



Security Council

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Review of the methods and work of the International Residual Mechanism for Criminal Tribunals

Report of the Office of Internal Oversight Services

Summary

The International Residual Mechanism for Criminal Tribunals was established by the Security Council in its resolution [1966 \(2010\)](#), to continue the jurisdiction, rights and obligations and carry out the essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia.

In the present review report, the Office of Internal Oversight Services (OIOS) assessed the implementation of the recommendations contained in its 2018 and 2020 evaluations: topics relating to scenario-based workplans; staff morale; systematic thinking; and projections of completion timelines. OIOS relied on qualitative and quantitative sources to support its analysis.

Overall, two recommendations (one from each of the 2018 and 2020 reports) were implemented and two (the remaining open recommendations from the two reports) were partially implemented. No new recommendations were generated with the present report.



I. Introduction

1. The Inspection and Evaluation Division of the Office of Internal Oversight Services (OIOS) was mandated by the Security Council in its resolution [2256 \(2015\)](#) to conduct evaluations with respect to the methods and work of the International Residual Mechanism for Criminal Tribunals. The General Assembly endorsed the request in its resolution [70/227](#).

2. The overall objective of the review was to follow up on the implementation of open recommendations following two prior evaluations ([S/2018/206](#) and [S/2020/236](#)) conducted by the Inspection and Evaluation Division of OIOS, and to assess three other issues set out in paragraph 9 of Security Council resolution [2529 \(2020\)](#). The focus of the review was on the four open recommendations, with other issues that may have emerged subsequently out of its scope.

3. The comments of the management of the Mechanism were sought on the draft report and were considered in the preparation of the final report. The response of the Mechanism is included in annex I. OIOS is pleased that the Mechanism fully accepts the remaining recommendations and welcomes their commitment to ensure that systemic thinking remains an ongoing agenda item for meetings of the Mechanism Coordination Council.

II. Review framework: scope, purpose and methodology

A. Scope and purpose

4. This review was focused on determining: (a) the extent to which the open recommendations emanating from previous OIOS evaluations had been implemented; (b) any measurable impacts of their implementation; and (c) the reasons for non-implementation or partial implementation of those recommendations not yet fully implemented. The open recommendations comprise recommendations 1 and 2 from the 2018 OIOS report and recommendations 1 and 2 from the 2020 OIOS report, the latter referred to as recommendations 3 and 4, respectively, in the present report for clarity.

5. In addition, as further noted in paragraph 9 of Council resolution [2529 \(2020\)](#), and to the extent to which the necessary evidence was readily available, the Inspection and Evaluation Division examined the extent to which the Mechanism had been able to achieve: (a) continued ensuring of geographic diversity and gender balance of staff, while ensuring continued professional expertise; (b) continued implementation of a human resources policy consistent with its temporary mandate; and (c) further reduction of costs, including through, but not limited to, flexible staff engagement. In the present report, these three additional elements are folded most suitably into recommendation 1.

6. Pursuant to its mandate, the Inspection and Evaluation Division examined only the methods and work of the Mechanism, not substantive aspects of international criminal law, such as fairness, legal reasoning, jurisprudential regimes, decision-making and/or verdict outcomes.

7. The evaluation covered the period from 1 January 2020 to 31 December 2021.

B. Methodology

8. The results are based on a triangulation of diverse data, collected through quantitative and qualitative methods:

(a) Ten key informant interviews conducted in person and virtually with three Principals and 10 staff;¹

(b) Self-administered survey sent to all Mechanism staff via email;²

(c) Analysis of staff size and budgets;

(d) Desk review of documentation, including the Mechanism progress reports, annual reports, periodic reports, General Assembly resolutions, emails, meeting minutes, memos and OIOS audit reports.

9. The Inspection and Evaluation Division prioritized reporting on the items mentioned in paragraph 4 and therefore did not consider all aspects of the mandate of the Mechanism in equal depth. There was no travel to Mechanism branches involved in the review.

10. OIOS consulted the Mechanism during the conduct of the review and appreciates its cooperation and assistance. The full response of the Mechanism to the report is in the annex.

III. Recommendations

11. During the period under review, the Mechanism achieved major accomplishments towards its mandate. First, three landmark judgments were delivered. Second, a fugitive capture was achieved, with the arrest in France of Félicien Kabuga, one of the fugitives to be tried by the Mechanism. The death of the fugitive Augustin Bizimana, over whom the Mechanism had similar jurisdiction, was confirmed by DNA testing during the reporting period. There remains one key fugitive indicted by the International Criminal Tribunal for Rwanda, expected to be tried by the Mechanism, and five others. Accounting for these six fugitives continues to be a top priority for the Mechanism.

A. Recommendation 1

Develop scenario-based workforce plans to enhance responsiveness to a surge in workload

12. Recommendation 1³ read as follows:

Develop scenario-based plans to enhance responsiveness to changing workloads. Given the budget reduction in the 2018–2019 biennium, the Mechanism should develop and use scenario planning to inform decisions on the allocation of resources, staff training and preparation for unforeseen and foreseeable events (i.e., trial activities and requests for assistance) to ensure its ability to scale up quickly and effectively, including:

(a) Analysing the implications of different scenarios for Mechanism functions;

(b) Developing actionable plans to mitigate risk.

Indicator(s) of achievement

Scenarios are identified and plans and protocols developed to respond to changes in workload.

¹ Of whom 36 per cent were women.

² With a 54 per cent response rate overall. Of women staff, 56 per cent responded.

³ S/2018/206, para. 43.

13. This recommendation was first issued in the 2018 OIOS report and reiterated in the 2020 OIOS report owing to its partial implementation. In response to recommendation 1, at the time of the review, the Mechanism had not developed a scenario-based plan to enhance responsiveness to surges in workloads. Work on the scenario-based plan was ongoing throughout the evaluation period, with a concept note developed by Mechanism senior management from all three organs and scenario plans being developed. There were initial consultations held on the matter before the unfolding of the coronavirus disease (COVID-19) pandemic, after which focus was redirected towards the pandemic response. The concept note set out that the plan would be a living document, updated at least every six months to respond to the realities of the Mechanism. The objective of the plan is to assist Principals and senior managers in making informed decisions in a collaborative manner on how best to strategically and methodically allocate staff and resources. While the plan was promised to OIOS by the first week of November 2021, it had not been received by early December 2021.

14. The concept note did not contain details of specific scenarios based on judicial activity. The recommendation was for the Mechanism to develop specific scenarios as appropriate responses to judicial activity that could be ongoing, intermittent or that may cease completely. Development of such scenarios could include variables such as fugitive capture and the consequent requirement for Registry-based services such as witness protection, enforcement and maintenance of archives.

15. The provision of any scenario-based workplan at the present late stage will clearly not contribute to proactive and suitable planning for the Mechanism for the period under review. While the Mechanism successfully responded to the arrest of a fugitive in May 2020, it is necessary for the Mechanism to maintain a regularly updated scenario-based plan to enable proactive and suitable planning, which has not yet been done. The recommendation is still relevant going forward.

16. The recommendation remained partially implemented.

Subrecommendation 1.1

Ensure geographic diversity and gender balance of staff, while ensuring continued professional expertise

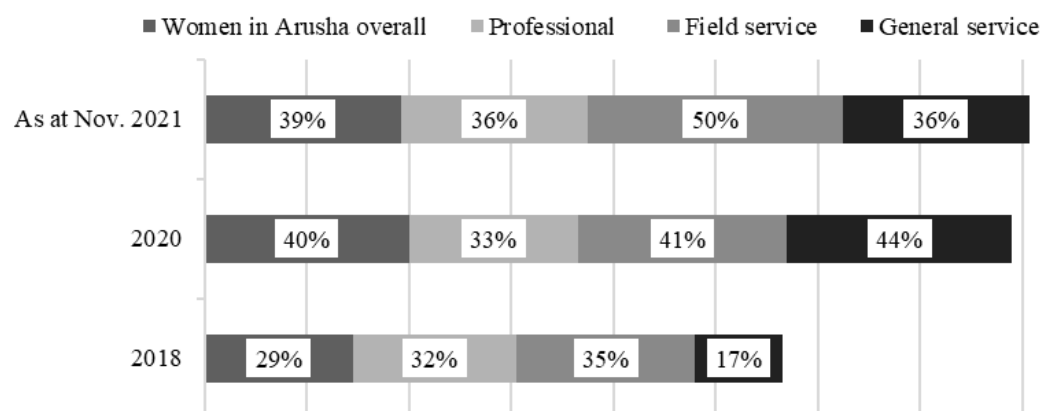
17. In accordance with its mandate,⁴ to ensure geographic diversity and gender balance of staff, while ensuring continued professional expertise, the Mechanism has strived to balance these priorities, even as it continued to downsize.⁵

18. The Mechanism reported on staffing levels in its progress reports. The reports included staff numbers by branch and organ, geographic representation by regional group, gender representation by branch and staff level and staff by organ. Overall, in 2020 and 2021, the Mechanism saw no significant change regarding gender parity. In 2021, it reported 43 per cent of women staff compared with 42 per cent in May 2019. Furthermore, the Mechanism saw no overall progress towards gender parity at the Arusha branch: in 2019, 40 per cent of staff were women and, in 2021, 39 per cent. Of the professional-level staff, 36 per cent of posts in Arusha were filled by women, a modest growth from 33 per cent in 2019. However, improvements towards gender parity were seen in the Professional and Field Service categories in Arusha, while in the General Service category the percentage of women decreased from 44 to 36 per cent (see figure I).

⁴ Security Council resolution [2422 \(2018\)](#).

⁵ Appointments of Judges are excluded from this analysis, as Judges are appointed by nominating States. As at 1 November 2021, women represent 7 of a total 25 judges (28 per cent) of the judicial roster.

Figure I
Percentage of women staff members in Arusha branch, 2018–2021



Source: S/2021/487, S/2020/1119, S/2020/416 and S/2019/417.

19. The Mechanism tracked geographic diversity and gender balance with a dashboard on its intranet, Tribunet. The dashboard was disaggregated by gender, duty station, category of staff and organ and updated monthly.

20. For a downsizing institution with a temporary mandate, the Mechanism had managed to balance geographic diversity.⁶ The Mechanism staff represented 71 different Member State nationalities as at November 2021 (see table).

21. The higher proportions of nationalities from Africa and Western European and other States corresponded to the location of the two branches of the Mechanism in Arusha and The Hague, respectively.

Geographical representation by regional group (as at 1 November 2021)

	Arusha branch	The Hague branch	Mechanism overall (percentage)
Nationalities	40	58	71
All staff	227	260	487
African	172	18	190 (39.0)
Asia-Pacific	10	21	31 (6.4)
Eastern European	2	53	55 (11.3)
Latin American and Caribbean	2	7	9 (1.8)
Western European and Other States	41	161	202 (41.5)
International (Field Service and Professional)	126	109	235
African	71	4	75 (31.9)
Asia-Pacific	10	6	16 (6.8)
Eastern European	2	19	21 (8.9)

⁶ Only United Nations entities with established posts were subject to the principle of equitable geographic distribution. As the Mechanism is considered a temporary institution, it does not have established posts, but temporary posts of fixed duration and positions funded under general temporary assistance. Neither temporary posts nor general temporary assistance are subject to the principle of equitable distribution. Nevertheless, the Mechanism paid attention to geographic distribution in recruitment.

	<i>Arusha branch</i>	<i>The Hague branch</i>	<i>Mechanism overall (percentage)</i>
Latin American and Caribbean	2	3	5 (2.1)
Western European and Other States	41	77	118 (50.2)
Local (General Service)	101	151	252
African	101	14	115 (45.6)
Asia-Pacific	0	15	15 (6.0)
Eastern European	0	34	34 (13.5)
Latin American and Caribbean	0	4	4 (1.6)
Western European and Other States	0	84	84 (33.3)

Source: S/2021/955.

22. While the Mechanism has not fully achieved gender parity, it ensured geographic diversity of staff, while ensuring continued professional expertise.

Subrecommendation 1.2

Continue implementation of a human resources policy consistent with its temporary mandate

23. The Mechanism leadership was cognizant that, as it completed critical pieces of its mandate, it would continue to downsize in number of posts. A Mechanism downsizing policy disseminated in 2019 was to be applied to any proposed post reductions from 1 January 2020. A comparative review exercise to guide the downsizing decisions was cited by interviewees.

24. The COVID-19 pandemic affected how the Mechanism implemented its human resource policies, including downsizing. Judicial activities slowed to some degree, which required the Mechanism to retain staff for longer. Thus, some of the planned 2021 downsizing of staff in The Hague was postponed as dependent on the conclusion of certain judicial activities, such as the *Mladić* appeal, now completed. A total of 11 posts were released in 2021 from the Registry, and the Office of the Prosecutor downsized by six professional posts in 2021, namely, two P-5, three P-4 and one P-3.

25. As at 1 November 2021, 185 of the 187 approved continuous posts were occupied to carry out the Mechanism's continuous functions, while an additional 302 personnel served as general temporary assistance to assist with ad hoc needs, including judicial work. Consistent with the flexible staffing structure of the Mechanism, these positions were short term in nature and fluctuated depending on the relevant workload.⁷

26. Owing to prevailing public health regulations in all the locations, staff were permitted to work from home for much of the period under review. The Mechanism worked to establish virtual tools to facilitate business continuity, including secure Internet connections and online forums, such as biennial town hall meetings. Following the relaxation of restrictions and the roll-out of vaccination campaigns, the Mechanism moved to a full return of staff to premises at all duty stations in mid-September 2021.

27. The three organs of the Mechanism served different objectives and were likewise equipped with varying levels of human capital. Skeletal staff numbers in Chambers (31) and the Office of the Prosecutor (104) precluded further major downsizing. Meanwhile, the Registry (352), with its functions of enforcement of sentences, witness protection, translation, archive and records management and

⁷ S/2021/955, para. 43.

administration, were under the most pressure to downsize. In the case of the Registry, the mandate to downsize needs to be applied with due consideration to ongoing operational requirements for the long-term administration of justice.

28. The Mechanism recognized its temporary mandate and managed to maintain staff safety and business continuity during the COVID-19 global health crisis. However, in the light of its temporary nature, the Mechanism would benefit from more proactive planning for and communication with staff, to implement a suitable human resources policy, especially in view of future downsizing.

Subrecommendation 1.3

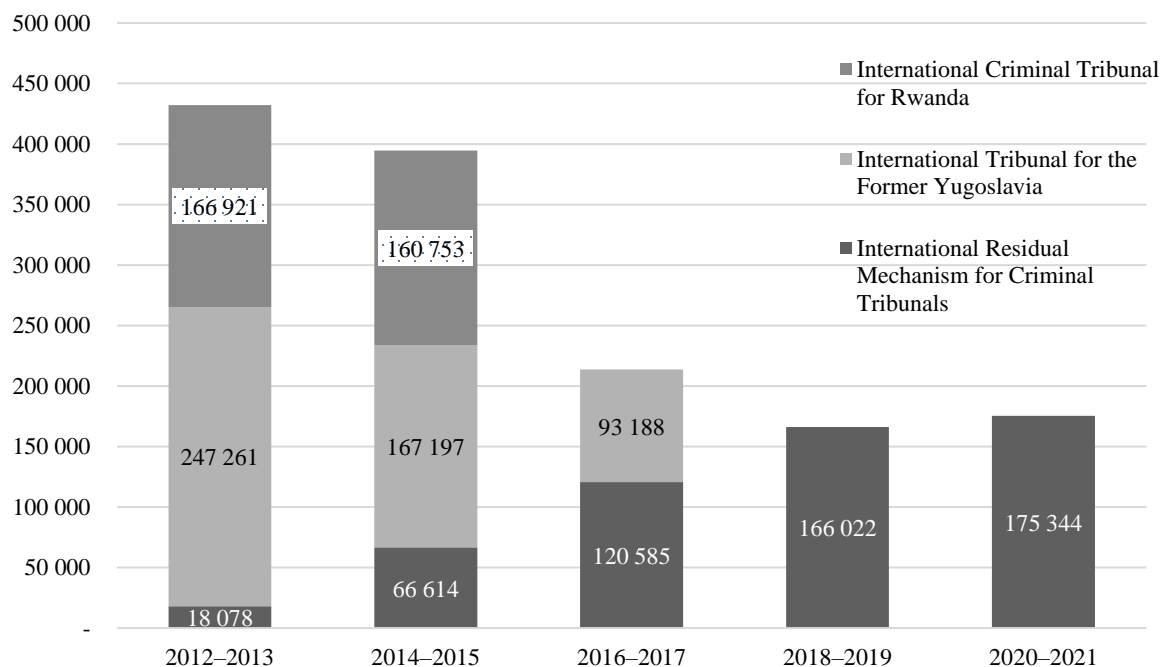
Further reduction of costs, including through, but not limited to, flexible staff engagement

29. The Mechanism is financed from assessed contributions in accordance with a hybrid scale of assessments. Half of the budget of the Mechanism is financed according to the regular budget scale and the other half according to the peacekeeping scale. It reports directly to the General Assembly through the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee.

Figure II

Financial resources of the International Residual Mechanism for Criminal Tribunals, International Tribunal for the Former Yugoslavia and International Criminal Tribunal for Rwanda, 2012–2021

(Thousands of United States dollars)



Source: Final appropriation, net of staff assessment, see: for the Mechanism, [S/2021/487](#); [S/2020/1119](#), [S/2020/416](#); [A/68/594](#), [A/70/558](#), [A/72/604](#), and [A/74/566](#); for the International Tribunal for the Former Yugoslavia, [A/68/582](#), [A/70/554](#), [A/72/603](#); and for the International Criminal Tribunal for Rwanda, [A/68/579](#), [A/70/553](#).

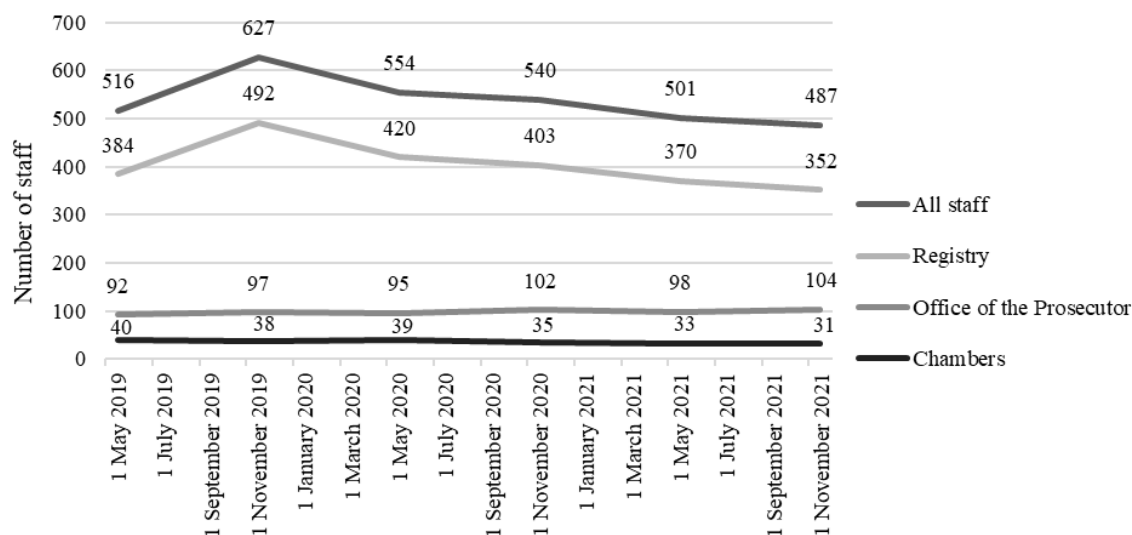
30. The financial resources of the Mechanism have steadily increased over the past four bienniums, reflecting the periodic transfer of functions from the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia (see figure II). The period 2020–2021 represented a change in budget

process from biennial to annual budgets (see 72/266 A) and a 5.6 per cent increase across the Mechanism. Recent growth in the Mechanism's budget can be attributed to the *Nzabonimpa et al.* (formerly *Turinabo et al.*) trial and the arrest of Félicien Kabuga at the Arusha branch, while resources at The Hague were reduced.

31. The Mechanism's human resources trended downwards into 2021, after peaking in 2019. Chambers, which includes the President's office, reduced in size by nearly a quarter since May 2019. Over the same period, the Office of the Prosecutor saw growth at the Arusha branch and continued reductions in The Hague. Since 1 November 2019, the Registry has downsized its staff by 28 per cent. Overall, the Mechanism has reduced staff by 22 per cent since 2019.

32. The Mechanism forecast the downsizing of 90 posts for 2022, bringing down its number of staff from 487 to 398. As at 24 November 2021, Chambers and the Office of the Prosecutor operated with a skeletal staff of 31 and 104, respectively. Both the Office of the Prosecutor and the Registry, the latter with 352 employees, are expected to downsize in 2022.

Figure III
International Residual Mechanism for Criminal Tribunals staff, by organ



Source: International Residual Mechanism for Criminal Tribunals progress reports from 2019 to 2021.

33. In 2021, Mechanism staff experienced uncertainty with contracts. Mechanism personnel contracts were timed to last for one calendar year only, synchronous with the budget period. Because of delays in budget approval, contracts for 2021 were issued only in January 2021, and for one month only. Thereafter, staff considered to be priority because of their linkage to the judicial function were given contracts covering the rest of the year, and the remaining staff for six-month terms.

34. The Mechanism had employed strategies to leverage flexible staff engagement. Some examples included a model whereby judges worked remotely, compensated only for the time they executed their functions, and the fugitive tracking team was reconfigured to deliver results, which was achieved with the apprehension of Félicien Kabuga on 16 May 2020. The Mechanism pivoted human resources to where they were most required. For example, the team of the Office of the Prosecutor in Kigali was mobilized from other duty stations with the apprehension of the fugitive so that they could begin gathering evidence and preparing witnesses. Further, limited-term appointments were employed by the Mechanism, to fulfil its mandate as a small and

efficient structure. For example, the Registry hired additional interpreters and translators as required for court hearings rather than engaging them on long-term appointments.

35. While the Mechanism employed flexible staffing arrangements, and the Registry has reduced its human resources, there is still a need for continued proactive planning for downsizing, in particular in the Registry, in order for the Mechanism to further reduce costs and to achieve the Security Council's vision of the Mechanism as a small, temporary and efficient structure.

B. Recommendation 2

Support and strengthen staff morale through conduct of a survey to identify key concerns to manage downsizing and upsizing.

36. Recommendation 2⁸ read as follows:

Support and strengthen staff morale through conduct of a survey to identify key concerns to manage downsizing and upsizing. The Office of the Prosecutor should identify the root causes of low morale to enable better planning for the likely effects of such changes.

Indicator(s) of achievement

Analysis of staff morale is conducted and strategies to manage institutional changes are developed and implemented in consultation with staff of the Office of the Prosecutor.

37. This recommendation was first issued in the 2018 OIOS report and reiterated in the 2020 OIOS report owing to its partial implementation. In early 2020, the Office of the Prosecutor conducted an analysis of staff morale and developed strategies to ameliorate the issue of low morale. A survey was developed and completed by 90 per cent of staff of the Office, followed by a report summarizing the findings. Senior management of the Office held a three-day staff retreat in Kigali, at which they developed 25 measures to be taken to address the concerns raised. Measures centred around themes of better managing downsizing, professional development, cross-branch issues and communications. Examples of strategies completed included career transition support for staff, transparency in communicating budget cuts, advocacy for contract extensions to be issued earlier and regular briefings on the tracking team's progress to boost morale. In total, 21 out of 25 planned measures were taken by the Office during the period under review.

38. The Office of the Prosecutor identified the root cause of low morale, caused by a negative working environment experienced by some staff. Owing in part to the above measures, the working environment of the Office of the Prosecutor had improved, as evidenced by survey and interview data. In addition, as the office has downsized, the smaller team has benefited from management's efforts to promote a more positive working culture. During OIOS interviews, all four Office staff interviewed referred to senior leadership's attempts to promote a more collegial environment.

39. Improvements in staff morale at the Office of the Prosecutor were assessed through the results of the OIOS staff survey and interviews. On average, 51 per cent of Office of the Prosecutor staff rated their morale as good or very good on a 5-point scale, which was the highest across Mechanism organs. Results from the staff survey indicated that 46 per cent of staff of the Office of the Prosecutor gave primarily positive comments on the themes of their commitment to the mission of pursuing international criminal justice, followed by positive teamwork and good management.

⁸ S/2018/206, para. 44.

Nearly as many (44 per cent) of staff made negative comments, typified by themes of job insecurity and pandemic.

40. In view of the COVID-19 pandemic, the review explored staff morale across the Mechanism. A recent OIOS audit⁹ identified a need for the provision of staff counselling services for Mechanism staff.

41. Staff job security was found to be a top concern. Staff stress about job security was linked to a lack of clarity with regard to the approval of the budget, coupled with the short-term nature of Mechanism contracts. Results from the staff survey indicated that only 37 per cent of staff agreed that the Mechanism had worked to promote staff morale. In Chambers and the Office of the Prosecutor, 43 and 51 per cent of staff, respectively, rated their morale as good; only 37 per cent of Registry staff said the same. In the staff survey, 64 per cent¹⁰ of staff made negative comments, and of these the most prevalent reasons related to themes of job insecurity, lack of communication and leadership from management and overwhelming workload.

42. At the Office of the Prosecutor, progress towards increasing staff morale had been made and the recommendation thus implemented. However, across the Mechanism, broader issues of staff morale emerged during the period under review. It would be appropriate for the Mechanism leadership to pay special attention to staff morale, especially as a structure whose function and size will diminish over time.

C. Recommendation 3 Systematic thinking and a shared vision of institution-building

43. Recommendation 3¹¹ read as follows:

Ensure systematic thinking and planning about the future and a shared vision of institution-building. The Principals should bolster coordination and information-sharing among each other and laterally, across the organs, on matters that affect them equally, continuously update Mechanism-wide scenario workload planning and rationalize the reporting lines of the external relations function.

Indicator(s) of achievement

- (a) Establishment of a cross-organ process for continuously updating the Mechanism-wide scenario-based workforce plan;
- (b) A clear process owner for this plan;
- (c) Restructured reporting lines that optimize the efficiency of the external relations function.

44. This recommendation had been issued in the 2020 OIOS report. While the Mechanism had yet to finalize a scenario-based workforce plan as recommended in the 2018 OIOS report, cross-organ communication and coordination improved during the period under review. Interviews with staff and Principals, as well as survey data, indicated that, since the installation of the new Registrar in 2020, there had been more information-sharing among the organs. The Principals and their senior advisers held Coordination Council meetings every four to six weeks for discussion of issues affecting the Mechanism. However, systematic thinking and visioning for the organization did not feature more than twice during the period under review as evidenced by the minutes of

⁹ OIOS, Internal Audit Division, “Audit of the response of the International Residual Mechanism for Criminal Tribunals to the COVID-19 pandemic”, report 2021/042, 15 September 2021.

¹⁰ There was no significant difference between genders: 65 per cent of women and 63 per cent of men across the Mechanism left negative comments.

¹¹ S/2020/236, para. 66.

the Council meetings. Moving forward, systematic thinking and visioning for the organization should be a regular agenda item for Council meetings.

45. In response to the pandemic, the Mechanism established a COVID-19 steering committee, with representatives from all organs and branches. The committee's responsibility was to coordinate Mechanism activities and coordination of issues arising as a result of the pandemic. The committee met frequently during the period under review and updated policies and procedures to ensure business continuity, as well as to ensure the health and safety of staff. This group was able to promote more cross-branch and cross-organ coordination and harmonization across the Mechanism.

46. A unified reporting line for the External Relations Office of the Registry was formalized to optimize efficiency and effectiveness. The Registry was responsible for the supervision of all work conducted. The approval of external communications in particular requires cross-organ coordination for matters related to the President's Office or the Office of the Prosecutor, in line with their functions.

47. The recommendation was partially implemented.

D. Recommendation 4

Provide clear and focused projections of completion timelines of judicial activities

48. Recommendation 4¹² reads as follows:

Provide clear and focused projections of completion timelines at the earliest stage possible in annual and progress reports. Chambers should identify the most important factors for making projections, apply a systematic method for analysing and reporting on timelines and share detailed judicial activity timelines and projections among parties.

Indicator(s) of achievement

- (a) Development of and adherence to clear criteria for focused projections;
- (b) Provision of clear and focused projections of completion timelines at the outset of judicial activity that are systematically updated;
- (c) Reporting, using consistent language and presentation, on progress, duration and projected completion of judicial activities in all reports;
- (d) Development of strategies to increase the responsive sharing of detailed judicial timelines on a timely basis.

49. This recommendation was issued in the 2020 OIOS report. The Mechanism established criteria to develop projections and documented such projections twice yearly in progress reports. Detailed criteria were developed, on the basis of an internal document, for preliminary, pretrial and trial and appeal projections. For example, trial projection criteria included:

- (a) The number of witnesses to be heard in court, and the length of time allocated for examination of witnesses,¹³ which has been described as “the main factor for determining the length of the trial”;¹⁴
- (b) Experience with cases of comparable complexity;¹⁵

¹² S/2020/236, para. 67.

¹³ S/2020/1119, para. 75.

¹⁴ Chambers Guidelines: Projections for Trials and Appeals, 15 October 2021, p. 2.

¹⁵ S/2020/309, para. 56; S/2020/1119, para. 85; S/2020/416, para. 77.

(c) In the case of retrials, the time frame of the original case;¹⁶

(d) The current working methods of the Chambers,¹⁷ and the time frames set out in the Rules of Procedure and Evidence of the Mechanism.

50. In addition, projections were revised on account of unforeseen events, such as the death of a judge, the ill health of an accused or the global COVID-19 pandemic, which overshadowed much of the period under review.

51. Preliminary projections were made in relation to the calculation of projections for trials of International Criminal Tribunal for Rwanda fugitives who may be captured and transferred to the Mechanism to stand trial at the Arusha branch. In its third review report of April 2020, the Tribunal provided a tentative indication that such trials would likely last approximately two and a half years from arrest to the delivery of the trial judgment. The Mechanism estimated that, in the event of an appeal, a further two years from trial judgment to appeal judgment might be expected. These calculations were based on the following factors: anticipated complexity, including the likelihood of being a single-accused trial; experience of trials of a similar complexity; and approximately 12 months of pretrial time for any possible trial of a fugitive estimated.

52. In the progress and annual reports, where adjustments were made to previous projections, the reason(s) for these adjustments were explained in detail. For example, in the *Stanišić and Simatović* retrial, since April 2018, the trial judgment had been projected to be issued by the end of December 2020. However, with the outbreak of the COVID-19 pandemic, there was a delay in hearing defence witnesses who were unable to travel from Serbia to The Hague as planned.¹⁸ The third review report of April 2020 contained a detailed account of this delay and provided an adjusted schedule based on the information available at the time, with anticipated delivery of the trial judgment by March 2021.¹⁹ This was revised to April 2021 in the progress report of 19 May 2020, given that the state of emergency was lifted in Serbia on 7 May 2020,²⁰ and later to May 2021, following the conclusion of the evidentiary hearings in October 2020.²¹ Health-related difficulties faced by the defence team for one of the defendants then necessitated an extension of deadlines for the filing of final trial briefs and closing arguments, causing the projection to be adjusted to June 2021.²² The judgment was pronounced on 30 June 2021.²³

53. Notably, despite the ongoing disruption caused by the COVID-19 pandemic in the period under review, three landmark judgments were issued: trial judgments in the *Stanišić and Simatović* retrial and the *Nzabonimpa et al.* contempt case, and the appeal judgment in the *Mladić* case. Efforts to mitigate the impact of the pandemic on projected timelines were noted in detail in all reports issued by the Mechanism during the period.

54. In regard to reporting, each of the progress reports issued during the period under review, as well as the third review report of the Mechanism, included an enclosure, clearly setting out the projected time frame for each ongoing case. Interviewees noted that, in the period under review, the projections have become more detailed than in previous progress/annual reports. This was aided by the existence of

¹⁶ S/2020/416, para. 61; S/2020/1119, para. 61.

¹⁷ S/2020/1119, para. 75; Chambers Guidelines: Projections for Trials and Appeals, 15 October 2021, p. 2.

¹⁸ S/2020/309, paras. 59 and 60.

¹⁹ Ibid., para. 60.

²⁰ S/2020/416, paras. 61–63.

²¹ S/2020/1119, paras. 61–63.

²² S/2021/487, paras. 56–59.

²³ A/76/248–S/2021/694, para. 34.

written guidelines on how to make projections, and a concerted effort to ensure consistency in language and presentation in annual and progress reports.

55. In addition to the visual timeline, each progress report contained several detailed paragraphs providing an update on the progress of each case. As noted above, where time frames were adjusted from previous projections, the reasons for that adjustment were clearly and thoroughly explained.

56. Despite the challenges of the COVID-19 pandemic over the period under review and other unforeseen events such as the untimely death of a judge on appeal, initial projections were broadly adhered to, with no slippage of more than four months on any projection from April 2020 to November 2021. Interviewees shared a perception that timelines were more focused and were being adhered to more rigidly in recent years.

57. With regard to development of strategies to increase the responsive sharing of detailed judicial timelines internally on a timely basis, according to the Mechanism's document on strategies for the responsive sharing of case projections, progress reports set out the status of cases, developments and the latest case projections and were shared with all organs of the Mechanism upon delivery to the General Assembly and Security Council (i.e., twice annually). Parties to cases were expected to be involved in the planning of timelines and deadlines through regular status conferences and briefing schedules. In addition, the budget officer shared judicial projections for the coming budget cycle with all relevant sections, and senior legal officers in Chambers communicated with Registry colleagues on the latest projections in individual cases to assist with planning.

58. Internally, the issue of judicial timelines mattered to the Mechanism's staff. The staff survey revealed that 90 per cent per felt that it was important that they be kept informed of projected completion timelines for ongoing cases.

59. In the coming years, the Mechanism can expect to have a pared-down docket of judicial activity because of completed trials and appeals. For the remaining trials and appeals, it is important that clear and focused projections continue to be produced and updated and that strategies for the sharing of judicial timelines are adhered to. Best practices for the projection of completion time frames and the sharing of those projections can be taken forward as the Mechanism moves into what is likely to be a leaner period of judicial activity.

60. In addition to the remaining trials (including future trials of fugitives who may be transferred to the Mechanism) and appeals, the Mechanism will have continuing important functions in relation to witness protection, the supervision of custodial sentences and other residual functions.

61. The recommendation was implemented.

IV. Conclusion

62. The Security Council's mandate for the Mechanism is to be a "small, temporary and efficient structure, whose functions and size will diminish over time."²⁴ Recent achievements by the Mechanism, including the delivery of three judgments and the capture of a key fugitive, brought this mandate closer to bear. Specifically, the Mechanism provided sufficient evidence to demonstrate that it had implemented two of the four endorsed recommendations from the 2018 and 2020 OIOS evaluation reports. The steps to be taken specifically in the recommendations directed at the Office of the Prosecutor (recommendation 2) and Chambers (recommendation 4), reflected a focus on operationalizing the Security Council's mandate. Regarding recommendations 1 and 3, which relate to cross-organ coordination and strategic

²⁴ Security Council resolution 1966 (2010).

thinking and planning, and notwithstanding the disruption caused by the COVID-19 global pandemic, progress still needs to be made to ensure greater planning and coordination among the organs and branches to achieve the Security Council's vision of the Mechanism as a small, temporary and efficient structure, whose functions and size will diminish over time.

Annex***Comments received from the International Residual Mechanism for Criminal Tribunals**

1. The Mechanism thanks the Inspection and Evaluation Division of the Office of Internal Oversight Services (OIOS) for having shared the working draft of the final review report on the evaluation of the methods and work of the International Residual for Criminal Tribunals. The Mechanism affirms its appreciation for the work of the evaluation team, and the importance of the insights gained from the team's findings in assisting the Mechanism to successfully fulfil its mandate.

2. We are very pleased with the overall result, which reflects the full closure of two of the four recommendations which were part of the scope of the evaluation. In addition, we note with satisfaction the recognition that significant effort and progress has been made in respect of the remaining two recommendations, and this in spite of the fact that the period under review, which was dominated by the COVID-19 pandemic, had been three months shorter than in previous years' exercises.

3. Very important for the Mechanism is that the report also brings to the forefront that, in the face of significant challenges, such as having our operations constrained by the global pandemic, we have nevertheless continued to mark major accomplishments in respect of completing our important mandate. This included the conduct and completion of two trials and a major appeal proceeding in the context of the pandemic, resulting in the delivery of landmark judgments; the arrest, transfer and near conclusion of pretrial proceedings in the case against Félicien Kabuga; and the termination of a case against a key fugitive slated for trial at the Mechanism following confirmation of his death.

4. In addition, we note with satisfaction that, throughout the report, the evaluation team has identified the many positive practices put in place, as well as results the Mechanism has achieved.

5. In respect of the Inspection and Evaluation Division's detailed treatment of the recommendations, the Mechanism responds as follows:

Recommendation 1: Develop scenario-based workforce plans to enhance responsiveness to a surge in workload

6. The Mechanism thanks the Inspection and Evaluation Division for recognizing the Mechanism's successful response to the scenario of an arrest of a fugitive through proactive planning and execution. This included the tracking, participation in his apprehension, securing the transfer and near conclusion of the pretrial phase of the proceedings against Félicien Kabuga. This was a major accomplishment for the Mechanism towards the completion of its mandated judicial activities, and demonstrates that the Mechanism has the resilience and capacity to position itself to fully respond to sudden changes in activity and workload.

7. The evaluation report describes the successful development of the concept paper as a basis for the scenario-based workforce plan. While the concept paper does not delve into detailed scenarios and plans, it constitutes a solid foundation based on the collective understanding of all three organs on which all future scenario planning can be constructed. It is therefore a significant achievement in itself. The paper establishes a comprehensive inventory of all the mandated functions of the Mechanism, fully referencing the legislative sources of these functions, as well as their implementing

* In the present annex, the Office of Internal Oversight Services presents the full text of the comments received from the International Residual Mechanism for Criminal Tribunals. This practice has been instituted in line with General Assembly resolution [64/263](#), following the recommendation of the Independent Audit Advisory Committee.

frameworks. The paper also includes reference to some functions for which the timing cannot fully be determined at this point. For those an attempt has been made to provide reasonable planning assumptions driving workload over different time periods. The development of this paper represents the vision required to be able to forecast and develop all scenarios.

8. Regrettably, as noted in the report, during the course of the exercise the Mechanism did not deliver the final scenario-based workforce plan. The Mechanism notes in this regard that the exercise fell to be conducted during a period of a very high workload, where the limited senior management capacity needed to be directed to intense prosecutorial and judicial activity, the defense of the budget submission before the General Assembly and its sub-committees, the conduct of a full review by the Board of Auditors and our response to the dynamic situation of the pandemic.

9. Finally, the Mechanism welcomes that in the context of its evaluation of recommendation 4 (“provide clear and focused projections of completion timelines...”, see below), the Inspection and Evaluation Division has noted that the Mechanism had developed and adopted methodologies to adhere to the judicial calendar for trials and appeals. These methodologies anticipate a complex array of scenarios, planning assumptions and adjustments for unforeseeable events. The Inspection and Evaluation Division closed recommendation 4, which affirms that this regard the Mechanism has developed adequate tools to analyse the implications of different scenarios for its ad hoc judicial functions, and to establish actionable plans to mitigate risk and to respond to changes in workload, with a view to ensuring that judicial activities are completed in as short a time frame as possible.

Subrecommendation 1.1: Ensure geographic diversity and gender balance of staff, while ensuring continued professional expertise.

10. The Mechanism is also pleased to note that the Inspection and Evaluation Division recognized the Mechanism’s successes in striving for geographic diversity and gender balance of staff, while ensuring continued professional expertise.

11. The Mechanism particularly appreciates the conclusion reached by the Inspection and Evaluation Division that it has succeeded in managing geographic diversity, representing 71 United Nations Member State nationalities. In addition, the report notes that the proportions of staff nationalities from Africa and Western European and Other States correspond to the location of the two branches of the Mechanism in Arusha and The Hague, respectively.

12. In terms of reaching the target of gender parity, the report recognizes the importance the Mechanism places on this, and notes the monthly tracking of gender parity, captured on a dashboard accessible to all staff with figures disaggregated by duty station, category of staff and organ. Unfortunately, gains achieved in increasing the number of women in the General Service category of staff in Arusha, for which the Mechanism had previously received global recognition, were reversed when a group of six recently recruited female security officers had to be released from duty in accordance with the need to downsize staff. Noting that gender parity has been fully achieved in its Hague branch, the Mechanism intends to redouble its efforts to achieve the same in Arusha.

Subrecommendation 1.2: Continue implementation of a human resources policy consistent with its temporary mandate.

13. The Mechanism is pleased that the Inspection and Evaluation Division found that flexible general temporary assistance staffing mechanisms were successfully employed to respond to short-term requirements and fluctuating workload, consistent with the temporary nature of the organization.

14. The Mechanism appreciates that the Inspection and Evaluation Division has recognized the successes obtained in maintaining both staff safety and business continuity during the COVID-19 global health crisis.

15. In terms of downsizing, the Mechanism agrees with the Inspection and Evaluation Division's statement that any downsizing needs to be applied with due consideration for ongoing operational requirements of the long-term administration of justice. The team mentions the absolute numbers of staff in Chambers, Office of the Prosecutor and the Registry, opining that some organs were "skeletal", precluding downsizing, while another organ needed further downsizing. In terms of scope, the Mechanism notes that assessment of the adequacy of the resourcing is beyond the terms of reference of the Inspection and Evaluation Division, and that such assessment is performed in the context of the Secretary-General's presentation and the General Assembly's review of the Mechanism's budget.

Subrecommendation 1.3: Further reduction of costs, including through, but not limited to, flexible staff engagement

16. The Mechanism is pleased that the evaluation team confirmed that the organization had employed strategies to leverage flexible staff engagement, pivoting human resources to where they were most required and relying on limited-term appointments to fulfil its mandate of a small and efficient structure.

17. As evinced in paragraphs 31 and 32 of the report, and table 3, all organs have undergone significant downsizing, with the Registry bearing the greatest impact.

18. As mentioned above under the response to subrecommendation 1.2 in relation to the opinion expressed in paragraph 32 by the evaluation team, the Mechanism considers that the statement made in relation to the adequacy of staffing is both out-of-scope for the exercise.

Recommendation 2: Support and strengthen staff morale through conduct of a survey to identify key concerns to manage downsizing and upsizing.

19. The Mechanism is pleased to see that the Inspection and Evaluation Division has closed this recommendation.

20. The Mechanism notes however that the Inspection and Evaluation Division nevertheless observes that "it would be appropriate for the Mechanism leadership to pay special attention to staff morale, especially as the Mechanism is a structure whose function and size will diminish over time", referring in particular to staff's concern about job security.

21. The Mechanism attaches the utmost importance to fostering high staff morale, while noting that concerns related to long-term job security exist in all downsizing institutions. Even more so when contracts are linked to annual budgets, as is the case for the Mechanism. This has, nevertheless, been mitigated to the greatest extent possible by a fair and transparent downsizing process used by the Mechanism, developed in consultation with staff representatives, which has been praised by the OIOS Audit Division as best practice.

22. At the same time the Mechanism also wishes to point out that a generally lower staff morale during the period under review cannot be seen in separation from the impact the pandemic has had on both the personal and professional lives of all staff – an issue all organizations struggled with during the pandemic.

Recommendation 3: Systematic thinking and a shared vision of institution-building

23. The Mechanism thanks the evaluation team for having assessed that the establishment of the cross-organ COVID-19 steering committee successfully promoted more cross-branch and cross-organ coordination and harmonization at the Mechanism, and that, overall, the Mechanism’s response to the pandemic ensured both staff safety and health as well as business continuity.

24. The Mechanism also appreciates the assessment that the unification and formalization of the reporting lines of the External Relations Office optimized its efficiency and effectiveness in working in coordination across organs.

25. The Mechanism notes that the implementation of this recommendation is tightly linked to the implementation of recommendation 1. In that respect, a working group consisting of senior advisers from each of the three organs has been established with the task of creating and periodically updating the scenario-based planning. This group operates under the auspices of the three Principals, who own the overall process.

26. In terms of the suggestion that the Principals’ Coordination Council adopt “systematic thinking” as an agenda item, the Mechanism will ensure that this remains a feature of the Council’s work process.

Recommendation 4: Provide clear and focused projections of completion timelines of judicial activities

27. The Mechanism is pleased to note that the evaluation team found the methodologies developed and employed to project and manage the progressive completion of the ad hoc judicial activities to be comprehensive and effective, and that this successfully closes the recommendation.

28. The team also found that the methodologies have been successfully employed in responding to and managing real-world unforeseen events and the disruption caused by the global pandemic, further affirming the fundamental soundness of the strategies employed by the Mechanism in discharging its mandate.

29. The Mechanism thanks the Inspection and Evaluation Division and the evaluation team for their professionalism and engagement in conducting the exercise in an accelerated time frame, and is pleased with the overall findings which demonstrate the organization’s commitment to implementing the recommendations, but also in successfully and concretely moving towards completion of its important judicial mandate.
