24. International Residual Mechanism for Criminal Tribunals

During 2020, the Security Council held one meeting for the issuance of a presidential statement related to the work of the International Residual Mechanism for Criminal Tribunals. More information on the meeting, including on participants and outcome, is provided in table 1 below. Council members also held a total of three open videoconferences and adopted one resolution under Chapter VII of the Charter in connection with this item. The resolution was announced in an open videoconference, according to the procedures established further to the outbreak of the COVID-19 pandemic. More information on the videoconferences is given in table 2 below.

On 28 February 2020, the Council issued a presidential statement by which it recalled that the Mechanism should be a small, temporary and efficient structure, whose functions and size would diminish over time. It also recalled its decision that the Mechanism should operate for an initial period of four years starting from 1 July 2012 as well as its further decision that the Mechanism should continue to operate for subsequent periods of two years further to its review. The Council requested the Mechanism to present by 15 April 2020 its report on the progress of its work since the last review of the Mechanism in June 2018, including in completing its functions, with detailed schedules for the proceedings currently under consideration as well as factors relevant to projected completion dates. By the presidential statement, the Council requested the Informal Working Group on International Tribunals to carry out a thorough examination of the Mechanism’s report, as well as the report on the evaluation of the methods and work of the Mechanism by the Office of Internal Oversight Services and to

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693 For further information on the format of meetings, see part II. For further information on the International Residual Mechanism for International Tribunals, see Repertoire, Supplement 2018 and for the issues considered under this item, see also previous Supplements covering the period 1996-2007.
694 For more information on the procedure and working methods of the Security Council developed during the COVID-19 pandemic, see part II.
695 S/PRST/2020/4, second paragraph.
696 Ibid., third paragraph.
697 Ibid., fifth paragraph.
present its views and any findings or recommendations for the Council’s consideration in its review of the work of the Mechanism.\footnote{Ibid., sixth paragraph.}

On 8 June 2020, Council members held a videoconference in which they heard the semi-annual briefings by the President of the Mechanism and by its Prosecutor. At the meeting, the President presented the latest report on the work of the Mechanism, submitted pursuant to paragraph 16 of Security Council resolution \textbf{1966 (2010)}.\footnote{See \textit{S/2020/309}.} In their statements, the President and the Prosecutor affirmed that despite the COVID-19 pandemic, the Mechanism had remained operational and ensured full business continuity in an effective manner. While the pandemic had affected in-court proceedings, cases had progressed with relatively few disruptions. Nonetheless, cases that were on track to conclude by the end of 2020 were then expected to conclude in the first part of 2021. In addition to providing a detailed account of the trials and proceedings during the reporting period, the President and the Prosecutor highlighted the arrest of Félicien Kabuga and the confirmation of the death of Augustin Bizimana, two of the three main fugitives indicted by the International Criminal Tribunal for Rwanda (ICTR), and thanked the contribution of France and the other Member States and actors in the achievements. The Prosecutor affirmed that the role of the Council had been decisive in that regard, repeatedly calling upon all Member States to provide cooperation in the search for the fugitives and assisting the Mechanism in obtaining the needed intelligence and information to move the investigations forward. In that context, the President and the Prosecutor encouraged cooperation and trust in bringing more fugitives to justice. With regard to the situation of the nine acquitted and released persons in Arusha, the President reiterated that the Mechanism could not resolve the issue on its own and urged the Council’s support to help end that “untenable situation”. On the issue of early release, the President reported on a revised Practice Direction on the applications of pardon, commutation of sentence or early release to clarify the procedures involved and ensure a streamlined process. Marking the 25\textsuperscript{th} anniversaries of the genocides in Rwanda and Srebrenica, the President reminded delegations of the perils of endemic hatred, division and denial. The Prosecutor regretted that he had repeatedly reported to the Council that the denial of crimes and
glorification of convicted war criminals remained immense challenges and called upon all officials and public figures to publicly condemn such acts. The Prosecutor concluded by welcoming the recognition in the report of the Office of Internal Oversight Services (OIOS)\textsuperscript{700} of his Office’s commitment to the Security Council’s vision of the Mechanism as “a small, temporary and efficient structure” and to have also favourably assessed the Mechanism’s work and innovative methods.\textsuperscript{701}

During the discussion, Council members welcomed the Mechanism’s efforts aimed at limiting as much as possible the impact of the COVID-19 pandemic on its activities. Council members also commended the international cooperation efforts with the Office of the Prosecutor, which had successfully resulted in the arrest of Félicien Kabuga. In that connection, several speakers reiterated their calls on relevant Member States to provide the necessary assistance to the Office of the Prosecutor with the search and arrest of the remaining six fugitives indicted by the ICTR.\textsuperscript{702} The representative of South Africa acknowledged the country’s lack of cooperation concerning a fugitive located on its territory in mid-2018. He expressed regret that challenges presented by South Africa’s domestic law had unfortunately constrained the country’s cooperation until December 2019 and noted, however, that this had since been addressed. Several delegations applauded the Mechanism’s efforts to integrate a gender perspective into its work and activities.\textsuperscript{703} Speakers welcomed the fact that the Mechanism had implemented most of the recommendations made by OIOS in 2018 and 2019.\textsuperscript{704} In that connection and due to the impact of COVID-19 on the anticipated timelines, some Council members encouraged the management of the Mechanism to make necessary adjustments to implement the recommendations of OIOS to adhere to clear and focused projections of completion timelines.\textsuperscript{705}

\textsuperscript{700} See S/2020/236.
\textsuperscript{701} See S/2020/527.
\textsuperscript{702} Ibid., Belgium, Estonia, France, Indonesia, Saint Vincent and the Grenadines, South Africa, Tunisia, United Kingdom, and United States.
\textsuperscript{703} Ibid., Dominican Republic, Estonia, Niger, Saint Vincent and the Grenadines, and Tunisia.
\textsuperscript{704} Ibid., Niger, Saint Vincent and the Grenadines, South Africa and United Kingdom.
\textsuperscript{705} Ibid., Indonesia and Russian Federation.
On 25 June 2020, the Council adopted, non-unanimously, resolution 2529 (2020),\(^706\) under Chapter VII of the Charter, by which it appointed the Prosecutor of the Mechanism with effect from 1 July 2020 until 30 June 2022.\(^707\) In the resolution, the Council continued to urge all States to intensify their cooperation with and render all necessary assistance to the Mechanism, in particular to achieve the arrest and surrender of all remaining fugitives indicted by the ICTR as soon as possible.\(^708\) In that regard, the Council welcomed the arrest of Félicien Kabuga, indicted for genocide and crimes against humanity allegedly committed in Rwanda in 1994, commended the cooperation between the Office of the Prosecutor, and law enforcement and judicial authorities in France and the other actors which had contributed to the arrest of the fugitive, and recognized that was an important step of cooperation with the Mechanism.\(^709\) The Council welcomed the report submitted by the Mechanism to the Council and the report of OIOS on the evaluation of the methods and work of the Mechanism.\(^710\) In that regard, the Council requested the Mechanism to implement the recommendations made by the Informal Working Group on International Tribunals and to continue to take steps to further enhance its efficiency and effective and transparent management, including the production of clear and focused projections of completion timelines at the earliest stage possible and disciplined adherence thereto.\(^711\) The Council also requested the Mechanism to include in its six-monthly reports to the Council information on progress achieved in implementing resolution 2529 (2020).\(^712\) With a view to strengthening independent oversight of the Mechanism, the Council recalled that, as set out in its presidential statement of 28 February 2020, future reviews carried out pursuant to paragraph 17 of resolution 1966 (2010) should include evaluation reports sought from OIOS with respect to the methods and work of the Mechanism.\(^713\) In the explanation of the vote submitted

\(^{706}\) In favour: Belgium, China, Dominican Republic, Estonia, France, Germany, Indonesia, Niger, Saint Vincent and the Grenadines, South Africa, Tunisia, United Kingdom, United States and Viet Nam; Abstaining: Russian Federation.

\(^{707}\) Resolution 2529 (2020), para. 1.

\(^{708}\) Ibid., para. 3.

\(^{709}\) Ibid., para. 5.

\(^{710}\) Ibid., para. 7. See also S/2020/309 and S/2020/236.

\(^{711}\) Ibid., para. 9.

\(^{712}\) Ibid., para. 10.

\(^{713}\) Ibid., para. 14.
by the delegation of the Russian Federation,714 the delegation noted that it had consistently abstained in the voting on draft resolutions on the extension of the work of the Mechanism due to its unsatisfactory work, which continued not to allow the Council to proceed with its legal closure. One of the major problems raised by the delegation was the absence of a judicial planning system. Additionally, the delegation expressed concern about the protection of rights of persons detained under the authority of the Mechanism, in particular the quality and timeliness of the medical care provided to them.

On 14 December 2020, in an open videoconference, Council members heard the second semi-annual briefings by the President of the Mechanism and its Prosecutor in which they presented the latest progress report on the work of the Mechanism.715 During the videoconference, the President reflected on the 10th anniversary of the adoption of resolution 1966 (2010) and on how the flexible approach adopted by the Mechanism during the COVID-19 global pandemic had enabled the Mechanism to remain operational. In view of the latest developments, the President stated that the Mechanism was poised to conclude a significant proportion of its pending judicial caseload by the end of May 2021. The President and the Prosecutor provided details about their activities and results during the reporting period. They also laid out the priorities for the Mechanism to fulfill its mandate, including the search for the remaining fugitives at large indicted by the ICTR, the relocation of the nine acquitted and released persons by the ICTR, as well as the assistance to national jurisdictions prosecuting international crimes committed in the former Yugoslavia and Rwanda. In that respect, the President noted that the Mechanism was gratified to note the terms of resolution 2529 (2020), in which the Council urged all States to intensify their cooperation with, and render all the necessary assistance to, the Mechanism regarding the remaining ICTR fugitives, as well as the protracted situation of the nine acquitted and released individuals in Arusha. The Prosecutor added that in order for that work to be successfully completed, it was critical for the Council to

714 See S/2020/602, p. 21. For more information on the procedure and working methods developed during the COVID-19 pandemic, see part II.
send an unmistakable message that Member States should treat the matter as an urgent priority and offer his Office their full cooperation.\(^716\)

Council members commended the Mechanism for the measures taken to efficiently continue its operations despite the constraints associated with the COVID-19 pandemic, welcoming, in particular, the fact that in-court proceedings, previously postponed due to COVID-19 restrictions, had resumed in August 2020. Delegations welcomed the progress made in important rulings, including \textit{Prosecutor v. Ratko Mladić}, \textit{Prosecutor v. Stanišić and Simatović} as well as the transfer of Félicien Kabuga to the Mechanism’s custody and the subsequent commencement of the new pre-trial proceedings in his case. Several delegations acknowledged the issue of relocating individuals who had been acquitted and released by the ICTR hoping the matter would be resolved.\(^717\) In connection with the remaining six fugitives indicted by the ICTR, a majority of Council members urged States, especially States where fugitives were suspected of being at large, to intensify their cooperation with the Mechanism and to arrest and surrender all of the remaining fugitives.\(^718\) In that regard, the delegation of South Africa assured Council members that the recommendations made by the Prosecutor would receive the necessary attention by the Government and reaffirmed their determination to continue all efforts to trace and surrender the fugitives from justice. Additionally, the delegation of the Russian Federation stated that although in resolution \textit{2529 (2020)} the Security Council had indicated the need to uphold the rights of persons held in custody, including the right to medical attention, the report failed to inform the Council on how those rights were being implemented. The delegation expressed particular concern regarding the health of General Ratko Mladić. Marking the commemorations of the events which had taken place in Rwanda and in the Western Balkans in the 1990s, a number of Council members condemned the continued denial of genocide and war

\(^{716}\) See \textit{S/2020/1236}.

\(^{717}\) Ibid., China, Dominican Republic, Germany, Saint Vincent and the Grenadines, Tunisia, and Viet Nam.

\(^{718}\) Ibid., Belgium, Estonia, France, Germany, Indonesia, Niger, Saint Vincent and the Grenadines, Tunisia, United States and pp. 30-31 (Viet Nam).

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\textit{Repertoire website:} \url{http://www.un.org/en/securitycouncil/repertoire}
crimes and the glorification of war criminals, and urged those responsible to refrain from statements denying the crimes committed.\textsuperscript{719}

During the period under review, the Council also took note of the intention of the Secretary-General to renew the mandate of the President of the Mechanism for a new term of office, as well as to reappoint 25 nominated judges, all with effect from 1 July 2020 to 30 June 2022.\textsuperscript{720}

\begin{table}
\centering
\caption{Meetings: International Residual Mechanism for Criminal Tribunals}
\begin{tabular}{llllll}
\hline
Meeting record and date & Sub-item & Other documents & Rule 37 invitations & Rule 39 and other invitations & Speakers & Decision and vote (for-against-abstaining) \\
\hline
S/PV.8737 & & & & & & S/PRST/2020/4 \\
28 February 2020 & & & & & & \\
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\end{tabular}
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\begin{table}
\centering
\caption{Videoconferences: International Residual Mechanism for Criminal Tribunals}
\begin{tabular}{llll}
\hline
Videoconference date & Videoconference record & Title & Decision and vote (for-against-abstaining) and record of written procedure \\
\hline
8 June 2020 & S/2020/527 & Letter dated 10 June 2020 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council & \\
25 June 2020 & S/2020/602 & Letter dated 26 June 2020 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council & Resolution 2529 (2020) 14-0-1\textsuperscript{a} (adopted under Chapter VII) S/2020/590 (Record of written procedure) \\
14 December 2020 & S/2020/1236 & Letter dated 18 December 2020 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council & \\
\hline
\end{tabular}
\end{table}

\textsuperscript{719} Ibid., Belgium, France, Germany, Saint Vincent and the Grenadines, Tunisia, United Kingdom, and United States.

\textsuperscript{720} See S/2020/580 and S/2020/581. See also S/2020/616. For more information on actions of the Security Council concerning judges of the Mechanism, see part IV, sect. I. D and part IX, sect. IV.

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For: Belgium, China, Dominican Republic, Estonia, France, Germany, Indonesia, Niger, Saint Vincent and the Grenadines, South Africa, Tunisia, United Kingdom, United States and Viet Nam; abstaining: Russian Federation.