment at the latest delays in the final appeal judgment of the ICTR, held that whether the work of the Tribunals would be seen as a heritage acceptable to the whole of the international community depended on ensuring that their history ended on a positive note, which, meant in strict accordance with resolution [1966 \(2010\)](#).¹²

¹⁰ Ibid., p. 3 (United Kingdom); and p. 3 (United States).

¹¹ [S/PV.6977](#), pp. 3-7 (President of the ICTY and of the Mechanism); pp. 7-10 (President of the ICTR); pp. 10-11 (Prosecutor of the ICTY); and pp. 11-13 (Prosecutor of the ICTR and of the Mechanism); and [S/PV.7073](#), pp. 3-7 (President of the ICTY and of the Mechanism); pp. 7-10 (President of the ICTR); pp. 10-11 (Prosecutor of the ICTY); and pp. 11-13 (Prosecutor of the ICTR and of the Mechanism).

¹² [S/PV.6977](#), p. 22.

Extension of tenures of ICTY judges

Acting under Chapter VII of the Charter, the Council adopted resolution [2130 \(2013\)](#) on 18 December 2013, by which it extended the term of office of 17 judges of the ICTY. The representative of the Russian Federation justified his country's abstention in the voting by stating that the practice of trial delays, in contravention of the exit strategy called for in resolution [1966 \(2010\)](#) had continued and that no comprehensive steps had been taken to fulfil its provisions. He added that the deadline for achieving that goal had been continuously pushed back beyond 2014 as reflected in the resolution just adopted, and maintained that the position of his country remained unchanged as the text of resolution [2130 \(2013\)](#) had taken on no positive changes since resolution [2081 \(2012\)](#).¹³

¹³ [S/PV.7088](#), p. 2.

Meetings: items relating to International Tribunals for the former Yugoslavia and Rwanda

<i>Meeting and date</i>	<i>Sub-item</i>	<i>Other documents</i>	<i>Rule 37 invitations</i>	<i>Rule 39 and other invitations</i>	<i>Speakers</i>	<i>Decision and vote (for-against-abstaining)</i>
S/PV.6726 29 February 2012	Letter dated 23 February 2012 from the Secretary-General addressed to the President of the Security Council (S/2012/112) Letter dated 27 February 2012 from the President of the Security Council addressed to the Secretary-General (S/2012/113)	Draft resolution submitted by Guatemala (S/2012/115)				Resolution 2038 (2012) 15-0-0
S/PV.6782 7 June 2012	Letter dated 23 May 2012 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council (S/2012/354) Letter dated 22 May 2012 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994, addressed to the President of the Security Council (S/2012/349)		Croatia, Rwanda, Serbia	Presidents and Prosecutors of ICTY and ICTR	All Council members and all invitees	
S/PV.6794 29 June 2012	Letter dated 22 May 2012 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council (S/2012/349)	Draft resolution submitted by Guatemala (S/2012/491)				Resolution 2054 (2012) 15-0-0 (adopted under Chapter VII)

<i>Meeting and date</i>	<i>Sub-item</i>	<i>Other documents</i>	<i>Rule 37 invitations</i>	<i>Rule 39 and other invitations</i>	<i>Speakers</i>	<i>Decision and vote (for-against-abstaining)</i>
	Letter dated 1 June 2012 from the Secretary-General addressed to the President of the Security Council (S/2012/392)					
S.PV.6880 5 December 2012	Report of the International Tribunal for the Former Yugoslavia (S/2012/592)		Bosnia and Herzegovina, Croatia, Rwanda, Serbia	Presidents and Prosecutors of ICTY, ICTR and International Residual Mechanism for Criminal Tribunals	All Council members and all invitees	
	Report of the International Criminal Tribunal for Rwanda (S/2012/594)					
	Letter dated 14 November 2012 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994, addressed to the President of the Security Council (S/2012/836)					
	Letter dated 16 November 2012 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council (S/2012/847)					
	Letter dated 16 November 2012 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2012/849)					

<i>Meeting and date</i>	<i>Sub-item</i>	<i>Other documents</i>	<i>Rule 37 invitations</i>	<i>Rule 39 and other invitations</i>	<i>Speakers</i>	<i>Decision and vote (for-against-abstaining)</i>
S/PV.6885 12 December 2012	Report of the International Criminal Tribunal for Rwanda (S/2012/594) Letter dated 14 November 2012 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994, addressed to the President of the Security Council (S/2012/836) Letter dated 16 November 2012 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2012/849)	Draft resolution submitted by Guatemala (S/2012/916)				Resolution 2080 (2012) 15-0-0 (adopted under Chapter VII)
S/PV.6889 17 December 2012	Report of the International Tribunal for the Former Yugoslavia (S/2012/592) Letter dated 16 November 2012 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council (S/2012/847) Letter dated 16 November 2012 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2012/849)	Draft resolution submitted by Guatemala (S/2012/927)			Russian Federation, United Kingdom and United States	Resolution 2081 (2012) 14-0-1 ^a (adopted under Chapter VII)

<i>Meeting and date</i>	<i>Sub-item</i>	<i>Other documents</i>	<i>Rule 37 invitations</i>	<i>Rule 39 and other invitations</i>	<i>Speakers</i>	<i>Decision and vote (for-against-abstaining)</i>
S/PV.6977 12 June 2013	<p>Letter dated 23 May 2013 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council (S/2013/308)</p> <p>Letter dated 23 May 2013 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2013/309)</p> <p>Letter dated 23 May 2013 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council (S/2013/310)</p>		Bosnia and Herzegovina, Croatia, Liechtenstein, ^b Netherlands, Serbia	Presidents and Prosecutors of ICTY, ICTR and International Residual Mechanism for Criminal Tribunals, and Head of the delegation of the European Union to the United Nations	All Council members and all invitees ^c	
S.PV.7073 5 December 2013	<p>Report of the International Criminal Tribunal for Rwanda (S/2013/460)</p> <p>Report of the International Tribunal for the Former Yugoslavia (S/2013/463)</p> <p>Letter dated 13 November 2013 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council (S/2013/663)</p> <p>Letter dated 18 November 2013 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law</p>		Bosnia and Herzegovina, Croatia, Serbia	Presidents and Prosecutors of ICTY, ICTR and International Residual Mechanism for Criminal Tribunals	All Council members and all invitees	

<i>Meeting and date</i>	<i>Sub-item</i>	<i>Other documents</i>	<i>Rule 37 invitations</i>	<i>Rule 39 and other invitations</i>	<i>Speakers</i>	<i>Decision and vote (for-against-abstaining)</i>
	Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council (S/2013/678)					
	Letter dated 18 November 2013 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2013/679)					
S/PV.7088 18 December 2013	Report of the International Tribunal for the Former Yugoslavia (S/2013/463)	Draft resolution submitted by Guatemala (S/2013/746)			Russian Federation	Resolution 2130 (2013) 14-0-1 ^d (adopted under Chapter VII)
	Letter dated 18 November 2013 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, addressed to the President of the Security Council (S/2013/678)					
	Letter dated 18 November 2013 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council (S/2013/679)					

^a For: Azerbaijan, China, Colombia, France, Germany, Guatemala, India, Morocco, Pakistan, Portugal, South Africa, Togo, United Kingdom, United States; abstaining: Russian Federation.

^b Spoke on behalf of Albania, Austria, Belgium, Bosnia and Herzegovina, Chile, Costa Rica, Croatia, Estonia, Finland, Hungary, Ireland, Jordan, Liechtenstein, Montenegro, the Netherlands, Norway, Papua New Guinea, Peru, Slovenia, Sweden, Switzerland, Timor-Leste and Uruguay.

^c Serbia was represented by its Minister of Justice and Public Administration.

^d For: Argentina, Australia, Azerbaijan, China, France, Guatemala, Luxembourg, Morocco, Pakistan, Republic of Korea, Rwanda, Togo, United Kingdom, United States; abstaining: Russian Federation.