



# General Assembly

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## Seventy-second session

Item 137 of the provisional agenda\*

**Proposed programme budget for the biennium 2018-2019**

### **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 General Assembly resolution [71/272](#) of 23 December 2016, by which the Assembly, inter alia, authorized the Secretary-General to enter into commitments in an amount not to exceed \$2.8 million to supplement the voluntary financial resources of the Residual Special Court for Sierra Leone for the period from 1 January to 31 December 2017 as a bridging financing mechanism, and requested him to report, during the main part of the seventy-second session of the Assembly, on the use of the commitment authority, including the updated information on the sustainable future financing of the Court. The report addresses the use of the commitment authority and future financing arrangements for the Court and contains a request for a subvention of \$5,931,800 to enable the Court to continue to carry out its mandate during the biennium 2018-2019.

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\* [A/72/150](#).



## 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 shall be borne by voluntary contributions from the international community. The parties and the Oversight Committee may explore alternative means of funding the Court. This funding arrangement has posed serious challenges for the continued sustainability of the Court and the effective discharge of its functions. Since 2015, the Court has not received sufficient voluntary contributions for its operations and has had to rely on subventions from the regular budget.

2. In his letter dated 25 July 2017 ([S/2017/665](#)), the Secretary-General informed the Security Council that there would not be sufficient voluntary contributions for the continuation of the work of the Residual Special Court beyond 2017. He expressed his intention to propose to the General Assembly that the costs of the Court for the biennium 2018-2019 be provided through a subvention under the assessed programme budget. The Secretary-General indicated that the proposal would be a temporary measure to address the current financial situation.

3. In his reply dated 1 August 2017 ([S/2017/666](#)), the President of the Security Council informed the Secretary-General that the members of the Council had taken note of the intention expressed in the letter from the Secretary-General.

4. In 2016, the Secretary-General made a request to the General Assembly for a subvention of \$2,980,500 to carry out the mandate of the Residual Special Court in 2017. Having considered the report of the Secretary-General ([A/71/386](#)) and the relevant report of the Advisory Committee on Administrative and Budgetary Questions ([A/71/613](#)), by its resolution [71/272](#) of 23 December 2016, the Assembly authorized the Secretary-General to enter into commitments in an amount not to exceed \$2.8 million to supplement the voluntary financial resources of the Court for the period from 1 January to 31 December 2017 as a bridging financing mechanism. The Assembly also endorsed the conclusions and recommendations of the Advisory Committee, including the recommendation that the Assembly request that the Secretary-General further analyse the options concerning the future financing arrangements for the Court in greater detail and develop additional alternatives. The Assembly requested the Secretary-General to report on the use of the commitment authority, including the updated information on the sustainable future financing of the Court, during the main part of the seventy-second session. Accordingly, the present report addresses the use of the commitment authority granted for the Court for the period from 1 January to 31 December 2017 and the sustainable future financing of the Court.

5. At the time of the drafting of the current report, the Residual Special Court had received a total of \$150,000 in voluntary contributions and there were no pledges or prospects for additional voluntary contributions. Therefore, the Court will not have sufficient funds from voluntary contributions to continue its operations during the biennium 2018-2019 despite the intensified efforts of the Secretary-General, the Government of Sierra Leone, key donors of the Court, including the States members of the Oversight Committee and the principal officials of the Court, to raise voluntary contributions. Consequently, the Court will require funding in the amount of \$5,931,800 for the period from 1 January 2018 to 31 December 2019.

## II. Historical background

6. The Residual Special Court was established by the aforementioned Agreement between the United Nations and the Government of Sierra Leone 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 Special Court was established by 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 indicted 13 individuals. Three indicted persons died and one remains at large. Nine individuals, including Charles Ghankay Taylor, former President of Liberia, were convicted and sentenced to terms of imprisonment ranging from 15 to 52 years.

7. The Special Court closed on 31 December 2013, having completed its mandate, and passed on its residual functions to the Residual Special Court. These important and ongoing functions include: supervising the enforcement of sentences; reviewing convictions and acquittals; conducting contempt of court proceedings or referring them to national jurisdictions; providing witness and victim protection and support; maintaining, preserving and managing the archives of the Special Court 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. The Residual Special Court also has the power to prosecute the remaining fugitive, Johnny Paul Koroma, should he be alive and if his case is not referred to a competent national jurisdiction.

8. The Residual Special Court, which commenced operations on 1 January 2014, has an interim seat in The Hague, 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 between the United Nations and the Government of 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 for Sierra Leone

9. Since the commencement of the operations of the Residual Special Court on 1 January 2014, significant progress continues to be made to review and build on the necessary structures and systems for the proper functioning of the institution. Personnel policies, such as the policy on compensation for injury, illness or death attributable to the performance of official Residual Special Court for Sierra Leone duties, are being reviewed. In addition, at the 3rd plenary meeting, held on 1 and 2 December 2016, certain amendments to the Rules of Procedure and Evidence of the Residual Special Court were adopted, such as rule 26 to allow for voting in absentia by written instructions to proxy at plenary meetings.

10. In May 2017, the Residual Special Court initiated a review of its Rules Governing the Detention of Persons Awaiting Trial or Appeal or in Custody under the Supervision of the Residual Special Court. The rules are intended to replace the Rules Governing the Detention of Persons Awaiting Trial or Appeal before the Special Court for Sierra Leone or Otherwise Detained on the Authority of the Special Court for Sierra Leone, which were last amended on 14 May 2005. They address the specific aspect of the supervision by the Residual Special Court of the conditions of enforcement of sentences of convicted persons pursuant to article 23 (2) of the statute of the Residual Special Court. The Court is taking stock of the amended United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), adopted by the General Assembly on 17 December 2015 in the annex to its resolution [70/175](#). That work is in progress and should be completed by June 2018.

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

11. The Residual Special Court continues to carry out ongoing residual functions of the Special Court for Sierra Leone, including with respect to witness protection, supervision of the 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 Court conducts ad hoc proceedings, which occur from time to time. The following section provides an overview of those activities.

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

12. 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 over 100 witnesses in Sierra Leone, as well as to those witnesses located outside Sierra Leone, and maintains updated information on the witnesses through regular contact. The Office also conducted a nationwide comprehensive threat assessment for all witnesses, including those located in Liberia, during the second half of 2016 and the first quarter of 2017. The Registrar commissioned an expert, the former Chief of Office of the Special Court, to oversee the assessment and carry out the relevant survey. The assessment provided a complete evaluation of the needs of witnesses and victims, including psychosocial, security and support needs. It highlighted the fact that a very high level of threat exists for some witnesses, while the level of threat has stabilized or has decreased for others. Upcoming elections in Liberia and Sierra Leone in October 2017 and March 2018, respectively, are increasing security concerns among some witnesses. Meanwhile, the Office continues to implement protective measures, such as relocation, and provides welfare and medical assistance to vulnerable witnesses, including, where appropriate, surgical operations.

13. In early 2017, the Office also conducted missions to various regions of Sierra Leone in order to obtain the views of victims and witnesses concerning the application for conditional early release of Allieu Musa Kondewa, who was convicted by the Special Court for Sierra Leone.

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

14. The Residual Special Court continues to hold various judicial and administrative proceedings, including consideration of conditional early release applications and hearings pertaining to the violation and enforcement of conditional early release. Moreover, as referred to above, on 21 September 2016, Allieu Musa Kondewa, former member and High Priest of the Civil Defence Forces, who was

convicted of war crimes and crimes against humanity and sentenced to 20 years of imprisonment, filed an application before the President of the Court for determination of his eligibility for conditional early release. The application was filed pursuant to articles 2 and 3 of the Practice Direction on the Conditional Early Release of Persons Convicted by the Special Court for Sierra Leone. On 2 December 2016, the President found that Mr. Kondewa was eligible to be considered for conditional early release, *inter alia*, having completed two-thirds of his sentence and having complied with various conditions. On 29 May 2017, the President of the Court granted the application for conditional early release subject to several conditions, including Mr. Kondewa's remaining in custody for a further period of 10 months, with effect from 29 May 2017, to undergo specific training on, *inter alia*, human rights and correct behaviour as a citizen of Sierra Leone. Following preparations of the training programme for Mr. Kondewa, the Office of the Registrar has been coordinating with the Rwandan authorities concerning its implementation. Mr. Kondewa is due to be released in March 2018, subject to satisfactory completion of his training and compliance with the imposed conditions of release.

15. On 28 February 2017, the *pro bono* counsel of Charles Ghankay Taylor provided the Residual Special Court with notification of his withdrawal as the legal representative of Mr. Taylor, with effect from 3 March 2017. On 27 March 2017, Steven Powles was appointed as *pro bono* counsel for Mr. Taylor. The Principal Defender also continued to provide Mr. Taylor with legal services required, in line with the statute, Practice Directions and Rules of Procedure and Evidence of the Court.

16. The last indictee of the Special Court for Sierra Leone, Johnny Paul Koroma, remains at large. His current status remains unclear. While trial testimony indicates that he may be deceased, stories circulate periodically that he may still be alive. None of those stories have, however, been substantiated.

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

17. Pursuant to article 23 of its statute, the Residual Special Court has the responsibility to supervise the enforcement of sentences for persons convicted by the Special Court. The Court currently has seven convicts in custody: one in the United Kingdom of Great Britain and Northern Ireland and six in Rwanda.

18. The Office of the Registrar and the Defence Office continue to maintain close contact with the authorities in the United Kingdom and Rwanda regarding the enforcement of sentences of the prisoners of the Special Court for Sierra Leone, including matters relating to family visits, conditions of imprisonment of the convicted persons, the provision of legal assistance and any other matters that arise which require action by the respective organs.

19. Independent monitoring authorities also continue to carry out annual assessments on the conditions of imprisonment of individuals convicted by the Special Court. The International Committee of the Red Cross conducted another visit of prisoners detained in Rwanda in May 2017 and will submit its report in due course to the President with a copy to the Registrar of the Residual Special Court.

20. Following the violation by Moinina Fofana of his conditional early release at the end of 2015 and pursuant to the disposition issued by Justice Vivian Margarette Solomon on 25 April 2016, Mr. Fofana is required to seek written permission from the Registrar prior to leaving Bo Town, Sierra Leone. The Defence Office has submitted requests on behalf of Mr. Fofana concerning his travels to other regions of the country in order to facilitate his livelihood and address family matters. The Registrar has undertaken the consideration of such requests and issued written authorizations, subject to certain conditions and ongoing supervision.

21. On behalf of the Registrar, the Prison Adviser of the Residual Special Court, Paul Wright, conducted an annual visit to the place of detention of Mr. Taylor from 18 to 21 November 2016. Mr. Wright met with Mr. Taylor, prison authorities and representatives from the National Offender Management Service concerning matters relating to the conditions of imprisonment of Mr. Taylor. The visit was also intended to ensure effective lines of communication between the respective parties. In January 2017, the Principal Defender of the Court also visited Mr. Taylor. The purpose of the visit was to consult with Mr. Taylor on his rights in prison and a wide range of attorney-client privilege matters.

22. On 30 November 2016, a one-day refresher training session on the conditional early release practice direction took place in Freetown. The training was carried out by Justices Shireen Fisher and Teresa Doherty with the assistance of the Principal Defender and his Associate Defence Legal Officer. Approximately 40 participants attended the training session, including members of the Monitoring Authority (the Sierra Leone Police) from all district headquarters towns in Sierra Leone, and civil society.

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

23. In keeping with the aspect of its mandate relating to the provision of assistance to national prosecuting authorities, the Residual Special Court has continued to receive and respond to requests for assistance from national authorities. To date, at least 22 such requests have received full responses through the Registry and the Office of the Prosecutor, while work continues on follow-up issues regarding further requests. Typically, the requests are for information on individuals accused of involvement in war-related crimes during the conflicts in Sierra Leone and Liberia and who now reside in the jurisdictions of the requesting authority under asylum or other status. The Court has also received at least six requests for State cooperation in interviewing certain convicts in relation to national proceedings. The Court provides full support to those States, consistent with its mandate. In addition, the Registry and the Office of the Prosecutor received and responded to requests for information or assistance from researchers engaged in academic and media projects.

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

24. The maintenance of the archives of the Special Court and the Residual Special Court is ongoing. Archivists continue to work to complete the archiving of all final Special Court documents and data. During the reporting period, the Residual Special Court, in coordination and consultation with the information technology section of the International Tribunal for the Former Yugoslavia and the Archives and Records Section of the International Residual Mechanism for Criminal Tribunals, upgraded the electronic records management software of the Court. Various functionality issues that prompted the upgrade have since been resolved. 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.

25. The original archives continue to be maintained at the Dutch National Archives in The Hague. Residual Special Court archivists have completed the compilation of a comprehensive index of all archives stored in The Hague. That index was subsequently reviewed by the Dutch National Archives. The index will then be annexed to the memorandum of understanding between the Ministry of Foreign Affairs of the Netherlands and the Residual Special Court on the conditions of storage and access to the archives of the Special Court.

## 6. Plenary of judges

26. At the 3rd plenary meeting of the judges, held in Freetown on 1 and 2 December 2016, the judges adopted amendments to the Rules of Procedure and Evidence of the Residual Special Court, which resulted in several changes to rules 18 (Election of the President), 19 (Functions of the President), 20 (The Vice-Presidency), 24 (Plenary meetings of the Residual Special Court) and 26 (Quorum and vote). In addition, the duration of the term of office of the President was reduced from three to two years in order to align it to the duration of the term of office of the Vice-President. The President also adopted amendments to the Practice Direction on the Conditional Early Release of Persons Convicted by the Special Court of Sierra Leone.

27. The plenary set up two working groups of three judges each to consider: (a) a draft code of professional ethics and conduct for judges; and (b) proposals for rule amendments submitted to the plenary with a view to making recommendations to a subsequent plenary.

28. The judges elected Justice Renate Winter of Austria as President, succeeding Justice Philip Waki of Kenya, who had served as President since the Residual Special Court commenced its operations in 2014. The judges also elected Justice Elizabeth Nahamya of Uganda and Justice Emmanuel Eku Roberts of Sierra Leone as Vice-President and Staff Appeals Judge, respectively. Moreover, President Waki formally welcomed a newly appointed judge, Justice Desmond Babatunde Edwards of Sierra Leone, to the Residual Special Court, in replacement of the late Justice George Gelaga King of Sierra Leone, who passed away in April 2016.

## 7. Legacy and outreach

29. The Special Court for Sierra Leone made a significant contribution to international criminal justice. Among other things, it was the first international criminal court in history to adjudicate cases on crimes relating to child soldiers, attacks on peacekeepers and forced marriage and to recognize forced marriage as a distinct crime against humanity. The preservation of the legacy of the Special Court 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 that regard, the judges of the Residual Special Court continue to participate in activities to promote the legacy of the Special Court and increase the profile of the Residual Special Court. The judges do so at no cost to the Residual Special Court. Their firm commitment to that cause and their desire to cement the legacy of the Special Court was discussed during the 3rd plenary meeting of the judges.

30. Since the most recent report of the Secretary-General ([A/71/386](#)), such activities, whereby Residual Special Court judges contribute to the Special Court legacy, have included (a) a lecture on gender justice in the field delivered by Justice Doherty at the Leiden University Summer School on Human Rights and Transitional Justice; (b) a presentation by Justices Fisher and Doherty organized by the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) in Jordan in October 2016, before an audience of judges from Jordan, Morocco, South Africa and Palestine on issues of violence against women, including presentation of evidence and the impact of cultural attitudes on the protection of women and girls against violence and oppression; (c) a briefing note delivered at the United Nations Office for Drugs and Crime in Vienna by Justice Winter at an expert group meeting in December 2016; (d) an address on the Special Court and the Residual Special Court witness and victims protection programme delivered by President Winter, acting in her capacity as Vice-Chair of the United Nations Committee on the Rights of the Child, to representatives of the Central African

Republic, the Democratic Republic of the Congo, Estonia, Malawi and Georgia; (e) an address on the case law of the Special Court on forced marriage delivered by President Winter, acting in her capacity as Vice-Chair of the Committee on the Rights of the Child, to representatives of Antigua and Barbuda, Barbados and Serbia; and (f) an address delivered by Justice Doherty to the International Law Association Irish branch on 30 March 2017 on the jurisprudential developments of the Special Court in the field of women's rights and of children's rights.

31. Still at no cost to the Residual Special Court, the Prosecutor continues to carry out activities pertaining to prosecutorial matters concerning the legacy of the Special Court and promoting the activities of the Residual Special Court. Such activities include the attendance of the Prosecutor at the Tenth International Humanitarian Law Dialogues commemorating the seventieth anniversary of the delivery of the Nuremberg Judgment, held in Nuremberg, Germany on 1 October 2016, the delivery of two international criminal law lectures to law students at Washington University in St. Louis, Missouri, United States of America, and her participation in a symposium on fighting impunity in East Africa at the Arusha branch of the International Residual Mechanism for Criminal Tribunals, on 6 June 2017.

32. The jurisprudential legacy project of the Special Court Appeals Chamber has been endorsed by the plenary of judges and will be finalized in due course. This will be an invaluable tool for jurists, researchers and the public, enabling them to access the findings of the Special Court in one resource and to compare the findings of the Special Court across multiple cases.

33. In the same vein, the Residual Special Court is initiating a similar project with respect to the procedural practice of the Special Court by compiling an online case law database. The project will provide the opportunity to take stock of the procedural practice of the Special Court and draw lessons learned in order to foster and enhance judicial efficiency. The online case law database will also provide long-term free-of-charge access to the Special Court case law. The project is expected to be completed by June 2018.

34. In December 2016, the Residual Special Court Registry launched its booklet, entitled *The Residual Special Court Made Simple*. This document provides information on the mission and functions of the Court in non-legal language and is accompanied by illustrations that communicate the same message. It is specially adapted to reach a wide sector of the public interested in the work of the Court, irrespective of their level of education, in Sierra Leone and other countries. It follows the earlier first and second editions of the booklet entitled *The Special Court Made Simple*, launched by the Special Court.

#### IV. Current financial situation

35. The Residual Special Court is able to continue its operations in 2017 with the subvention authorized by the General Assembly for the period 1 January to 31 December 2017. Thus far, the Court has received a total of \$150,000 in voluntary contributions. Despite the intensive fundraising efforts, there is still no prospect of obtaining voluntary contributions for the biennium 2018-2019. The current financial situation is such that the Court will be unable to continue its operations in 2018.

36. The resource requirements for the Residual Special Court amount to \$5,931,800. A breakdown of requirements by component and object of expenditure and funding availability is shown in tables 1 and 2 below.



37. Information on the availability of funds and expenditure to 30 June 2017 is contained in annex I to the present report. Information on the distribution of resources between non-judicial and judicial functions is contained in annex II.

Table 1

**Requirements by component and funding availability**

(United States dollars)

<i>Component</i>	<i>1 January- 31 December 2017 (estimated requirements)<sup>a</sup></i>	<i>1 January- 30 June 2017 (actual expenditure)</i>	<i>1 July- 31 December 2017 (projected expenditure)</i>	<i>1 January- 31 December 2017 (estimated expenditure)<sup>b</sup></i>	<i>1 January- 31 December 2018 (estimated requirements)<sup>a</sup></i>	<i>1 January- December 2019 (estimated requirements)<sup>a</sup></i>	<i>Total estimated requirements 2018-2019</i>
<i>Component</i>	<i>(a)</i>	<i>(b)</i>	<i>(c)</i>	<i>(d)=(b)+(c)</i>	<i>(e)</i>	<i>(f)</i>	<i>(g)=(e)+(f)</i>
<b>Expenditure/requirements</b>							
1. Chambers/judges/ judicial	572 800	131 300	119 800	251 100	589 700	589 700	1 179 400
2. Office of the Prosecutor	66 200	21 800	59 400	81 200	63 000	63 000	126 000
3. Registry	2 341 500	1 372 900	1 244 800	2 617 700	2 313 200	2 313 200	4 626 400
<b>Subtotal</b>	<b>2 980 500</b>	<b>1 526 000</b>	<b>1 424 000</b>	<b>2 950 000</b>	<b>2 965 900</b>	<b>2 965 900</b>	<b>5 931 800</b>
<b>Funds available</b>							
Pledges and contributions	—	—	—	100 000	—	—	—
Anticipated pledges	—	—	—	50 000	—	—	—
Amount of subvention received	—	—	—	2 800 000	—	—	—
<b>Subtotal</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>2 950 000</b>	<b>—</b>	<b>—</b>	<b>—</b>
<b>Surplus/(shortfall)</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>(2 965 900)</b>	<b>(2 965 900)</b>	<b>(5 931 800)</b>

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

<sup>b</sup> The budget for 2017 approved by the Oversight Committee amounted to \$2,980,500; the projected expenditure amounts to \$2,950,000. The lower projected expenditure is due to a reduction in judicial activity.

Table 2  
Requirements by object of expenditure and funding availability

(United States dollars)

<i>Object of expenditure</i>	<i>1 January– 31 December 2017 (estimated requirements)<sup>a</sup></i>	<i>1 January– 30 June 2017 (actual expenditure)</i>	<i>1 July– 31 December 2017 (projected expenditure)</i>	<i>1 January– 31 December 2017 (estimated expenditure)<sup>b</sup></i>	<i>1 January– 31 December 2018 (estimated requirements)<sup>a</sup></i>	<i>1 January– December 2019 (estimated requirements)<sup>a</sup></i>	<i>Total estimated requirements 2018-2019</i>
	(a)	(b)	(c)	(d)=(b)+(c)	(e)	(f)	(g)=(e)+(f)
<b>Expenditure/requirements</b>							
Posts	1 474 700	728 700	728 500	1 457 200	1 444 200	1 444 200	2 888 400
Compensation to judges	183 000	86 300	74 800	161 100	182 500	182 500	365 000
Consultants and experts	31 500	32 500	18 000	50 500	31 500	31 500	63 000
Travel	290 100	91 200	183 000	274 200	300 600	300 600	601 200
Contractual services	591 000	327 200	264 000	591 200	588 900	588 900	1 177 800
General operating expenses	394 600	252 600	145 600	398 200	400 200	400 200	800 400
Supplies and materials	10 600	7 500	5 100	12 600	13 000	13 000	26 000
Acquisition of furniture and equipment	5 000	–	5 000	5 000	5 000	5 000	10 000
<b>Subtotal</b>	<b>2 980 500</b>	<b>1 526 000</b>	<b>1 424 000</b>	<b>2 950 000</b>	<b>2 965 900</b>	<b>2 965 900</b>	<b>5 931 800</b>
<b>Funds available</b>							
Pledges and contributions	–	–	–	100 000	–	–	–
Anticipated pledges	–	–	–	50 000	–	–	–
Amount of subvention received	–	–	–	2 800 000	–	–	–
<b>Subtotal</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>2 950 000</b>	<b>–</b>	<b>–</b>	<b>–</b>
<b>Surplus/(shortfall)</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>(2 965 900)</b>	<b>(2 965 900)</b>	<b>(5 931 800)</b>

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

<sup>b</sup> The budget for 2017 approved by the Oversight Committee amounted to \$2,980,500; the projected expenditure amounts to \$2,950,000. The lower projected expenditure is due to a reduction in judicial activity.

38. The assumptions forming the basis of the budget are derived from the operations of the Residual Special Court. These 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 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. The Residual Special Court currently consists of 13 positions in the two locations.

39. The Residual Special Court office 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 position (Local level) funded from general temporary assistance provides archiving assistance. The Court 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 will rely on short-term consultancies, expert services, interns and pro bono services to supplement its staffing resources, as and when necessary.

40. Annex III to the present report provides the details of staffing requirements by category, level and location for 2018-2019, inclusive of judicial functions, the President and the Prosecutor at the Under-Secretary-General level, and the Principal Defender at the P-4 level.

## V. Efficiency measures

41. The Residual Special Court remains committed to increasing efficiency through sharing administrative arrangements and staffing structure. The sub-office of the Court in Freetown is co-located with the National Witness Unit, and its interim seat in The Hague is co-located and continues to share an administrative and technical platform with the International Tribunal for the Former Yugoslavia. Upon closure of the Tribunal in December 2017, the Court will be co-located with, and will receive administrative and logistical support from, the International Residual Mechanism for Criminal Tribunals.

42. In its report on the request for a subvention to the Residual Special Court (A/71/613), the Advisory Committee on Administrative and Budgetary Questions recommended that an assessment be carried out concerning the long-term implications of co-locating the Court with the International Residual Mechanism in The Hague, or alternatively in Arusha, in order to explore further efficiencies.

43. In response to the recommendation of the Advisory Committee on Administrative and Budgetary Questions, from June to August 2017, two Residual Special Court consultants conducted a comparative assessment of co-locating the offices of the Court with the International Residual Mechanism in The Hague and in Arusha. The consultants received the full cooperation of the Mechanism. They found that, at present, there is no space for the offices or archives of the Court in the premises of the Mechanism in Arusha. Assuming that office space and suitable archives space become available in those premises in the near future, the consultants estimated that the annual recurring costs for the Court could increase by approximately \$318,700 for staff and non-staff costs, from the estimated annual non-judicial costs for 2018-2019 in the amount of \$2,376,200 to \$2,694,900. In addition, the non-recurrent cost of relocating the office, including the data centre and the archives, from The Hague to Arusha would amount to approximately \$1,823,000. Moreover, relocation would present logistical challenges and operational risks, such as the potential loss of data and the temporary disruption of activities. The consultants considered the possibility of the data centre and archives of the Court remaining in The Hague, subject to the approval of the judicial organs of the Court. In that scenario, the consultants estimated that the non-recurrent relocation cost would amount to \$423,000.

44. 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 Principal Defender all work remotely only as necessary and are remunerated on a pro rata basis. A total of 13 staff members in full-time positions and 1 staff member in a general temporary assistance-funded position provide all of the required support services to the Court.

45. The Residual Special Court also relies on short-term contractors, pro bono assistance and interns to supplement its staff resources. For example, the Court used short-term contractors and current staff, rather than increasing staffing levels, for the administrative hearing in the matter of violation of the terms by Mr. Fofana of his conditional early release. The Court has also retained the expert services of professionals, such as a Press Officer and a Detention Adviser, who will be called

upon to work on an ad hoc basis only as necessary and will be remunerated on a pro rata basis. Moreover, the Auditor General of South Africa continues to conduct the annual audit of the Court on a pro bono basis.

46. However, under travel, it is a challenge to achieve efficiencies in light of the functions for which travel is required, for example, in the supervision of the enforcement of sentences and protection of witnesses.

## **VI. Intensive fundraising efforts**

47. The Oversight Committee, the principal officials of the Residual Special Court, the United Nations and the Government of Sierra Leone continue to engage in intensive fundraising efforts. Taking into account that the Advisory Committee on Administrative and Budgetary Questions stressed the ongoing need for intensified fundraising efforts by the Secretary-General, including by broadening the donor base for the Court, to secure funds for 2018 and 2019, the Secretary-General addressed letters of appeal to all States Members of the United Nations in April 2017 to seek their financial support.

48. The principal officials of the Residual Special Court have undertaken fundraising missions in order to broaden the donor base and garner financial support. The fundraising meetings provided an opportunity to brief interlocutors on the important work of the Court and its financial challenges.

49. Since January 2017, four diplomatic briefings were hosted on behalf of the Residual Special Court: two by the Mission of Canada in New York and The Hague in its capacity as Chair of the Oversight Committee, and one by the Mission of Cameroon in The Hague. Representatives of 64 diplomatic missions, in addition to two organizations, attended the diplomatic briefings in New York and The Hague. The fourth diplomatic briefing was held in Addis Ababa, following its inclusion on the agenda of the African Union Peace and Security Council at the request of the Ambassador of Sierra Leone in Addis Ababa. The briefing was attended by 40 participants, including 14 members of the African Union Peace and Security Council.

50. In addition, in April 2017, the principal officials of the Residual Special Court addressed 69 participants, including States representatives and agencies of the United Nations system, at an event in New York on the contribution of the Special Court regarding the accountability for sexual and gender-based violence. The event was organized by Professor Valerie Oosterveld of Western University and was co-sponsored by UN-Women and the Permanent Missions of Canada and Sierra Leone. A call for fundraising was made on that occasion.

51. As at July 2017, a total of 69 bilateral meetings had been held with representatives of the African Union Commission, the European Union delegation to Sierra Leone, Australia, Austria, Belgium, Bolivia, Brazil, Cameroon, Canada, China, Denmark, Ecuador, Egypt, Ethiopia, Finland, France, the Gambia, Germany, India, Ireland, Italy, Japan, Liberia, Luxembourg, Malaysia, the Netherlands, New Zealand, Nigeria, Norway, the Russian Federation, Rwanda, Sierra Leone, South Africa, Spain, Sweden, Switzerland, Turkey, the United Kingdom, the United States, Uruguay, Ukraine and the Bolivarian Republic of Venezuela and of non-governmental organizations, including Amnesty International, Human Rights Watch and Open Society Foundations.

52. Despite those efforts, three rounds of appeals to all 193 Member States made in 2015, 2016 and 2017, and over 258 fundraising meetings and diplomatic briefings since the Residual Special Court commenced operations in 2014, the financial

situation of the Court remains dire, with no prospects for future voluntary contributions.

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

53. The Secretary-General continues to be concerned about the future financing of the Residual Special Court. It is clear from the experience since 2015 that the operations of the Court cannot be sustained by voluntary contributions. Consistent with 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 and the conclusions and recommendations of the Advisory Committee on Administrative and Budgetary Questions ([A/67/648](#), para. 22, [A/70/7/Add. 30](#), para. 21, and [A/71/613](#), paras. 22 and 23), which were endorsed by the General Assembly in its resolutions [67/246](#), [70/248 A](#) and [71/272](#), the Secretariat has been exploring alternative options for the financing of the Court. These options include (a) funding from the Government of Sierra Leone and (b) funding from the United Nations and the provision of administrative support to the Court by the International Residual Mechanism for Criminal Tribunals. In paragraph 23 of its most recent report ([A/71/613](#)), the Advisory Committee recommended that the Assembly request the Secretary-General to further analyse the options in greater detail, develop additional alternatives concerning the long-term arrangements for the Court and report thereon in the context of the provision of the details on the use of the commitment authority. In paragraph 22 of its report to the Assembly at the sixty-seventh session ([A/67/648](#)), the Committee had also suggested the possibility of including the Court in the financing arrangements for the International Residual Mechanism.

54. The Secretary-General is grateful for the endorsement by the General Assembly of the provision of logistical and administrative support to the Residual Special Court by the International Residual Mechanism, on a cost-reimbursable basis, as appropriate and without prejudice to the mandate of the respective entities. The Secretary-General notes in this regard that the Mechanism will provide such support upon the closure of the International Tribunal for the Former Yugoslavia. Following more consultations and careful consideration, the Secretariat has not been able to identify any additional alternative financing options for the Court apart from those that have already been examined.

55. The Secretariat has further reviewed the options for financing the Residual Special Court that it had initially identified. The Office of Legal Affairs has consulted extensively with members of the Oversight Committee and has held discussions with the senior officials of the Court. In addition, the Office has held informal bilateral consultations with members of the Security Council. Those consultations elicited mixed views, including reservations on the part of some members regarding the idea of integrating the Court and the International Residual 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.

56. The Secretariat will seek to assess the potential for achieving greater efficiencies through a closer association between the Residual Special Court and the International Residual Mechanism, as appropriate and without prejudice to the mandate and identity of either institution, which would not amount to a merger of the two institutions. In that connection, the Secretary-General continues to believe, as stated in his report submitted 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) for the Tribunals of 21 May 2009 (S/2009/258), that there would be certain logic, and possibly economies of scale, in leaving the door open for residual mechanisms to be attached to one common administrative hub at some point in the future.

## **VIII. Conclusion and recommendations**

57. The Residual Special Court has used the commitment authority judiciously and, on the basis of current projections and expenditure thus far, it anticipates that the full amount of the \$2.8 million in commitment authority would be used and reported in the context of the second performance report on the programme budget for the biennium 2016-2017.

58. The Secretariat has further explored alternative options for the future financing arrangements for the Residual Special Court and considers that there are no additional alternative options to explore. In light of the 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 and the provision of logistical and administrative support to the Court by the International Residual Mechanism for Criminal Tribunals.

59. 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 approve a subvention in the amount of \$5,931,800 for the period from 1 January 2018 to 31 December 2019 for the Residual Special Court for Sierra Leone, with the understanding that any voluntary contributions received would reduce the utilization of the funding provided by the United Nations, which would be reported in the performance reports on the programme budget for biennium 2018-2019;

(b) To appropriate an amount of \$5,931,800 as a subvention to the Residual Special Court for Sierra Leone under section 8, Legal affairs, of the proposed programme budget for 2018-2019.

## Annex I

### Funds available for the Residual Special Court for Sierra Leone and actual expenditure as at 30 June 2017

#### A. Income as at 30 June 2017

(United States dollars)

Cash balance brought forward as at 1 January 2017	–
Contributions received from 1 January to 30 June 2017	100 000
Contributions anticipated and pledges, 1 July to December 2017	50 000
Amount of subvention received	2 800 000
<b>Total</b>	<b>2 950 000</b>

#### B. Expenditure as at 30 June 2017

(United States dollars)

	<i>Disbursement</i>	<i>Obligation</i>	<i>Total expenditure</i>
	<i>(a)</i>	<i>(b)</i>	<i>(c)=(a)+(b)</i>
January	211 284	35 000	246 284
February	209 172	35 000	244 172
March	215 441	35 000	250 441
April	211 735	35 000	246 735
May	244 976	39 000	283 976
June	214 392	40 000	254 392
July	–	–	–
August	–	–	–
September	–	–	–
October	–	–	–
November	–	–	–
December	–	–	–
<b>Total</b>	<b>1 307 000</b>	<b>219 000</b>	<b>1 526 000</b>

## Annex II

## Requirements by object of expenditure: non-judicial and judicial proceedings

Object of expenditure	Non-judicial			Judicial			Total
	2018	2019	Subtotal	2018	2019	Subtotal	
	(a)	(b)	(c)=(a)+(b)	(d)	(e)	(f)=(d)+(e)	
Posts	1 284 200	1 284 200	2 568 400	160 000	160 000	320 000	2 888 400
Compensation to judges	52 800	52 800	105 600	129 700	129 700	259 400	365 000
Consultants and experts	31 500	31 500	63 000	—	—	—	63 000
Travel	122 600	122 600	245 200	178 000	178 000	356 000	601 200
Contractual services	538 900	538 900	1 077 800	50 000	50 000	100 000	1 177 800
General operating expenses	328 200	328 200	656 400	72 000	72 000	144 000	800 400
Supplies and materials	13 000	13 000	26 000	—	—	—	26 000
Furniture and equipment	5 000	5 000	10 000	—	—	—	10 000
<b>Total</b>	<b>2 376 200</b>	<b>2 376 200</b>	<b>4 752 400</b>	<b>589 700</b>	<b>589 700</b>	<b>1 179 400</b>	<b>5 931 800</b>



## Annex III

### Staffing requirements

#### A. Staffing requirements for the Residual Special Court for the biennium 2018-2019 on a full-time basis

Location	Professional category and above							National staff			Total
	USG	D-2	P-4	P-3	P-2	P-1	Subtotal	National Officer	Local level	Subtotal	
The Hague	–	1	2	–	2	1	6	–	–	–	6
Freetown	–	–	1	–	–	1	2	3	2	5	7
<b>Total</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 the biennium 2018-2019 by location and component (sourced from the roster if required for judicial activity)

Location and component	Professional category and above							National staff			Total
	USG	D-2	P-4	P-3	P-2	P-1	Subtotal	National Officer	Local level	Subtotal	
The Hague											
Judicial	3	–	2	1	–	–	6	–	5	5	11
Non-judicial	2 <sup>a</sup>	–	–	–	–	–	2	–	–	–	2
<b>Total</b>	<b>5</b>	<b>–</b>	<b>2</b>	<b>1</b>	<b>–</b>	<b>–</b>	<b>8</b>	<b>–</b>	<b>5</b>	<b>5</b>	<b>13</b>

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