



**Reconstituted Joint Monitoring and Evaluation Commission  
(RJMEC)**

**PROGRESS REPORT BY**

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**ON THE FIRST YEAR OF THE TRANSITIONAL PERIOD OF THE  
REVITALISED AGREEMENT ON THE RESOLUTION OF THE CONFLICT  
IN THE REPUBLIC OF SOUTH SUDAN**

**COVERING THE PERIOD**

**22<sup>ND</sup> February 2020 to 23<sup>rd</sup> February 2021**

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## **I. Introduction**

1. The Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS), signed by five Parties on 12 September 2018, detail tasks meant to be implemented by the signatories during an eight months Pre-Transitional Period followed by tasks to be implemented by the Revitalized Transitional Government of National Unity (RTGoNU) during a 36-month Transitional Period. The tasks are specified in the areas of governance, security, humanitarian affairs, resource economic and financial management, transitional justice and constitutional affairs; and are to be accomplished within the prescribed time periods. Following the two-time extensions of the Pre-Transitional Period, the RTGoNU was eventually formed on 22 February 2020, with the swearing-in of the Presidency, thus signalling the start of the 36 months Transitional Period. This Report covers a review of the first year of the Transitional Period, focused on: (i) the tasks completed; (ii) critical uncompleted and pending tasks; (iii) challenges to implementation; and (iv) prioritization of tasks going forward. Throughout, the RMEC leadership engaged with the leadership of the Parties to the R-ARCSS, the Presidency, and the RTGoNU Ministers, and urged them to expedite implementation of outstanding tasks of the R-ARCSS, discussed possible ways of breaking deadlocks, and offered recommendations on remedial measures

## **II. Tasks Completed During the Transitional Period**

2. Agreement tasks implemented during the period under review, were mainly in the areas of governance and security. On governance, following the establishment of the Presidency (President, First Vice President and Four Vice Presidents), a thirty-five-member Council of Ministers nominated from the five Parties to the Agreement was sworn in. This was followed by a period of intensive interparty negotiations, resulting in agreement on the modalities of responsibility sharing allocations at the state and sub-national levels for all ten states and the Administrative Areas of Abyei, Ruweng, and Greater Pibor. To date, governors and deputy governors of all ten States and the Chief Administrative Officers of the Administrative Areas have been appointed. In addition, five state governments, consisting of assemblies, advisors, ministers, and independent and county commissions, were appointed by the time RTGoNU marked its first anniversary, with further appointments expected to follow.

3. The National Constitutional Amendment Committee (NCAC) completed the Constitutional Amendment Bill No. 8, 2020 (as amended), which incorporates the R-ARCSS; reviewed and amended several legislations, including the economic and financial sector laws under Chapter IV of the R-ARCSS, and submitted them to the Minister of Justice and Constitutional Affairs.

4. Concerning the security related tasks the Parties have largely adhered to the provisions of the Permanent Ceasefire, throughout this period, which has ensured no new conflict or outbreak of fighting. In particular, ceasefire arrangements including disengagement and separation of forces in close proximity and opening of humanitarian corridors were observed.

### **III. Critical Uncompleted and Pending Tasks**

5. Among the critical pending tasks related to governance is the reconstitution of the 550 member Transitional Legislative Assembly (TNLA), a task carried over from the Pre-Transitional Period. The Parties were expected to give their lists of nominees to the NCAC to be vetted before submission to the President for appointment. However, only the Former Detainees (FDs) and SPLM/A-IO succeeded in providing their nominees to the NCAC. Other pending tasks related to governance include the reconstitution of the Council of States, reconstitution of various Institutions and Commissions at the National level; review and amendment of the National Elections Act 2012, and reconstitution of the National Election Commission into a competent and impartial body to conduct elections.

6. There have been serious delays in implementing the training and graduation of the Necessary Unified Forces (NUF), a Pre-Transitional Security task that was carried over into the Transitional Period. Other key tasks related to security that are still to be implemented are the Disarmament Demobilization and Reintegration (DDR) process, disposal of medium and long-range heavy weapons, completion of the establishment of professional security forces; and the deployment of the military and organized forces in accordance with the SDSR outcomes. In addition, the South Sudan Peoples Defence Forces (SSPDF) is still occupying 11 civilian properties whilst the Sudan Peoples' Liberation Army-In Opposition (SPLA-IO) is occupying one center.

7. None of the tasks related to humanitarian assistance and reconstruction that were expected to start on the formation of the RTGoNU has been implemented. However, modest progress has been made in creating an enabling political, administrative, operational and legal environment for delivery of humanitarian assistance and protection; and in delivering programmes for relief, protection repatriation, resettlement, reintegration and rehabilitation of IDPs and returnees. Also, a critical task where implementation was expected to give a significant boost to the humanitarian effort was the creation of the Special Reconstruction Fund, which so far has not been established.

8. With regards to implementation of tasks related to resource economic and financial management, the NCAC reviewed the Public Financial Management and Accountability Act, the National Audit Chamber Act, the Petroleum Revenue Management Act, and the Petroleum Act. In addition, the Ministry of Finance and Planning commenced the much-needed Public Financial Management Reforms by creating a Public Financial Management Oversight Committee that is driven by donor incentives and the R-ARCSS. This Oversight Committee has prioritised foundational provisions to ensure proper management of revenues, and with the support of development partners developed a strategy and a roadmap for reforms. However, the Economic and Financial Management Authority (EFMA) provided for under the R-ARCSS is yet to be established.

9. It was envisaged under the R-ARCSS that reforms would help transform the petroleum sector. However, reforms undertaken to date have largely been administrative and the management of natural resources is not being conducted with the level of transparency and accountability required by the Petroleum Revenue Act. In particular, the legally mandated accounting procedures for oil revenues have not been followed, the management and opacity

of oil production have not been properly addressed and the public reporting requirements have also not been adhered to.

10. At the start of the Transitional Period, the RTGoNU was expected to establish the three transitional justice mechanisms as laid out in Chapter V within the first year of this period. The three mechanisms are the Commission on Truth Reconciliation and Healing (CTRH), the Hybrid Court for South Sudan (HCSS) and the Compensation and Reparations Authority (CRA). Critical steps expected to be taken during this period included consultations with stakeholders around the design of these mechanisms (including with the African Union), initiation of legislations on the three mechanisms, passage of legislations on the said mechanisms by the TNLA and their establishment.

11. Towards the end of the first year of the Transitional Period, the RTGoNU Council of Ministers endorsed a roadmap towards implementation of Chapters 5 and 6 of the R-ARCSS presented to it by the Minister of Justice and Constitutional Affairs. The Ministry of Justice and Constitutional Affairs has also set up a taskforce to spearhead and coordinate its implementation. Importantly, the roadmap is expected to guide the implementation of the three transitional justice mechanisms.

12. With regard to judicial reforms, the following tasks were expected to have been completed within the first 12 months into the Transitional Period namely: establishment of the Ad-hoc Judicial Reforms Committee (JRC), completion of its activities, and submission of its recommendations to the RTGoNU. However, no significant progress has been made, except a proposed draft Terms of Reference (ToR) developed by RJMEC and IGAD advisors for its establishment, and subsequently submitted to the Minister of Justice and Constitutional Affairs.

13. Under Chapter 6 of the R-ARCSS, the RTGoNU is mandated to initiate and oversee a permanent constitution making process, which is expected to be completed within 24 months into the Transitional Period. It was subsequently initiated in January 2021. The RJMEC was tasked with convening a workshop for the Parties to agree on the details of the Permanent Constitution-making Process in the fourth month. Consequently, in March 2019 the RJMEC engaged the Max Planck Foundation, as the international institute to facilitate the Constitutional process workshop. To date, RJMEC has received nominations to the workshop from all the Parties and Stakeholders, except for the ITGoNU. Ultimately the workshop initially planned for 1 – 3 February 2021 had to be postponed pending full participation by the Parties.

#### **IV. Challenges to Implementation of the R-ARCSS**

14. Implementation of the R-ARCSS during the first year following the formation of the RTGoNU proved extremely challenging, partly due to the outbreak of the Covid-19 pandemic and recurring challenges which has continued to beset the Agreement from its inception. Delays caused by interparty deadlock impacted implementation of some governance tasks. For instance, there was a protracted contestation over the candidature of Gen. Johnson Olony, SPLM/A-IO's first nominee for the Governorship of Upper Nile state. Intraparty issues presented Parties with some difficulties to the extent that those affected strived to resolve them either internally and/or occasionally sought third-party support. For example, Other Political Parties (OPP) and the South Sudan Opposition Alliance (SSOA) sought the support of RJMEC

and IGAD South Sudan to assist them to resolve their internal intraparty disputes. In some instances, some parties referred some deadlock to the RJMEC to break or recommend remedial corrective measures.

15. Overall, the appointments to the Executive fell short of the required 35% women quota as provided for in article 1.4.4 and 1.12.5 of the R-ARCSS. The Incumbent Transitional Government of National Unity (ITGoNU) was required to nominate no fewer than six (6) Cabinet Ministers and SPLM/A-IO no fewer than three and SSOA no less than one (1) woman whilst no fewer than three (3) of the Deputy Ministers shall be women. However, the ITGoNU nominated five (5) women, SPLM/A-IO three (3), SSOA nominated one (1) and one (1) nominated by ITGoNU as Deputy Minister. Furthermore, it should be observed that the Parties did not give due consideration to the 35% quota for women's participation at the level of the State Executives, as currently constituted. RJMEC formally drew the attention of the Parties to the R-ARCSS on the shortfall in the Executive but no corrective measures were undertaken. Unfortunately, a similar trend continued to be witnessed in subsequent appointments by the Parties to various portfolios.

16. Throughout the first year of the Transitional Period the security of South Sudan was adversely impacted by community-based violence linked to cattle rustling, in particular in Jonglei, Upper Nile State and Bahr El Ghazal and periodic skirmishes of SSPDF and SPLM/A-IO with forces loyal to the National Salvation Front (NSF) of Thomas Cirillo, in the Equatorias. Further, the cantonment training and unification of the NUF faced unprecedented challenges, including a lack of sufficient resources for the Security Mechanisms to effectively complete their responsibilities and tasks and a severe lack of food, medicines, shelter, equipment and care facilities for female ex-combatants in both the cantonment sites and the training centres. The organization established by RTGoNU to provide direction, coordination and support to the Security Mechanisms the National Transitional Committee (NTC) has so far failed to fully deliver on its mandate. As a consequence of these serious shortfalls, some forces began abandoning cantonment sites, whilst an increasing number of trainees have left training centres in a desperate search for food and life support, thus putting the unification process in jeopardy.

17. In addition, there have been several acts of hostility mostly due to senior military defections from the SPLA-IO to the SSPDF in areas such as Maiwut, Kajo-Keji, Maban, and in Yambio to a lesser extent. Further, acts of Sexual and Gender Based violence (SGBV) by uniformed forces are still occurring. A trend analysis by CTSAMVM indicates that there were 89 women and girls involved in SGBV incidents from October 2018 to November 2020. On this issue, however, it is important to commend the efforts of the SSPDF and the National Police who are arresting and prosecuting perpetrators of SGBV, as exemplified by the District Field Court Martial that prosecuted 26 soldiers in Yei for crimes committed against civilians that included rape, murder, looting, harassment and displacement.

18. A key challenge to implementation of tasks related to humanitarian affairs during the past year has been continued attacks on humanitarian aid workers, which resulted in the death of nine aid workers, bringing the total number killed to 124 since 2013. Other challenges relate to fighting between the SSPDF and NSF, displacement following defections of IO forces to SSPDF, illegal roadblocks, impassable roads, and community-based violence. These have all

served to limit the returns of IDPs and refugees as well as led to further displacement of civilians, particularly in Western Bahr El Ghazal, Warrap, Jonglei and Lakes State.

## **V. Prioritization of Tasks Going Forward**

19. Notwithstanding the numerous challenges, every effort must be expended by the RTGoNU to increase the pace of implementation, in preparation for the holding of elections at the end of the Transitional Period. In that regard, the decision of the Presidency made in early February to expedite implementation of the outstanding tasks of the R-ARCSS, including reconstituting the TNLA and the Council of States as well as completing the training and redeployment of the NUF must be accomplished in the quickest time possible. Further, there is need to review and amend the National Elections Act, the NGO Act and laws related to resources, economic and financial management; and also, to ratify pending legislation. In addition, it is imperative to reconstitute the Political Parties Council and the National Election Commission into an impartial and competent body to oversee the conduct of the elections at the end of the Transitional Period.

20. With respect to humanitarian affairs, it's important to keep laying a firm foundation for the safe and dignified return of refugees and the IDPs. In that regard, quickly establishing the Special Reconstruction Fund and instituting programmes for the relief, protection, repatriation, resettlement, reintegration and rehabilitation of IDPs and refugees in coordination with the UN and other relief agencies, should be key areas of focus. Implementation of the tasks outlined in the Resource Economic and Financial Management Chapter is crucial to South Sudan's sustained peace and development because it addresses key parts of the conflict: - mismanagement of resources and lack of accountability and transparency. Fulfilling of these tasks is therefore vital in safeguarding the country's resources and rebuilding the state. In addition to pursuing the revision of the relevant legislation and undertaking the much-needed reforms, establishing the Economic and Financial Management Authority (EFMA) is vital to provide oversight.

21. Following the development of the roadmap by the MOJCA related to transitional justice issues, it's important that legislation to govern the CTRH, CRA and Hybrid Court be immediately initiated to provide a much-needed impetus to implementation. Further, there should be timely establishment of the Ad-Hoc Judicial Reforms Committee to undertake the study and recommend judicial reforms; nomination of ITGoNU representatives to the RJMEC mandated Constitutional Process Workshop should be expedited; and enactment of the Law to govern the Constitution-making process based on the outcome of the Workshop.

22. With two years remaining of the Transitional Period, a careful prioritization of tasks, backed up by political will and the provision of resources will go a long way towards implementation of the R-ARCSS. It has been shown that where the Parties work together as in the case of reaching agreement on the state and local government positions and joint decisions of the Presidency, much can be accomplished. This level of compromise and shared responsibility should continue to guide implementation going forward, as the RTGoNU undertakes to complete security sector, financial and economic reforms, pass key legislation, provide an enabling environment for returning refugees, and put in place the required framework for the staging of free and fair elections. **END**