



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

15 March 2024

Ref: RJMEC/C/2024/L/158

Your Excellency,

Re: Critical Issues Affecting the Implementation of the Revitalised Peace Agreement in the Republic of South Sudan and Way Forward

I have the honour to refer to the above-mentioned subject matter and bring to Your Excellency's kind attention some critical issues affecting the implementation of the R-ARCSS according to my mandate under Article 7.10 of the R-ARCSS:

"the Chairperson of the RJMEC shall report inter alia critical issues that may arise during the implementation of the Agreement to the RTGoNU and copy to the Chairperson of IGAD Council of Ministers".

As you well know, it is now less than twelve (12) months to the end of the current Transitional Period on February 22, 2025, with elections only nine (9) months away as scheduled for December 2024, as per the Agreement on the Roadmap to a Peaceful and Democratic end of the Transitional Period of the R-ARCSS signed on August 4, 2022.

However, in our assessment, despite the significant progress registered in the implementation of the Revitalised Peace Agreement since its signing in September 2018, several key tasks agreed upon by the Parties in the Roadmap, critical for the conduct of elections and for the peaceful democratic transition remain pending, namely:

- a. enactment of the revised National Security Service Act (Amendment) Bill 2023 to, *inter alia*, create an enabling civic and political space for citizens participation in governance, the constitution-making process and elections;
- b. completion of the judicial reform process and adequate funding for the three newly reconstituted institutions, namely: the Political Parties

Council (PPC), the National Constitutional Review Commission (NCRC) and the National Elections Commission (NEC) to enable them to deliver their mandates;

- c. completion of Phase I and Phase II unification of forces and their redeployment to provide security around the country, and funding for implementation of the DDR process;
- d. establishment of the Special Reconstruction Fund/Board and the convening of a Donor Conference for South Sudan to solicit international support for the implementation of the Agreement;
- e. implementation of the legal and policy frameworks which enhance transparency and accountability in economic and financial sectors;
- f. establishment and operationalisation of the Commission for Truth, Reconciliation and Healing and the Compensation and Reparation Authority; and
- g. the making of a permanent constitution in accordance with the Constitution Making Process Act 2022 to guide the conduct of elections.

Your Excellency, with regard to preparations for the conduct of elections in particular, the country is far behind schedule, for example:

- a. conducting elections-related activities listed in Article 1.20.8, such as the establishment of subsidiary electoral management bodies at the state level, the establishment of procedures for the voter registry and registration, and support to civic education and voter outreach;
- b. completion of unification of forces (Phases I and II) to guarantee security nationwide prior to, during and after elections;
- c. judicial reforms, including the review of the Judiciary Act, reconstitution of the Judicial Service Commission and establishment of an independent, impartial Constitutional Court to, among others, adjudicate elections-related disputes;
- d. publication of the voters registers six months prior to the holding of elections (Article 1.20.10); and delimitation of constituencies, in accordance with the provisions of the National Elections Act, 2023;
- e. full registration of political parties no later than 180 days (6 months) from the date of provisional registration in accordance with the Political Parties Act 2022;
- f. repatriation of refugees and resettlement of internally displaced persons and ensuring their rights to participation in democratic processes;

- g. promotion of political and civic space to allow citizens to enjoy the freedom to exercise their political and democratic rights; and
- h. amendment of the National Elections Act 2023 to conform to the terms of the Permanent Constitution (Article 1.20.6).

Mindful of the above and considering the very short time left in accordance with the roadmap calendar and with several critical tasks pending, it is important that the Parties to the R-ARCSS begin to dialogue on the best way forward in order to consider the viable options available to them, which are in conformity to the Agreement. Options to consider could include conducting an abridged election based on consensus by all the Parties to the Agreement, or revising of the Roadmap timelines to implement the most critical pending tasks of the Transitional Period before elections:

1. **Agreeing to conduct a consensus-based elections:** In RJMEC's opinion, conducting any kind of election in December 2024 is only possible, if consensus can be reached by the Agreement Parties to undertake such an election, without completing the full implementation of the critical pending R-ARCSS requirements. Conducting elections without completing the previously agreed tasks requires a renegotiation of the Agreement to make elections possible as scheduled and avoid an election that abrogates the Agreement. In this scenario, it is RJMEC's view that the Parties can dialogue, compromise and agree on a viable inter-party arrangement with a strong commitment to be bound by the outcome(s) of any such election. In addition, the Parties should commit to continue with the implementation of the uncompleted R-ARCSS tasks in the post-transition period and also should ensure inclusivity of not only the 35% women representation but also of other non-signatory groups in their new arrangements; or
2. **Agreeing to a revision of the Roadmap:** The Parties may: (i) consider revising the Roadmap with a view to either prioritising the most critical pending tasks necessary to establish the bare minimum preconditions acceptable to the Parties for the conduct of elections as scheduled; or (ii) revise the key tasks and the timelines to complete their implementation. In this case, it is RJMEC's view that any such "Revised Roadmap" should have clear guarantees and with an explicit commitment that the agreed tasks will be implemented within the revised timelines. In this regard, RJMEC recommends that such a revision should not be politically determined, but rather should be

based on careful technical guidance by the responsible mechanisms tasked with their implementation, for example, by the reconstituted NCRC, NEC and PPC. These institutions should be fully funded to allow them to complete their tasks as per their approved workplans and budget. In addition to their approved budgets being funded, the requisite funds should be disbursed to the implementation mechanisms by the RTGoNU before such an agreement is endorsed, to reassure the people of the Republic of South Sudan of the commitment of the RTGoNU to deliver their mandate.

In both scenarios, there will be need for the Parties to amend the R-ARCSS as per Article 8.4 which will require broad-based consultations and agreement of the Parties and key stakeholders to the Agreement, including the consent of RJMEC and ratification by the reconstituted TNLA, in order to remain within the legitimate framework provided by the Agreement.

It is important that these inter-party consultations and dialogue start now and be conducted within the framework of the R-ARCSS. Article 1.9.1 of the R-ARCSS, provides that:

“the RTGoNU is founded on the premise that there shall be collegial collaboration in decision-making and continuous consultations within the Presidency, between the President, the First Vice President, and the Four Vice President, to ensure effective governance during the Transitional Period.”

Further, according to Article 1.9.4, which sets out ‘the powers, functions and responsibilities that may be initiated by either the President, the First Vice President or any of the Vice Presidents and shall require the agreement of the others’, sub-article 1.9.4.1 includes among those powers, functions and response:

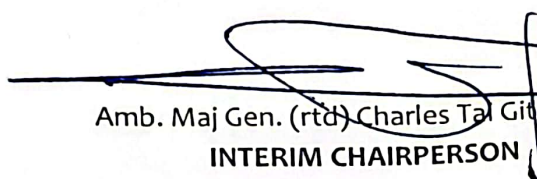
“the initiation of Constitutional amendments, except as provided for in Chapter 1, Article 1.17.1 of this Agreement”.

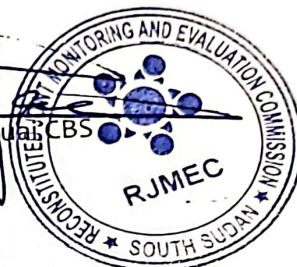
Your Excellency, in conclusion, in RJMEC's engagements with all key stakeholders and institutions and mechanisms of the Agreement, it is evident that there is a need for clear political guidance from the Executive of the RTGoNU and Parties to the Agreement on the best way forward for the peace process. RJMEC therefore recommends that the Parties urgently commence

open and constructive dialogue to forge a viable way forward, within the framework of the Revitalised Peace Agreement, which allows for consensus-based amendments, as indeed has been the case previously, under Article 8.4 of the R-ARCSS.

Please accept, Your Excellency, the assurance of my highest consideration.

Yours sincerely,


Amb. Maj Gen. (rtd) Charles Ta Gitua CBS
INTERIM CHAIRPERSON



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