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### Proposed programme budget for 2022

## **Report on the use of the commitment authority and request for a subvention to the Residual Special Court for Sierra Leone**

### **Report of the Secretary-General**

#### *Summary*

The present report is submitted pursuant to section XVI of General Assembly resolution [75/253 A](#) of 31 December 2020, by which the Assembly, inter alia, authorized the Secretary-General to enter into commitments in an amount not to exceed \$2,537,000 to supplement the voluntary financial resources of the Residual Special Court for Sierra Leone for the period from 1 January to 31 December 2021, and requested him to report on the use of the commitment authority in the context of his next report. The report addresses the use of the commitment authority and contains a request for a subvention of \$2,919,300 to enable the Court to continue to carry out its mandate in 2022.



## I. Introduction

1. Pursuant to article 3 of the Agreement between the United Nations and the Government of Sierra Leone on the Establishment of a Residual Special Court for Sierra Leone, the expenses of the Court are to be borne by voluntary contributions from the international community, and the parties and the Oversight Committee may explore alternative means of funding the Court. The funding arrangement has posed serious challenges to the continued sustainability of the Court, threatening the effective implementation of its mandate. Since 2015, the Court has not received sufficient voluntary contributions for its operations and has had to rely on subventions from the regular budget of the United Nations.

2. Following an exchange of letters between the Secretary-General and the President of the Security Council in August 2020 (see [S/2020/862](#) and [S/2020/863](#)), the Secretary-General submitted a request for a subvention of \$2,856,300 for 2021 for the Residual Special Court in a report to the General Assembly ([A/75/343](#)).

3. Having considered the report of the Secretary-General and the related report of the Advisory Committee on Administrative and Budgetary Questions ([A/75/7/Add.20](#)), in section XVI of its resolution [75/253 A](#) of 31 December 2020, the General Assembly authorized the Secretary-General to enter into commitments in an amount not to exceed \$2,537,000 to supplement the voluntary financial resources of the Residual Special Court for the period from 1 January to 31 December 2021. The Assembly also endorsed the conclusions and recommendations of the Advisory Committee and reaffirmed the high priority accorded to the work of the Court. In this regard, the Assembly encouraged all Member States to provide voluntary support for the Court. The Assembly requested the Secretary-General to report on the use of the commitment authority in the context of his next report. Accordingly, the present report addresses the use of the commitment authority granted to the Court for the period from 1 January to 31 December 2021 and the future financing of the Court.

4. At the time of reporting, the contributions and pledges received by the Residual Special Court during the period from October 2020 to July 2021 amounted to \$416,462, which includes \$62,015 for 2020, \$31,933 for 2021, \$30,000 for 2022 and earmarked contributions of \$292,514 for special projects. Special projects are activities ordered by the President of the Court or mandated by the statute of the Court but that are not included in the regular budget of the Court or the request for subvention from the United Nations. These activities are reported in paragraphs 38, 45 and 56 below.

5. Despite the efforts of the Secretary-General, the Government of Sierra Leone, members of the Oversight Committee and the principal officials of the Residual Special Court to raise voluntary contributions, only one contribution, in the amount of \$30,000, has been received for the 2022 fiscal year and there are minimal prospects that more pledges will be made. As a result, the Court will not have sufficient funds from voluntary contributions to continue its operations in 2022, whereas the requirements of the Court for the period from 1 January to 31 December 2022 amount to \$2,949,300.

6. Accordingly, in a letter dated 10 August 2021 ([S/2021/737](#)), the Secretary-General informed the President of the Security Council that there would not be sufficient voluntary contributions for the continuation of the work of the Residual Special Court beyond 2021. He expressed his intention to propose to the General Assembly that the costs of the Court for 2022 be provided through a subvention under the assessed programme budget, as a temporary measure to address the current financial situation, and that he would continue to seek additional voluntary contributions for the Court.

7. In his reply dated 18 August 2021 (S/2021/738), the President of the Security Council informed the Secretary-General that the members of the Council had taken note of the intention expressed in his letter, with the understanding that the subvention would be subsequently reimbursed from the voluntary contributions received by the Court and that the voluntary nature of the funding arrangement of the Court would not be changed.

## II. Historical background

8. The Residual Special Court was established under the Agreement on the Establishment of a Residual Special Court for Sierra Leone, concluded in August 2010, with the concurrence of the Security Council. The mandate of the Court is to perform essential residual functions of the Special Court for Sierra Leone. The latter court was established under an agreement concluded in 2002 pursuant to Council resolution 1315 (2000), in which the Council mandated the Secretary-General to negotiate an agreement with the Government of Sierra Leone to create an independent special court with the primary objective of prosecuting persons who bore the greatest responsibility for the commission of crimes against humanity, war crimes and other serious violations of international humanitarian law, as well as crimes under relevant Sierra Leonean law, committed within the territory of Sierra Leone. The Special Court for Sierra Leone indicted 13 individuals. Three of those indicted have died and one remains at large. The other nine individuals, including Charles Ghankay Taylor, the former President of Liberia, were convicted and sentenced to terms of imprisonment ranging from 15 to 52 years.

9. After completing its mandate, the Special Court for Sierra Leone closed on 31 December 2013 and passed on its residual functions to the Residual Special Court. These ongoing functions include: supervising the enforcement of sentences; reviewing convictions and acquittals; conducting contempt of court proceedings; providing witness and victim protection and support; maintaining, preserving and managing the archives of the Special Court for Sierra Leone and the archives of the Residual Special Court itself; responding to requests from national authorities for access to evidence and with respect to claims for compensation; providing defence counsel and legal aid for the conduct of proceedings before the Residual Special Court; and preventing double jeopardy by monitoring national proceedings. In addition, the Residual Special Court has the power to prosecute the remaining fugitive, Johnny Paul Koroma, should he still be alive, if his case is not referred to a competent national jurisdiction.

10. The Residual Special Court commenced operations on 1 January 2014. It has an interim seat in The Hague, Netherlands, with a sub-office in Freetown for witness protection and support and the coordination of defence issues. In accordance with article 6 of the Agreement on the Establishment of the Residual Special Court for Sierra Leone, the present arrangement regarding the location of the Court will remain in effect until such time as the United Nations and the Government of Sierra Leone agree otherwise.

### **III. Progress to date**

#### **A. Structure and systems of the Residual Special Court**

##### **Reappointment of the Registrar**

11. The three-year term of the Registrar, Binta Mansaray, ended in September 2020. Following consultation with the President of the Residual Special Court, the Secretary-General reappointed the Registrar for a term of three years.

##### **Roster of judges**

12. Justice John Bankole Thompson passed away in Freetown in May 2021. Justice Thompson had been appointed by the Government of Sierra Leone as a judge of the Special Court for Sierra Leone in 2002. He was sworn in as a judge on the roster of the Residual Special Court in 2013 and remained on the roster until his demise. Justice Thompson sat on the trials of leaders of the Revolutionary United Front and the Civil Defence Forces. Justice Miatta Maria Samba, who had been appointed by the Government of Sierra Leone to the roster of the Residual Special Court in 2019, resigned effective 1 September 2021 to assume her duties as a judge of the International Criminal Court. It is expected that the Government will appoint two judges by December 2021 to replace Justices Thompson and Samba.

13. The two-year term of the President and Vice-President of the Residual Special Court was extended by the judges of the Court in October 2020 to December 2021 or until such time that the situation with regard to the coronavirus disease (COVID-19) pandemic improves to allow the judges to meet in person to elect a new president, pursuant to article 12 of the statute of the Court.

14. In October 2020, the Rwanda Correctional Service liaison officer for the Residual Special Court informed the Registrar that the proposed amendments to the rules and regulations of the Commissioner-General of the Rwanda Correctional Service on discipline and sanctions governing the enforcement of sentences of the convicts of the Special Court in Rwanda had been adopted. The proposed amendments had been drafted on the basis of a gap analysis of the relevant sections of those rules and regulations undertaken by the Office of the Registrar in consultation with the Principal Defender. The gap analysis had been carried out on the basis of observations made by the International Committee of the Red Cross.

15. Since 2014, the provisional host State agreement for the Residual Special Court in the Netherlands has remained in effect. The review of that agreement is ongoing. The Registry submitted its latest comments to the Ministry of Foreign Affairs of the Netherlands in December 2018. Subsequently, the Dutch authorities issued a series of notes verbales to the international tribunals located in The Hague on various issues, such as taxation, that are of relevance for the review, as they may have a bearing on some of the provisions in the agreement. The Court is collaborating with other international organizations in The Hague, including the International Residual Mechanism for Criminal Tribunals and the International Criminal Court, to address the issues raised in one of the notes verbales regarding the liability of the Defence Counsel for income taxes in the Netherlands. Upon completion of the review, an amended host State agreement will replace the provisional agreement currently in effect.

## **B. Activities of the Residual Special Court**

16. The Residual Special Court continues to carry out ongoing residual functions of the Special Court for Sierra Leone, some of which have been affected by the COVID-19 pandemic. The ongoing functions include supporting witness protection, supervising enforcement of sentences and monitoring of conditional early release, responding to requests for information and evidence from national prosecuting authorities, and the management and preservation of archives. In addition, the Residual Special Court conducts ad hoc judicial and administrative proceedings, which occur from time to time. The following sections provide an overview of the activities of the Residual Special Court and the impact of the pandemic.

### **1. Protection of witnesses and victims**

17. Pursuant to article 18 of the statute of the Residual Special Court, the Witnesses and Victims Protection and Support Office continues to actively monitor and provide support to 72 witnesses in Sierra Leone and to those located outside Sierra Leone and maintains updated information on the witnesses through regular contact. The Office continues to implement on an ongoing basis protective measures, such as relocation and the provision of welfare and medical assistance to vulnerable witnesses. In addition, the Office continues to maintain contact with relevant authorities and agencies that provide support to the witnesses.

18. As part of its commitment to assessing the scale, scope and nature of its witness-related residual functions, the Court continues to maintain in its dormant file the names of 41 witnesses with low threat levels and 72 witnesses in its active file. The Registry has not been proactive in contacting the witnesses in the dormant file, who have also not contacted the Court since 2020. The Registry will continue this approach for between one and two years before making a final determination, subject to the approval of the President of the Court, as to whether to close the dormant file. The approach may be reviewed depending on various factors, including the potential impact of the political situation and the pandemic on witnesses in Sierra Leone, Liberia and other countries.

19. The Witnesses and Victims Protection and Support Office dealt with a claim of reprisal made by a confidential source. In addition to providing support by telephone, one of the witness protection officers travelled to the country in which the source is residing to provide in-person support to all witnesses in that country and follow up on the claim of reprisal. The concerned individual under threat was temporarily relocated to a neighbouring country while the investigation into the matter was in progress. The investigation remains inconclusive, and the witness now resides in a safe place.

20. Some witnesses approached the Witnesses and Victims Protection and Support Office and the Office of the Prosecutor to inform them of attempts being made to induce them to recant their testimonies before the Residual Special Court in order to secure the release of certain individuals. In November 2020, the Prosecutor appointed an investigator to conduct investigations into allegations of witness tampering, which, if substantiated, could amount to contempt in violation of rule 77 of the Rules of Procedure and Evidence of the Court. The preliminary investigation has been concluded and the findings are under review by the Prosecutor. As an interim measure, the Prosecutor has issued a press release to warn against witness interference.

21. The trial of Gibril Massaquoi, a Sierra Leonean national and former insider witness of the Special Court for Sierra Leone, for charges of murder of civilians, aggravated war crimes and aggravated crimes against humanity that occurred in Liberia from 1999 to 2003, commenced in February 2021 before a Finnish court.

Mr. Massaquoi testified before the Special Court in the Armed Forces Revolutionary Council trial in 2005. The Finnish court moved to Monrovia and heard witnesses from late February to April. After sitting in Monrovia, the Finnish court moved to Freetown in May and heard witnesses there before returning to Finland, where it resumed sittings at the end of May. Given the significance of the Massaquoi case, the Residual Special Court has been monitoring the trial at the various seats of the Finnish court to see what implications, if any, it might have for its operations.

22. In July 2021, the President of Sierra Leone declared a one-month public health emergency to tackle the third wave of the COVID-19 pandemic. As it did in the first and second waves of the pandemic, the Witnesses and Victims Protection and Support Office continues to provide public health guidelines and information on the pandemic to protected witnesses and victims and advice on steps to take in the event of an infection, based on the public health guidelines.

## **2. Judicial and administrative proceedings**

23. The Residual Special Court continues to hold various judicial and administrative proceedings, including the consideration of conditional early release applications.

24. One person indicted by the Special Court for Sierra Leone, Mr. Koroma, has been at large and his status remains unknown. While trial testimony indicates that he may be deceased, in 2017 and 2018, stories circulated periodically indicated that he might still be alive. None of those stories has, however, been substantiated. In November 2020, the Prosecutor resubmitted his request to the newly appointed Attorney General and Minister of Justice of Sierra Leone seeking the assistance of the Government to confirm or refute the rumours about Mr. Koroma.

25. There continues to be an expectation that steps are being taken by one of the prisoners of the Residual Special Court to seek a review of his judgment in accordance with article 22 of the statute of the Court. The request for assistance to facilitate an application for review proceedings that the Defence Office had anticipated filing in 2020 has not been submitted and there is currently no indication as to when the filing will be done. An application for review may be filed in accordance with article 22, which provides that, where a new fact has been discovered that was not known at the time of the proceedings before the Special Court or the Trial Chamber or Appeals Chamber of the Residual Special Court and that could have been a decisive factor in reaching the decision, the convicted person or the Prosecutor may submit an application for review of the judgment.

26. In October 2020, the Registrar, the Principal Defender and the Rwandan prison authorities coordinated the implementation of the recommendations of the report of the inquiry into complaints of the prisoners. The recommendations were adopted by the President of the Residual Special Court in his decision of 7 September 2020 on the complaints. The recommendations include providing duty counsel services to further educate the prisoners on the legal authority of the Court and its independent legal personality; providing increased duty counsel services and cultural diversity training to enhance the prisoners' understanding of and respect for relevant Rwandan law; and giving the prisoners a sense of the cultural sensitivity around where they are serving their sentences and to know what is expected of them. In January 2021, the Principal Defender submitted his report to the President on the training of the prisoners.

27. With regard to conditional early release, in coordination with the Office of the Registrar, the Defence Office and the Rwandan prison authorities conducted the training of Augustine Gbao pursuant to paragraphs 82 and 83 of the decision of 8 September 2020 of the President of the Residual Special Court. In the decision, the President granted Mr. Gbao's application for conditional early release, subject to a

further period of three months of imprisonment to undergo specific training geared towards his understanding of and acceptance of responsibility for the harm he inflicted on the victims of his crimes and his understanding and acceptance of the conditions imposed upon him. The training took place from 10 September to 24 November 2020. The Defence Office conducted the training virtually by videoconference from Freetown while the Rwandan prison authorities and the prisoner participated in person at the prison facility. The training covered subjects related to human rights, international humanitarian law, obligations of the convicted person under the Practice Direction on the Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone and the decision of the President of 8 September 2020.

28. On 25 November 2020, the Principal Defender and the Rwandan prison authorities submitted their report to the President of the Residual Special Court on the training. On 30 November 2020, the Registrar interviewed Mr. Gbao for 40 minutes by videoconference to determine his understanding of the training he had undergone. In Freetown, the Principal Defender and his assistant were present as observers, and in Rwanda, the Director of Mpanga Prison was also present as an observer of the interview.

29. In December 2020, the Registrar submitted an inter-office memorandum to the President of the Residual Special Court certifying that Mr. Gbao had successfully completed his training. Pursuant to paragraph 83 of the President's decision of 8 September, the Registrar also submitted for the approval of the President a complete and detailed document containing a robust monitoring regime to be put in place by the monitoring authority to ensure Mr. Gbao's compliance with the terms of his conditional early release. Subsequently, the President issued a supervision and transfer order for Mr. Gbao to be transferred from Mpanga Prison in Rwanda back to Sierra Leone. On 22 December, he was transferred to his community in Blama, where he has started to serve the remainder of his 25-year sentence under strict conditions and close monitoring until 2028. Mr. Gbao had already served two thirds of his sentence in prison. He is the third Special Court convict, but the first member of the Revolutionary United Front rebel group, to be granted conditional early release.

30. The President of the Residual Special Court issued a direction pursuant to article 2, paragraph 5, of the Practice Direction on the Procedure Following a Request to Take a Statement from a Person in the Custody of the Residual Special Court for Sierra Leone of 3 June 2015 in the matter of a request from a national prosecuting authority to take statements from five prisoners of the Court in Rwanda. On 15 January 2021, the Registrar submitted two inter-office memorandums informing the President of the refusal of one of the convicted persons and the consent of another to be interviewed. Three prisoners did not respond. Seized of the request with respect to the convicted person who consented, the President directed the filing of submissions by the Prosecutor, the Principal Defender, the pro bono counsel of the convicted person and the Registrar on 27 January 2021. On 1 February 2021, the Registrar notified the President of the withdrawal of the request by the national prosecuting authority with respect to the convicted person who had consented.

31. In January 2021, the President of the Residual Special Court appointed Justice Alusine Sesay, a Justice of the Supreme Court of Sierra Leone, to conduct an inquiry into a claim made by one of the convicted persons in Rwanda, Ibrahim Bazy Kamara, against the Registrar of the Residual Special Court in a video circulated on social media. The appointment of Justice Sesay was prompted by the receipt of a letter from the Registrar in November 2020 bringing the video to the attention of the President. In the video, Mr. Kamara claimed that instead of giving him and his fellow inmates the funds allocated for family visits that did not take place in 2014 due to the Ebola virus disease epidemic, the Registrar had misappropriated the funds. In her letter to

the President of the Court, the Registrar denied the claims and attributed the video to an attempt at character defamation and reprisal against her for performing her official duties. Justice Sesay submitted his report on the inquiry to the President on 19 March 2021. The President adopted the findings of the inquiry and issued his opinion on 11 May, stating that he found no merit in any of the claims broadcast on social media by Mr. Kamara. He also indicated that he would issue further directions on the implementation of the recommendations made by Justice Sesay. On 21 July, the President wrote to the Ministry of Justice of Rwanda and requested that the prison authorities conduct an investigation into the possession of the smartphone that was used by Mr. Kamara to videorecord the allegation against the Registrar. The President also requested the assistance of the Rwandan prison authorities to facilitate the implementation of his directive to Mr. Kamara to videorecord a retraction of the allegation and apologize for his conduct. The Rwandan prison authorities have taken steps to investigate the possession of smartphones, which are being used by the prisoners to record messages on social media. They have also facilitated the videorecording directed by the President. The reports are under consideration by the President.

### **3. Supervision of enforcement of sentences**

32. Pursuant to article 23 of its statute, the Residual Special Court is responsible for supervising the enforcement of sentences for persons convicted by the Special Court for Sierra Leone. The Residual Special Court currently holds five prisoners in custody: one, Mr. Taylor, in the United Kingdom of Great Britain and Northern Ireland and four in Rwanda. Additionally, two convicts are serving the remainder of their sentences under the conditional early release programme of the Court in Sierra Leone.

33. The Office of the Registrar and the Defence Office continue to maintain close contact with the authorities in the United Kingdom, Rwanda and Sierra Leone regarding the enforcement of sentences of the prisoners of the Special Court for Sierra Leone, including matters relating to family visits, conditions of imprisonment and provision of legal assistance.

34. Owing to the COVID-19 pandemic, family visits to the prisoners did not take place in 2020 and will not take place in 2021. The Residual Special Court has not conducted its annual visit to the enforcement States in 2021. It is unclear at this stage whether the inspecting authorities, namely the International Committee of the Red Cross and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, will undertake their respective annual visits to Mpanga Prison and the United Kingdom in 2021.

35. The Registrar, the Residual Special Court Prison Adviser and the Principal Defender have been in close consultation with prison authorities in Rwanda and the United Kingdom regarding their response to the COVID-19 pandemic and to seek feedback on the well-being of the Residual Special Court prisoners, especially during the pandemic.

36. In March 2021, positive cases of COVID-19 were detected among a few prisoners in the G Wing of Mpanga Prison. No cases of COVID-19 have been detected in the D Wing, which accommodates the prisoners of the Court. The prison authorities remain vigilant and are taking all necessary steps to contain the spread of the virus by providing additional protective equipment to all prisoners.

37. Allieu Kondewa and Mr. Gbao continue to serve the remainder of their sentences on conditional early release in their communities in Bo and Blama, respectively, under the supervision of the monitoring authority and the Residual Special Court. Mr. Kondewa will continue to serve his sentence until 2023 and Mr. Gbao until 2028.



In coordination with the Office of the Registrar, the Defence Office continues to respond to specific requests from the convicted persons and periodically provides updates about their compliance with the conditions of their release. The Defence Office and the Office of the Registrar conducted spot checks in November 2020 and June 2021 to monitor and confirm the compliance of both convicts with the terms of their conditional early release as imposed by the President of the Residual Special Court. The findings of the visits were satisfactory.

38. Pursuant to the directive of the President of the Residual Special Court contained in his decision of 8 September 2020, the Court conducted training for police and civil society on the Court's conditional early release and witness and victim protection and support programmes from November to December 2020. The training was implemented under a special project that lasted for 28 days in collaboration with civil society in Kenema, Blama, Bo and a few other locations. Radio discussions were also organized to reach a broader audience in the eastern and southern regions of Sierra Leone, to correct the misinformation disseminated by Residual Special Court prisoners in Rwanda that the Government of Sierra Leone, not the Court, determined the granting of applications for conditional early release, including that of Mr. Gbao, on the basis of nepotism.

#### **4. Assistance to national authorities and State cooperation**

39. The Residual Special Court continued to receive and respond to requests for assistance from national authorities. Since its inception, the Court has received at least 55 such requests, including 16 since October 2020. While a few are ongoing, many have received full responses through the Registry, the Office of the Prosecutor and the Defence Office. The requests are for information on individuals accused of involvement in war-related crimes during the conflicts in Sierra Leone and/or Liberia who now face trial or reside in the jurisdictions of the requesting authority, under asylum or other status. Some of the assistance provided to national authorities is highlighted in paragraph 30 above.

40. Following a request by a State to interview a witness granted protection by the Special Court for Sierra Leone in relation to an ongoing case under the jurisdiction of the requesting State, on 9 February 2021, the Registrar and the Prosecutor transmitted a letter to the requesting State indicating the position of the Court with regard to its request. The Court also consulted with the host State of the witness and the witness himself regarding the request and the legal implications of any decision the witness might take in response to the request. The witness decided not to cooperate with the requesting State.

41. The Residual Special Court has periodically been liaising and cooperating with a State that requested a safety-upon-return assessment and a threat assessment of one of its relocated witnesses and his family in 2019 and 2020.

#### **5. Maintenance of archives and court management**

42. The maintenance of the archives of the Special Court for Sierra Leone and the Residual Special Court is ongoing. The original archives continue to be maintained at the National Archives of the Netherlands, in The Hague. Archivists have been working towards the completion of the archiving of all documents and data of the Special Court for Sierra Leone. The physical archives of the Residual Special Court occupy approximately 600 linear metres of paper records, and the digital archives occupy approximately 13.4 terabytes. Additionally, the original audiovisual recordings of all judicial proceedings stored at the National Archives occupy approximately 150 terabytes.

43. The pandemic has continued to slow down the work of the archivists, who continue to work with a scheduled alternate office attendance. Mitigation measures, such as social distancing, flexible working hours and strict adherence to public health guidelines, are being implemented in order to ensure the well-being of staff and advance the archiving task. Notwithstanding the pandemic-related challenges, significant progress has been made. The archivists at the Residual Special Court office in The Hague continued to prioritize the review of the judicial records of the organs of the Court, pursuant to General Assembly resolution 73/279 A. The final review of the comprehensive archive index of the judicial records has been completed. In April 2021, the auditing and digitization, upload to the Total Records Information Management database and enhancement of the metadata of all Special Court for Sierra Leone judicial records were completed. This represents a one-year delay resulting from the limitations imposed by the pandemic and the unavoidable delay caused by the nature and volume of records to be reviewed. The review of the administrative and legal records of the Office of the Registrar started in May 2021. The review of those records had been put on hold in 2019 to prioritize the review of the judicial records pursuant to resolution 73/279 A. The archivists have projected that the review of the administrative records will take over a year to complete.

44. The low-scale and cost-effective digital preservation of the audiovisual archives of the Court, which was anticipated to start in 2020, has not yet started. These audiovisual materials are stored on devices in The Hague that may be approaching the end of their lifespan. The delay is due to the pandemic and the prioritization of the completion of the review of the judicial records.

45. Under article 7, paragraph 2, of the Agreement on the Establishment of the Residual Special Court for Sierra Leone, the archives of the Special Court for Sierra Leone are to be made available, electronically and in printed copy, to the public in Sierra Leone in order to preserve and promote the legacy of the Special Court. In Freetown, the reproduction of the public archives has been completed. The preservation, reorganization, labelling and boxing of the archives commenced in June 2021, under a special project that is expected to be completed by March 2022. Under the project, the Court has received 247,639 Canadian dollars to preserve and promote of the legacy of the Special Court aimed, inter alia, at ensuring greater accessibility to the public archives by the public. Additional activities related to this project include setting up workstations at the Sierra Leone Peace Museum, which houses the archives, and conducting outreach activities to promote greater public access to the archives.

## 6. Legacy and outreach

46. The preservation of the legacy of the Special Court for Sierra Leone is an important element of the work of the Residual Special Court, which also seeks to contribute to the development of international criminal justice. In this regard, the judges of the Residual Special Court continue to participate in external activities to promote the legacy of the Special Court for Sierra Leone and increase the profile of the Residual Special Court, some of which have also served as important fundraising opportunities. The judges do so at no cost to the Residual Special Court.

47. Since September 2020, Residual Special Court judges and other officials have undertaken several outreach activities, which include the following:

(a) In September 2020, A book entitled *Identity and Diversity on the International Bench: Who is the Judge?*, edited by Freya Baetens, Professor of Public International Law at PluriCourts, University of Oslo, was published. Justice Teresa Doherty wrote a chapter in the book that was focused on the contribution of women judges and prosecutors to the development of international criminal law. Justice Doherty noted that, in common with national courts, few female judges had been appointed to the benches of the first international criminal tribunals. The appointment of women judges to the Special Court for Sierra Leone and other ad hoc international

tribunals had resulted in the active contribution of those women judges to the development of international criminal law, as shown in those courts' jurisprudence. Justice Doherty also noted that with the appointment of women investigators and prosecutors, more prosecutions for crimes of sexual violence had been laid before the tribunals. This was important as it progressively developed a field of law that until then had not, or had only in a more limited manner, been adjudicated upon before the international courts;

(b) In December 2020, a book entitled *Intersections of Law and Culture at the International Criminal Court*, for which Justice Doherty wrote the foreword, was published. The book is a compendium of works by various writers on the impact of culture on the International Criminal Court. Justice Doherty emphasized the diversity of customs and cultural norms that may have an impact on witnesses giving evidence and how judges must be aware of those customs and norms in their assessment of evidence. She showed that such issues might arise not only in the International Criminal Court, but had arisen, in her experience, in both the Special Court for Sierra Leone and in national courts;

(c) The Registrar, the Principal Defender, the Prosecution Legal Adviser/Evidence Officer and the Senior Legal Officer participated in an inaugural symposium and book launch on the legacy of the Special Court for Sierra Leone. The symposium was organized in December 2020 by the newly established Centre for International Law and Policy in Africa in Freetown. The purpose of the symposium was to examine whether the Special Court had left a legal legacy for jurisprudence and practice of the nascent and still unsettled field of international criminal law. The symposium brought together lawyers, academics and civil society activists to discuss various facets of the legacy of the Special Court. The Registrar made a brief statement on behalf of the Residual Special Court, in which she emphasized the importance of such dialogue in the consolidation of peace. The Principal Defender, the Prosecution Legal Adviser/Evidence Officer and the Senior Legal Officer participated in the round-table discussions and made presentations on different aspects of the legal legacy of the Special Court for Sierra Leone;

(d) The Senior Legal Officer engaged with students from the Department of Peace and Conflict Studies at Fourah Bay College, University of Sierra Leone, in a youth dialogue on peace and tolerance as part of a dialogue organized by the Residual Special Court to explore the role of the Sierra Leone Peace Museum and the Residual Special Court in promoting tolerance and peace in Sierra Leone;

(e) In order to raise the visibility of the Residual Special Court, the Registrar attended virtually the commemorative event organized by the International Court of Justice to mark the 100th anniversary of the adoption of the statute of the Permanent Court of International Justice, held on 10 December 2020 at the Peace Palace in The Hague;

(f) In February 2021, Justice Renate Winter participated in a virtual panel discussion organized by Palacký University, Olomouc, Czechia, on the contribution of the International Criminal Court to the development and enforcement of international humanitarian law. Her intervention was on children in war situations, with specific reference to the Special Court for Sierra Leone and the Convention on the Rights of the Child;

(g) In March 2021, Justice Winter contributed to a discussion on making women count, which was organized by the women and peace and security programme of the Women's International League for Peace and Freedom. She highlighted her experiences with the Special Court for Sierra Leone in addressing gender crimes;

(h) At the invitation of the International Nuremberg Principles Academy, the Registrar attended a special online event honouring Benjamin Ferencz on his 101st birthday on 11 March 2021. Mr. Ferencz is the last living prosecutor of the Nuremberg

trials and one of the leading lawyers and experts in international criminal law since the Second World War. The Special Court for Sierra Leone is the first international criminal tribunal since the Nuremberg trials to successfully bring a Head of State to justice;

(i) The Residual Special Court marked the commemoration of the thirtieth anniversary of the civil war in Sierra Leone. The event was held at the Sierra Leone Peace Museum and had speakers from the Human Rights Commission of Sierra Leone, the National Commission for Democracy and the Sierra Leone Police. The event brought together civil society organizations, victims, ex-combatants, representatives of the Sierra Leone Police, the military and the prisons service and students from seven secondary schools in Freetown and rural Waterloo. Marginalized youth groups from western rural and urban areas also attended. The event was an opportunity for the Residual Special Court to promote the legacy of the Special Court for Sierra Leone and the important work of the Residual Special Court;

(j) The Registrar held several meetings with two grass-roots women's organizations in Sierra Leone that are collaborating with the Residual Special Court in the execution of gender-related outreach activities in designated communities in Sierra Leone, in furtherance of the preservation and promotion of the legacy of the Special Court for Sierra Leone, mentioned above;

(k) The Registrar held consultative meetings with a consortium of 77 civil society organizations in Sierra Leone, including community members, motorbike riders, university students and youth organizations, among other groups. The consortium was consulted in order to seek feedback and contributions regarding the ongoing work at the memorial garden, as well as the outreach activities of the Residual Special Court on conditional early release. The Registrar also met with the President of the Court, the Chief Justice of Sierra Leone and other stakeholders who are knowledgeable about the war and can give experiential feedback on the development of the memorial garden project;

(l) In April 2021, Justice Doherty gave a keynote address during a two-day virtual webinar organized by the Office for Democratic Institutions and Human Rights and the programme office in Bishkek of the Organization for Security and Cooperation in Europe on the topic of the establishment of associations of women judges in Central Asia. Participants at the event included women judges and others from Turkmenistan, Kyrgyzstan and other Central Asian States. Justice Doherty drew on the developments in international law spearheaded by the Special Court for Sierra Leone;

(m) In June 2021, Justice Winter participated in a webinar high-level dialogue on child labour, including child soldiers. She also concluded the judicial reform project, EU4Justice, in Georgia, which she led for 10 years on behalf of the European Union. The judicial reform project was sponsored by the European Union with the aim of assisting Georgia to align its justice system with European Union standards. Justice Winter worked closely with the Constitutional Court, the Supreme Court, the Legal Commission of the Parliament, the High School of Justice and the High Council of Justice of Georgia on judicial reform projects, including the drafting of laws. In the area of the administration of justice, Justice Winter secured the expertise of former and current Registrars and other organs of international tribunals to review, identify gaps in and make recommendations for the improvement of the administration of justice;

(n) Justice Winter's tenure as Vice-President of the Committee on the Rights of the Child came to an end in June 2021. Over the course of 2021 and relying on her experiences on the Special Court for Sierra Leone and the Residual Special Court, Justice Winter participated in virtual discussions that dealt with such problems as trafficking of persons, early marriage of girls, including during war situations, and protection of women and girls;

(o) The Registrar and the Senior Legal Officer represented the Residual Special Court at a two-day dialogue on the legacy of transitional justice in Sierra Leone, held in Freetown. The dialogue was organized by the Campaign for Good Governance with support from the Africa Transitional Justice Legacy Fund. The Registrar provided remarks during the opening session, while the Senior Legal Officer participated in a panel discussion on the theme “The legacy of the Special Court for Sierra Leone and its contribution to the advancement of justice delivery in Sierra Leone”.

48. The seventh annual report of the President of the Residual Special Court for Sierra Leone, which was prepared pursuant to article 26 of the statute of the Court and covers its operations in 2020, was published in June 2021 and presented to the Secretary-General and the Government of Sierra Leone in July 2021. It was also distributed to diplomatic missions in July.

#### IV. Current financial situation

49. A breakdown of requirements by component and funding availability, and by object of expenditure and funding availability, respectively, is shown in tables 1 and 2 below.

Table 1  
**Requirements by component and funding availability**

(Thousands of United States dollars)

| <i>Component</i>                                     | <i>2020<br/>expenditure</i> | <i>2021 budget<sup>a</sup></i> | <i>1 January–<br/>31 July 2021<br/>actual<br/>expenditure</i> | <i>1 August–<br/>31 December<br/>2021 projected<br/>expenditure</i> | <i>1 January–<br/>31 December<br/>2021 estimated<br/>expenditure</i> | <i>2022 estimated<br/>requirements<sup>b</sup></i> |
|--|-----------------------------|--------------------------------|---|---|--|--|
|  | <i>(a)</i>                  | <i>(b)</i>                     | <i>(c)</i>  | <i>(d)</i>  | <i>(e) = (c) + (d)</i>   | <i>(f)</i>   |
| <b>Expenditure/requirements</b>                      |                             |                                |   |   |  |  |
| 1. Chambers/judges/judicial                          | 174.2                       | 450.7                          | 112.6   | 56.5  | 169.1  | 430.7  |
| 2. Office of the Prosecutor                          | 45.6                        | 63.0                           | 4.8   | 58.2  | 63.0   | 63.0   |
| 3. Registry  | 2 265.3                     | 2 342.6                        | 1 472.6   | 851.2   | 2 323.8  | 2 455.6  |
| <b>Subtotal</b>                                      | <b>2 485.1</b>              | <b>2 856.3</b>                 | <b>1 590.0</b>  | <b>965.9</b>  | <b>2 555.9</b>   | <b>2 949.3</b>                                     |
| <b>Funds available</b>                               |                             |                                |   |   |  |  |
| Pledges, contributions and other income              | 75.0                        |                                | 12.4  | –   | 12.4   | 30.0   |
| Previous year’s unspent balance                      | –                           |                                | –   | –   | –  | –  |
| Anticipated pledges                                  | –                           |                                | –   | 20.0  | 20.0   | –  |
| Amount of subvention used or authorized <sup>c</sup> | 2 410.1                     |                                | 2 537.0   | (13.5)  | 2 523.5  | –  |
| <b>Subtotal</b>                                      | <b>2 485.1</b>              |                                | <b>2 549.4</b>  | <b>6.5</b>  | <b>2 555.9</b>   | <b>30.0</b>  |
| <b>Surplus/(shortfall)</b>                           | <b>–</b>                    |                                | <b>959.4</b>  | <b>(959.4)</b>  | <b>–</b>   | <b>(2 919.3)</b>                                   |

<sup>a</sup> Approved by the Oversight Committee.

<sup>b</sup> The budget for 2022 in the amount of \$2,949,300 was approved by the Oversight Committee and consists of \$2,518,600 for non-judicial activities and \$430,700 for judicial activities.

<sup>c</sup> The amount of subvention used in 2020 will be reflected in the financial performance report on the programme budget for 2020 and has been absorbed within the approved appropriation for 2020 under the regular budget. The final expenditures and related appropriation of the commitment authority for 2021 will be requested in the context of the financial performance report on the regular budget for 2021.

Table 2  
Requirements by object of expenditure and funding availability

(Thousands of United States dollars)

| <i>Object of expenditure</i>                         | <i>2020 expenditure</i> | <i>2021 budget<sup>a</sup></i> | <i>1 January–31 July 2021 actual expenditure</i> | <i>1 August–31 December 2021 projected expenditure</i> | <i>1 January–31 December 2021 estimated expenditure</i> | <i>2022 estimated requirements<sup>b</sup></i> |
|--|-------------------------|--------------------------------|--|--|---|--|
|  | (a)                     | (b)                            | (c)  | (d)  | (e) = (c) + (d)   | (f)  |
| <b>Expenditure/requirements</b>                      |                         |                                |  |  |   |  |
| Posts  | 1 223.5                 | 1 520.6                        | 817.9  | 552.7  | 1 370.6   | 1 604.1  |
| Compensation to judges                               | 174.2                   | 149.4                          | 85.6   | 58.9   | 144.5   | 149.4  |
| Consultants and experts                              | 25.6                    | 27.6                           | 19.5   | 8.1  | 27.6  | 27.1   |
| Travel   | 59.2                    | 211.2                          | 129.3  | 52.3   | 181.6   | 208.3  |
| Contractual services                                 | 609.1                   | 619.0                          | 357.7  | 203.2  | 560.9   | 650.4  |
| General operating expenses                           | 370.1                   | 308.5                          | 170.3  | 80.3   | 250.6   | 290.0  |
| Supplies and materials                               | 16.0                    | 15.0                           | 9.7  | 5.4  | 15.1  | 15.0   |
| Furniture and equipment                              | 7.4                     | 5.0                            | –  | 5.0  | 5.0   | 5.0  |
| <b>Subtotal</b>                                      | <b>2 485.1</b>          | <b>2 856.3</b>                 | <b>1 590.0</b>                                   | <b>965.9</b>   | <b>2 555.9</b>  | <b>2 949.3</b>                                 |
| <b>Funds available</b>                               |                         |                                |  |  |   |  |
| Pledges, contributions and other income              | 75.0                    |                                | 12.4   | –  | 12.4  | 30.0   |
| Previous year's unspent balance                      | –                       |                                | –  | –  | –   | –  |
| Anticipated pledges                                  | –                       |                                | –  | 20.0   | 20.0  | –  |
| Amount of subvention used or authorized <sup>c</sup> | 2 410.1                 |                                | 2 537.0  | (13.5)   | 2 523.5   | –  |
| <b>Subtotal</b>                                      | <b>2 485.1</b>          |                                | <b>2 549.4</b>                                   | <b>6.5</b>   | <b>2 555.9</b>  | <b>30.0</b>                                    |
| <b>Surplus/(shortfall)</b>                           | <b>–</b>                |                                | <b>959.4</b>                                     | <b>(959.4)</b>   | <b>–</b>  | <b>(2 919.3)</b>                               |

<sup>a</sup> Approved by the Oversight Committee.

<sup>b</sup> The budget for 2022 in the amount of \$2,949,300 was approved by the Oversight Committee and consists of \$2,518,600 for non-judicial activities and \$430,700 for judicial activities.

<sup>c</sup> The amount of subvention used in 2020 will be reflected in the final performance report on the programme budget for 2020 and has been absorbed within the approved appropriation for 2020 under the regular budget. The final expenditures and related appropriation of the commitment authority for 2021 will be requested in the context of the financial performance report on the regular budget for 2021.

50. The assumptions forming the basis of the budget are derived from the operations of the Residual Special Court. They are subject to the Court continuing to carry out its functions at its interim seat in The Hague, with a sub-office in Freetown to manage certain functions, including witness and victim protection and support, defence issues and coordination of matters related to persons convicted by the Special Court for Sierra Leone.

51. The office of the Residual Special Court in The Hague comprises six positions: one Registrar (D-2), one Prosecution Legal Adviser (P-4), one Legal Officer (P-4) in the Office of the Registrar, one Archiving Officer (P-2), one Office Manager (P-2) and one Associate Legal Officer (P-1). In addition, one Local level position is funded from general temporary assistance to provide archiving support. The Court's sub-office in Freetown comprises seven positions: one Senior Legal Officer (P-4), one Associate Defence Legal Officer (P-1), three Witness Protection and Support Supervisor/Protection Officers (National Professional Officer), one Administrative

Assistant (Local level) and one Cleaner (Local level). The Court relies on short-term consultancies, expert services, interns and pro bono services to supplement its staffing resources, as and when necessary. Annex III to the present report provides the details of staffing requirements by category, level and location for 2022, which are the same as those in the approved budget for 2021.

52. In respect of the utilization of the commitment authority for 2020, the General Assembly, in section VI of its resolution [74/263](#), authorized the Secretary-General to enter into commitments in an amount not to exceed \$2,537,000 to supplement the voluntary financial resources of the Residual Special Court for the period from 1 January to 31 December 2020. On the basis of the final expenditure for 2020 and after accounting for voluntary financial resources, the Secretary-General utilized an amount of \$2,410,114 from the approved subvention to supplement the voluntary financial resources. The expenditure of \$2,410,114 is reported in the context of the audited financial statements and will be reported in the context of the financial performance report on the programme budget for 2020 and covered by the approved appropriation under the regular budget for 2020 reflected in Assembly resolution [74/264](#) A-C.

## V. Efficiency measures

53. Since the onset of the COVID-19 pandemic in March 2020, the Residual Special Court has continued to revise its fundraising strategy by cutting down on fundraising-related travel and increasingly relying on the use of telecommunication and social media platforms to raise awareness of its achievements and its funding challenges and to seek voluntary contributions. The pandemic has posed many challenges and has continued to compel organizations, such as judicial institutions, to increase their social media presence in order to execute their mandate. The Court has relied on various platforms to continue its fundraising activities during the pandemic through online meetings. Of the 66 bilateral fundraising meetings held since October 2020, all but 2 were held virtually.

54. The travel budget has been reduced from \$211,200 in 2021 to \$208,300 in 2022. The travel budget covers the cost of carrying out functions for which travel is required, such as the supervision of certain aspects of the enforcement of sentences and the protection of witnesses. The Residual Special Court will continue to explore opportunities for savings by combining official missions or performing its functions during third-party-sponsored travel whenever such travel occurs. With the assistance of the International Residual Mechanism for Criminal Tribunals, the Court has initiated the procurement of one vehicle with funds secured under funding for special project activities. Upon completion of the procurement process, the new vehicle will replace one of the two vehicles of the Court that has exceeded its useful lifespan.

55. The Residual Special Court has further revised its 2021 budget to reflect developments in its operations that could affect its 2022 budget requirements. The overall increase in the 2022 budget is \$114,900, due mainly to increases in salaries and post adjustment for staff in The Hague and in Freetown and contractual services. The increase was partially offset by a total decrease of \$21,900 derived from reductions in the judicial and non-judicial budget relating to travel, general operating expenses and consultants and experts. Therefore, the net increase in the 2022 budget from the 2021 budget is \$93,000 (\$2,949,300 compared with \$2,856,300).

56. To redouble and intensify its efforts to lower the cost of its core budget, the Residual Special Court has designed special projects for the implementation of activities ordered by the President of the Court or mandated by the statute of the Court. The cost of these activities is not included in the request for a subvention.

57. Adopting a more realistic approach to budgeting for the judicial activities of a residual mechanism remains a challenge owing to the uncertainty surrounding the nature and timing of the occurrence of such activities, some of which would arise depending on the actions of those convicted or if the fugitive, Mr Koroma, is apprehended. In the light of the significant challenge of mobilizing voluntary resources to meet the obligations under its statute, the Residual Special Court has deemed it necessary and in the interest of justice to anticipate the possibility of the occurrence of judicial activities and to be able to deal with them as and when they occur. For example, the pandemic-related applications filed by Mr. Taylor in 2020 were unanticipated. Investigations into allegations of attempted inducement of witnesses in 2021 and the conduct of prisoners spreading misinformation about the Court and its officials through social media were also unanticipated developments that could trigger ad hoc proceedings related to interference with the administration of justice. These unanticipated developments underscore the need for budgeting for judicial activities. Given these considerations, the estimated budget for judicial activities for 2022 is \$430,700, which represents a reduction of \$20,000 from the estimated requirements of \$450,700 for similar activities in 2021. In an attempt to continue with a more realistic approach to budgeting for judicial activities, costly judicial activities, such as the potential trial of Mr. Koroma and the review of judgment proceedings, have not been included in the budget even though these proceedings form part of the judicial mandate of the Court.

58. With regard to staffing, efficiency measures continue to be taken, with the Registrar being the only senior full-time staff member of the Residual Special Court. The President, the judges (called from the roster as and when needed), the Prosecutor and the Principal Defender all work remotely only as necessary and are remunerated on a pro rata basis. The Court also relies on short-term contractors, pro bono assistance and interns to supplement its staff resources. For example, short-term contractors were hired to conduct outreach related to the conditional early release of prisoners, conduct investigations into claims of inducement of witnesses, implement other special projects, as stated above, and carry out an inquiry ordered by the President of the Court into a prisoner's claim of misappropriation of family visit funds against the Registrar. Interns were recruited to assist the Office of the Prosecutor and work on legacy projects. The Court has also continued to retain the expert services of professionals, such as a press officer and a detention adviser, who are called upon to work on an ad hoc basis and only as necessary and are remunerated on a pro rata basis.

59. The Residual Special Court remains committed to increasing efficiency by sharing administrative arrangements and staffing structure. The sub-office of the Court in Freetown is co-located with the National Witness Unit. The interim seat of the Court in The Hague is co-located with and receives administrative and logistical support from the International Residual Mechanism for Criminal Tribunals on a cost-reimbursable basis. These administrative arrangements are without prejudice to the mandates of the respective entities.

60. In response to the pre-pandemic recommendation of the Advisory Committee on Administrative and Budgetary Questions for the Residual Special Court to explore the feasibility and cost-effectiveness of being co-located with the International Residual Mechanism for Criminal Tribunals in Arusha, United Republic of Tanzania, the Mechanism has offered to erect prefabricated office space in Arusha on a cost-reimbursable basis if the Court is interested. It is unclear how much that will cost. Under the current memorandum of understanding with the Mechanism, the annual rental fee for office space in The Hague, including utilities, is \$33,888. The Mechanism has also indicated that there is no space for the accommodation of the physical and digital archives of the Court in the Arusha office. While the Court



appreciates being informed of this development, it is unable to express an interest in the offer of office space because it does not meet all of the basic statutory requirements for the Court to be co-located with its archives. Article 7, paragraph 2, of the Agreement on the Establishment of a Residual Special Court for Sierra Leone states that the original archives shall be co-located with the Court. Currently, the original archives are located in the National Archives of the Netherlands in The Hague at no cost to the Court.

61. Over the course of the reporting period, the Residual Special Court has faced challenges resulting from the COVID-19 pandemic. Of the limited number of 13 full-time staff members of the Court, two were infected with the virus. Additionally, the plenary meeting of the judges has not yet been held, annual diplomatic briefings have not been held, the audits of the 2019 and 2020 accounts have been delayed, annual visits to supervise the conditions of imprisonment of the prisoners and family visits have been suspended, a limited number of field missions for witness protection purposes have been conducted and delays have been experienced in archiving.

## **VI. Fundraising and diplomatic relations**

62. The funding situation of the Residual Special Court remains a matter of serious concern for the United Nations, the Government of Sierra Leone, the principals of the Court and the Oversight Committee.

63. The Secretary-General addressed letters of appeal to all Member States in May 2021 to seek their financial support. In July 2021, the Government of Sierra Leone wrote to the Group of African States to draw its attention to the financial situation of the Residual Special Court and to seek funding for its activities.

64. The principals and staff members of the Residual Special Court have undertaken fundraising activities with diplomatic missions in Brussels, Freetown, The Hague and New York to broaden the donor base and garner financial support for the Court. The outreach events described above also served as platforms for fundraising. The fundraising meetings provide an opportunity to give briefings to interlocutors on the important work of the Court and its financial challenges.

65. From September to December 2020, bilateral meetings were held virtually between the Prosecutor and the Registrar in The Hague and representatives of Bangladesh, Cambodia, Cameroon, Iceland, Iraq, Kenya, Senegal and Sierra Leone.

66. More than 58 fundraising bilateral meetings have been held in 2021. All but two of the meetings were held virtually. More than 30 additional meetings are scheduled to be conducted virtually by December 2021.

67. Since January 2021, bilateral meetings have been held with representatives of the following countries in The Hague, Brussels, New York and Freetown: Albania, Australia, Bangladesh, Belgium, Benin, Brazil, Cambodia, China, Croatia, Cyprus, Denmark, Egypt, El Salvador, Estonia, Ethiopia, France, Georgia, Germany, Greece, Hungary, India, Ireland, Lithuania, Luxembourg, Madagascar, Mexico, Mongolia, Montenegro, Nigeria, Paraguay, Peru, Poland, Portugal, Romania, Russian Federation, Rwanda, Saint Vincent and the Grenadines, Singapore, Switzerland, Togo, Trinidad and Tobago, Uganda, United Kingdom, United Republic of Tanzania, United States of America and Viet Nam.

68. In-person diplomatic briefings will not be held in 2021 owing to COVID-19-related concerns.

69. In November 2020, the Registrar met in person with the newly appointed Attorney General and the Chief Justice of Sierra Leone to update them on the

activities of the Residual Special Court, in particular, the conditional early release application of Mr. Gbao. The maintenance of the Court site, including the courthouse, was also discussed. The discussions led to the visit by the Attorney General and the Chief Justice to the site on 23 November to determine how to proceed with regard to these important matters.

70. In February 2021, the Registrar held an in-person meeting with the Acting British High Commissioner to Sierra Leone to discuss matters of mutual interest and provide an update on the ongoing developments at the Residual Special Court.

71. In June 2021, the Registrar met in person with the Registrar of the International Residual Mechanism for Criminal Tribunals to discuss matters relating to the administrative sharing and cooperation between their respective entities.

72. Notwithstanding those efforts, which included a round of appeals to all 193 Member States made every year between 2015 and 2021, the adoption of innovative fundraising strategies and more than 470 fundraising meetings and diplomatic briefings since the Residual Special Court commenced operations in 2014, the financial situation of the Court remains dire, with minimal prospects for future voluntary contributions.

## **VII. Future financing arrangements for the Residual Special Court for Sierra Leone**

73. The Secretary-General continues to be concerned about the future financing of the Residual Special Court. Since 2015, the Court has not received sufficient voluntary contributions for its operations and has had to rely on subventions from the General Assembly. The Secretary-General concurs with the concern of the Advisory Committee on Administrative and Budgetary Questions regarding the sustainability of voluntary contributions to fund the activities of the Court ([A/75/7/Add.20](#), para. 25). The Secretariat has explored alternative options for the financing of the Court, consistent with article 3 of the Agreement on the Establishment of a Residual Special Court for Sierra Leone and with the conclusions and recommendations of the Advisory Committee ([A/67/648](#), para. 22; [A/70/7/Add.30](#), para. 21; [A/71/613](#), paras. 22 and 23; [A/72/7/Add.20](#), paras. 22 and 23; [A/73/580](#), para. 19; [A/74/7/Add.21](#), para. 20; and [A/75/7/Add.20](#), para. 25), which were endorsed by the Assembly in its resolutions [67/246](#), [70/248 A](#), [71/272 A](#), [72/262 A](#), [73/279 A](#), [74/263](#) and [75/253 A](#).

74. The Advisory Committee has previously suggested the possibility of including the Residual Special Court in the financing arrangements for the International Residual Mechanism for Criminal Tribunals ([A/67/648](#), para. 22). There continue to be mixed views, including reservations on the part of some members of the Security Council, regarding the idea of integrating the Court and the Mechanism. The Secretary-General notes in this regard that the Council is the parent organ of the Mechanism and the intergovernmental organ that provided the mandate for the establishment of the Court.

75. The Secretariat will continue to seek greater efficiencies and possible savings and economies of scale, including through further cost savings in relation to the administrative support provided by the International Residual Mechanism for Criminal Tribunals. The Secretary-General continues to believe, as stated in his report to the Security Council on the administrative and budgetary aspects of the options for possible locations for the archives of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda and the seat of the residual mechanism(s) of the Tribunals ([S/2009/258](#)), that there would be a certain

logic, and possibly economies of scale, in leaving the door open for each residual mechanism to be attached to one common administrative hub at some point in the future.

## VIII. End-of-service liabilities

76. In the event that the required funding for 2022 is not received, the extension of contracts for staff would not be possible, which would result in end-of-service liability payments due to staff. Those liabilities include staff entitlements and benefits payable upon separation amounting to approximately \$268,040.

77. The judges, the Prosecutor and the Principal Defender are not entitled to separation costs. However, the Residual Special Court may incur liability for any outstanding commitments at the time of closure.

78. Additional liabilities may arise from the discontinuation of witness protection and support and of sentence enforcement, as well as from outstanding obligations to vendors, contractors and other parties.

## IX. Conclusion and recommendations

79. **The Residual Special Court has used the commitment authority judiciously and, on the basis of current projections and expenditure thus far, anticipates that, of the \$2,537,000 in commitment authority received in 2021, an amount of \$2,523,500 will be required. The final amount will be determined at the end of the budget period and reported in the context of the financial performance report on the programme budget for 2021.**

80. **The Residual Special Court will continue to seek the provision of reimbursable logistical and administrative support from the International Residual Mechanism for Criminal Tribunals as a cost-efficiency measure. However, the Secretariat considers that there are no additional alternative options for the future financing arrangements for the Court to explore. In the light of consultations with members of the Security Council and the minimal prospects for voluntary contributions in the future, the alternative financing arrangement that would place the Court on a secure financing basis is funding from the United Nations.**

81. **Given the lack of adequate and sustained voluntary contributions for the Residual Special Court to fulfil its mandate, the Secretary-General requests the General Assembly:**

(a) **To take note of the present report and the use of the commitment authority approved for 2021;**

(b) **To take note that the subvention utilized in 2020 in the amount of \$2,410,100 is reflected in the financial performance report on the programme budget for 2020 and covered by the approved appropriation under the regular budget for 2020, resulting in no additional appropriation for 2020;**

(c) **To take note of the resource requirements of the Residual Special Court for the period from 1 January to 31 December 2022, estimated at \$2,949,300, to continue to fulfil its mandate;**

(d) **To appropriate an amount of \$2,919,300 under section 8, Legal affairs, by way of a subvention for 2022, for the Residual Special Court under the programme budget for 2022, with the understanding that any additional**

**voluntary contributions received would reduce the utilization of the funding provided by the United Nations, which would be reported in the financial performance report on the programme budget for 2022;**

**(e) To take note of the end-of-service liabilities for staff of the Residual Special Court, estimated at \$268,040.**

## Annex I

### Funds available for the Residual Special Court for Sierra Leone and actual expenditure as at 31 July 2021

#### A. Income as at 31 July 2021

(Thousands of United States dollars)

|   |                |
|---|----------------|
| Contributions received as at 31 July 2021                           | 11.9           |
| Other income, 1 January to 31 July 2021                             | 0.5            |
| Contributions anticipated and pledges, 1 August to 31 December 2021 | 20.0           |
| Amount of subvention authorized, 1 January to 31 December 2021      | 2 537.0        |
| <b>Total</b>  | <b>2 569.4</b> |

#### B. Expenditure as at 31 July 2021

(Thousands of United States dollars)

|              | <i>Disbursement</i> | <i>Commitment</i> | <i>Total expenditure</i> |
|--------------|---------------------|-------------------|--------------------------|
|              | <i>(a)</i>          | <i>(b)</i>        | <i>(c)=(a)+(b)</i>       |
| January      | 216.8               | –                 | 216.8                    |
| February     | 204.5               | –                 | 204.5                    |
| March        | 194.1               | –                 | 194.1                    |
| April        | 194.2               | –                 | 194.2                    |
| May          | 194.8               | –                 | 194.8                    |
| June         | 217.3               | 176.2             | 393.5                    |
| July         | 192.1               | –                 | 192.1                    |
| August       | -                   | -                 | -                        |
| September    | -                   | -                 | -                        |
| October      | -                   | -                 | -                        |
| November     | -                   | -                 | -                        |
| December     | -                   | -                 | -                        |
| <b>Total</b> | <b>1 413.8</b>      | <b>176.2</b>      | <b>1 590.0</b>           |

## Annex II

### Requirements of the Residual Special Court for Sierra Leone for 2022 by object of expenditure: non-judicial and judicial proceedings

(Thousands of United States dollars)

| <i>Object of expenditure</i> | <i>Non-judicial</i> | <i>Judicial</i>    | <i>Total</i>   |
|------------------------------|---------------------|--------------------|----------------|
| <i>(a)</i>                   | <i>(b)</i>          | <i>(c)=(a)+(b)</i> |                |
| Posts                        | 1 486.0             | 118.1              | 1 604.1        |
| Compensation to judges       | 49.8                | 99.6               | 149.4          |
| Consultants and experts      | 27.1                | –                  | 27.1           |
| Travel                       | 73.3                | 135.0              | 208.3          |
| Contractual services         | 600.4               | 50.0               | 650.4          |
| General operating expenses   | 262.0               | 28.0               | 290.0          |
| Supplies and materials       | 15.0                | –                  | 15.0           |
| Furniture and equipment      | 5.0                 | –                  | 5.0            |
| <b>Total</b>                 | <b>2 518.6</b>      | <b>430.7</b>       | <b>2 949.3</b> |

## Annex III

### Staffing requirements

#### A. Staffing requirements for the Residual Special Court for Sierra Leone in 2021 and 2022 on a full-time basis

| Location           | Professional category and above |          |          |          |          |          |          | National staff                |             |          | Total     |
|--------------------|---------------------------------|----------|----------|----------|----------|----------|----------|-------------------------------|-------------|----------|-----------|
|                    | Under-Secretary-General         | D-2      | P-4      | P-3      | P-2      | P-1      | Subtotal | National Professional Officer | Local level | Subtotal |           |
| The Hague          | –                               | 1        | 2        | –        | 2        | 1        | 6        | –                             | –           | –        | 6         |
| Freetown           | –                               | –        | 1        | –        | –        | 1        | 2        | 3                             | 2           | 5        | 7         |
| <b>Total, 2021</b> | <b>–</b>                        | <b>1</b> | <b>3</b> | <b>–</b> | <b>2</b> | <b>2</b> | <b>8</b> | <b>3</b>                      | <b>2</b>    | <b>5</b> | <b>13</b> |
| The Hague          | –                               | 1        | 2        | –        | 2        | 1        | 6        | –                             | –           | –        | 6         |
| Freetown           | –                               | –        | 1        | –        | –        | 1        | 2        | 3                             | 2           | 5        | 7         |
| <b>Total, 2022</b> | <b>–</b>                        | <b>1</b> | <b>3</b> | <b>–</b> | <b>2</b> | <b>2</b> | <b>8</b> | <b>3</b>                      | <b>2</b>    | <b>5</b> | <b>13</b> |

Note: In addition to the 13 full-time positions, 1 position funded from general temporary assistance (Local level) would provide additional archiving support.

#### B. Staffing requirements for the Residual Special Court for Sierra Leone in 2021 and 2022 by location and component (sourced from the roster if required for judicial activity)

| Location and component | Professional category and above |          |          |          |          |          |          | National staff                |             |          | Total     |
|------------------------|---------------------------------|----------|----------|----------|----------|----------|----------|-------------------------------|-------------|----------|-----------|
|                        | Under-Secretary-General         | D-2      | P-4      | P-3      | P-2      | P-1      | Subtotal | National Professional Officer | Local level | Subtotal |           |
| The Hague              |                                 |          |          |          |          |          |          |                               |             |          |           |
| Judicial               | 3                               | –        | 1        | 1        | –        | –        | 5        | –                             | 4           | 4        | 9         |
| Non-judicial           | 2 <sup>a</sup>                  | –        | –        | –        | –        | –        | 2        | –                             | –           | –        | 2         |
| <b>Total, 2021</b>     | <b>5</b>                        | <b>–</b> | <b>1</b> | <b>1</b> | <b>–</b> | <b>–</b> | <b>7</b> | <b>–</b>                      | <b>4</b>    | <b>4</b> | <b>11</b> |
| The Hague              |                                 |          |          |          |          |          |          |                               |             |          |           |
| Judicial               | 3                               | –        | 1        | 1        | –        | –        | 5        | –                             | 4           | 4        | 9         |
| Non-judicial           | 2 <sup>a</sup>                  | –        | –        | –        | –        | –        | 2        | –                             | –           | –        | 2         |
| <b>Total, 2022</b>     | <b>5</b>                        | <b>–</b> | <b>1</b> | <b>1</b> | <b>–</b> | <b>–</b> | <b>7</b> | <b>–</b>                      | <b>4</b>    | <b>4</b> | <b>11</b> |

<sup>a</sup> It is expected that the President and the Prosecutor will be required for judicial activity, as necessary.

## Annex IV

## Total funding versus actual expenditure for judicial and non-judicial functions, 2014–2020

(United States dollars)

| Year              | Funding available for the year      |                                |  |  |  |  | Total funding available for the year<br>(g) = (b)+(c)+(d)+(e)+(f) | Commitment authority used<br>(h) | Actual full-year expenditure<br>(i) | Unspent balance<br>(j) = (g)-(i) | Commitment authority returned<br>(k) = (f)-(h) |
|-------------------|-------------------------------------|--------------------------------|--|--|--|--|---|----------------------------------|-------------------------------------|----------------------------------|--|
|                   | Approved budget <sup>a</sup><br>(a) | Balance brought forward<br>(b) | Contributions of the Government of Sierra Leone<br>(c) | International voluntary contributions<br>(d) | Interest earned and other adjustments<br>(e) | Commitment authority authorized by the General Assembly<br>(f) |   |                                  |                                     |                                  |  |
| 2014 <sup>b</sup> | 2 128.7                             | –                              | –  | 3 370.3                                      | (125.4)                                      | –  | 3 244.9   | –                                | 2 098.3                             | 1 146.6                          | –  |
| 2015              | 3 454.0                             | 1 146.6                        | –  | 2 681.4                                      | (68.8)                                       | –  | 3 759.2   | –                                | 2 569.4                             | 1 189.8                          | –  |
| 2016              | 3 596.3                             | 1 189.8                        | –  | 27.5   | 1.8  | 2 438.5  | 3 657.6   | 1 444.4                          | 2 718.0                             | 939.6                            | 994.1  |
| 2017              | 2 980.5                             | (54.5)                         | –  | 164.9  | (95.5)                                       | 2 800.0  | 2 814.9   | 2 800.0                          | 2 751.3                             | 63.6                             | –  |
| 2018              | 2 965.9                             | 63.6                           | –  | 264.1  | 32.2   | 2 300.0  | 2 659.9   | 2 300.0                          | 2 601.7                             | 58.2                             | –  |
| 2019 <sup>c</sup> | 2 984.6                             | 58.2                           | –  | 75.3   | 93.7   | 2 537.0  | 2 764.2   | 2 387.0                          | 2 564.8                             | 199.3                            | 150.0  |

## Annual budget period

| Year              | Funding available for the year      |                                |  |  |  |  | Commitment authority used<br>(g) | Total funding for the year<br>(h) = (b)+(c)+(d)+(e)+(g) | Actual full-year expenditure<br>(i) | Unspent balance<br>(j) = (h)-(i) | Commitment authority returned<br>(k) |
|-------------------|-------------------------------------|--------------------------------|--|--|--|--|----------------------------------|---|-------------------------------------|----------------------------------|--------------------------------------|
|                   | Approved budget <sup>a</sup><br>(a) | Balance brought forward<br>(b) | Contributions of the Government of Sierra Leone<br>(c) | International voluntary contributions<br>(d) | Interest earned and other adjustments<br>(e) | Commitment authority authorized by the General Assembly<br>(f) |                                  |   |                                     |                                  |                                      |
| 2020 <sup>d</sup> | 2 899.5                             | –                              | –  | 73.5   | 1.5  | 2 537.0  | 2 410.1                          | 2 485.1   | 2 485.1                             | –                                | –                                    |
| 2021 <sup>e</sup> | 2 856.3                             | –                              | –  | 31.9   | 0.5  | 2 537.0  | 2 523.5                          | 2 555.9   | 2 555.9                             | –                                | –                                    |

<sup>a</sup> Approved by the Oversight Committee.

<sup>b</sup> The Residual Special Court for Sierra Leone commenced operations in 2014.

<sup>c</sup> The remaining balance for 2019 of \$49,300, which is the difference between the unspent balance of \$199,300 and \$150,000 and consists of refunds of expenditure for 2019, was recorded in the financial statements for 2020 (statement V), and will consequently be reported under income section 2 in the financial performance report on the programme budget for 2020 and refunded to Member States. The amount of \$150,000 was returned in the context of the second performance report on the programme budget for the biennium 2018–2019 (A/74/570, para. 46).

<sup>d</sup> The amount of subvention used in 2020 will be reflected in the financial performance report on the programme budget for 2020 and has been absorbed within the approved appropriation for 2020 under the regular budget.

<sup>e</sup> The final expenditures and related appropriation of the commitment authority for 2021 will be requested in the context of the financial performance report on the regular budget for 2021.



## Annex V

### Summary of follow-up action taken to implement the relevant recommendations of oversight bodies

*Brief description of the recommendation*

*Action taken to implement the recommendation*

#### Advisory Committee on Administrative and Budgetary Questions

(A/75/7/Add.20)

While noting that the unencumbered balances for 2017 and 2018 were returned to member States, the Advisory Committee nonetheless considers that the tabular information contained in annex IV of the report of the Secretary-General (A/75/343) is unclear. Therefore, the Committee trusts that further clarification will be provided to the General Assembly at the time of its consideration of the present report and the information contained in the next budget submission will be aligned with the additional information provided in the context of the report of the Secretary-General on the request for a subvention to the Extraordinary Chambers in the Courts of Cambodia (A/75/242) (para. 11).

The Advisory Committee recalls that the subvention from the regular budget is a bridging financing mechanism approved with a view to supplementing insufficient voluntary contributions (see A/74/7/Add.21, para. 9, A/73/580, para. 18, and A/72/7/Add.20, para. 26). The Committee reiterates its recommendation that the General Assembly request the Secretary-General to return any unencumbered balance of commitment authority funds. The Committee trusts that all the unencumbered balances will be returned to Member States without delay (para. 12).

The Advisory Committee emphasizes again the ongoing need for intensified fundraising efforts by the Secretary-General, including by broadening the donor base of the Residual Special Court and by developing more innovative fundraising approaches (see also resolutions 74/263, sect. VI, para. 7, and 73/279 A, sect. III, para. 6). The Committee trusts that all efforts will be made to ensure the trend of increased voluntary contributions in 2017 and 2018 and that this trend will resume in future periods (para. 13).

As recommended by the Advisory Committee, annex IV of the present report has been aligned with the additional information provided in the context of the report of the Secretary-General on the request for a subvention to the Extraordinary Chambers in the Courts of Cambodia (A/75/242). In addition, the presentation for 2020 and 2021 has been revised to reflect the reporting requirements in an annual budget cycle.

Regarding the return of any unused balance of commitment authority funds, the Residual Special Court has been accounting for the unspent balances of the commitment authority funds received from the General Assembly on a yearly basis. As reflected in annex IV of the present report, the amount of \$49,256 relating to the budget period for 2019 has been recorded in the financial statements for 2020 (statement V) under income section 2 as a refund of prior-period expenditure and will be presented under income section 2 in the financial performance report on the programme budget for 2020.

The Residual Special Court, the Oversight Committee and the Secretary-General have continued to fundraise with the aim of not only sustaining the trend of voluntary contributions in 2017, 2018 and 2019, but of improving upon it. A total of \$366,055 was received in 2020 in contributions and pledges, which includes \$73,541 for core activities and \$292,514 earmarked for special project activities ordered by the President of the Court or mandated by the statute of the Court. These activities include outreach to and training of police officers and civil society on conditional early release, as ordered by the President, and the preservation of the public archives in Sierra Leone to promote and preserve the legacy of the Special Court for Sierra Leone, as mandated by article 7, paragraph 2, of the statute. Fundraising efforts have been ongoing and over 70 bilateral meetings are scheduled

The Advisory Committee continues to welcome the provision of in-kind contributions to the Residual Special Court and encourages further cooperation in support of the mandate of the Court, without prejudice to its independence and judicial requirements (see also [A/74/7/Add.21](#), para. 10, and [A/73/580](#), para. 9) (para. 14).

With respect to the requirement for travel, the Advisory Committee continues to stress that the Residual Special Court should strictly limit the travel requirements directly associated with its core function (see [A/74/7/Add.21](#), para. 15, [A/73/580](#), para. 13, [A/72/7/Add.20](#), para. 18, and [A/71/613](#), para. 18). In addition, the Committee trusts that information on the variances between the estimated expenditure for the current period and the proposed resources for the next period will be provided to the General Assembly at the

to be held virtually in 2021. In May 2021, the Secretary-General sent a letter of appeal for funding to all Member States. Contributions in the amount of \$41,933, which include the \$30,000 towards the Court's 2022 budget and \$11,933 for 2021, have been received. In addition, a pledge of \$20,000 for 2021 was made in response to the letter of the Secretary-General. In July, the Government of Sierra Leone sent a letter of appeal for funding to the Group of African States. Further details are provided in section VI of the present report.

The Auditor General of South Africa continues to conduct the annual audit of the Residual Special Court on a pro bono basis. However, the 2019 and 2020 accounts have not yet been audited. The delay is due to the pandemic-related challenges facing the Auditor General. Consultations are ongoing to have both accounts audited by September 2021. While the Auditor General remains committed to providing pro bono audit services, this experience has highlighted the need for the Court to seek additional pro bono assistance for auditing in order to mitigate the risks of delay or lack of service resulting from extraordinary circumstances. The United Kingdom of Great Britain and Northern Ireland continues to enforce the sentence of Charles Taylor and also hosts some of the Court's relocated witnesses at no cost to the Court. The Government of Rwanda continues to cover the cost of the enforcement of sentences of the Court's prisoners in Rwanda, with the exception of the cost of welfare, which is borne by the Court. The Government of the Netherlands continues to house the archives of the Court and provides other support at no cost to the Court. Canada remains committed to hosting annual diplomatic briefings to raise the profile of the Court and assist with fundraising at no cost to it. The Government of Sierra Leone continues to provide free office space and other services to the sub-office of the Court in Freetown at no cost to the Court. The United States of America, which was the largest donor of the Special Court for Sierra Leone and the Residual Special Court, continues to provide much-needed support to the latter Court at no cost to allow it to fulfil its mandate.

The travel budget has been reduced from \$211,200 in 2021 to \$208,300 in 2022. The travel budget covers the cost of carrying out functions for which travel is required, such as the supervision of certain aspects of the enforcement of sentences and the protection of witnesses. The Residual Special Court will continue to explore opportunities for savings by combining official missions or performing its functions during third-party-sponsored travel whenever such travel occurs. With the assistance of the International

*Brief description of the recommendation**Action taken to implement the recommendation*

time of its consideration of the present report and that updated information will be included in the next budget submission (para. 17).

The Advisory Committee recalls that the General Assembly stressed the need for the Residual Special Court to adopt a realistic approach to budgeting reflecting actual needs (see resolution [72/262 A](#), sect. VIII, para. 5). While recognizing that the occurrence of the judicial functions of the Residual Special Court may not be fully anticipated, the Committee continues to emphasize that resources for judicial activities should be based on past experiences, best available projections and the identification of further operational efficiencies, without prejudice to the judicial requirements of the Court (see [A/74/7/Add.21](#), para. 14, [A/73/580](#), para. 12, [A/72/7/Add.20](#), para. 15, and [A/71/613](#), para. 16) (para. 18).

The Advisory Committee recalls that the General Assembly has requested the Secretary-General to identify possible savings and additional measures on transparency, accountability and cost efficiency of the use of the commitment authority (see resolution [73/279 A](#), sect. III, para. 8). The Committee notes the efforts undertaken so far. However, in view of the persistent funding challenges facing the Residual Special Court, the Committee trusts that the Residual Special Court will redouble its efforts to lower the costs of its operations (see [A/74/7/Add.21](#), para. 19, [A/73/580](#), para. 16, and [A/72/7/Add.20](#), para. 19) (para. 22).

The Advisory Committee reiterates, once again, its concern regarding the sustainability of voluntary contributions to fund the activities of the Residual Special Court (see [A/74/7/Add.21](#), para. 20, [A/73/580](#), para. 19, [A/72/7/Add.20](#), para. 23, [A/71/613](#), para. 23 and [A/70/7/Add.30](#), para. 21). The Committee therefore recommends that the General Assembly request the Secretary-General to continue to analyse the options concerning the long-term arrangements for the Residual Special Court in greater detail, including by identifying possible savings and economies of scale, and to report to it thereon and on the use of the commitment authority in the next budget submission (para. 25).

Residual Mechanism for Criminal Tribunals, the Court has initiated the procurement of one vehicle with funds secured under funding for special project activities. Upon completion of the procurement process, the new vehicle will replace one of the two vehicles of the Court that has exceeded its useful lifespan. The variances between the estimated expenditure for 2020 and the proposed resource requirements for 2021 have been included in table 2 of the present report.

Information is provided in paragraph 57 of the present report.

Information on such efforts is provided in section V of the present report.

Information on such options is provided in section V of the present report.