



Security Council

Distr.: General
8 April 2024

Original: English

Letter dated 8 April 2024 from the Secretary-General addressed to the President of the Security Council

In my report dated 26 February 2024 on the situation in South Sudan (S/2024/188), I informed the Security Council of my intention to undertake an assessment as to whether a “critical mass” of progress has been achieved in the implementation of key benchmarks in the Revitalized Agreement on the Resolution of the Conflict in South Sudan, as set out in the road map adopted by the parties in August 2022.

Since its independence in 2011, South Sudan has experienced two bitter civil conflicts. With the support of the international community, those conflicts were addressed first through a Cessation of Hostilities Agreement in 2017, followed by the 2018 Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan. The Revitalized Agreement has provided the existing framework for peace that has sustained and provided for the current structure of governance. The Revitalized Agreement and associated road map contemplate that a transition period will be brought to an end in February 2025 by the conduct of “free, fair and peaceful elections” in December 2024.

The primary aim of this assessment, therefore, is to consider whether the minimum political and technical preconditions for a peaceful electoral process that would be deemed credible by the people of South Sudan exist and, if not, what political decisions and resources are required to achieve that objective.

The outstanding benchmarks reviewed here were agreed to by the parties to the Revitalized Agreement to avoid a resumption of conflict. The Revitalized Agreement provides the pathway towards sustainable peace in South Sudan. The Security Council, recognizing the lead of the Intergovernmental Authority on Development (IGAD) and the African Union, mandated the United Nations to support IGAD and the African Union in monitoring the implementation of the Revitalized Agreement. In view of the recent public declarations of support for elections in South Sudan by both IGAD and the African Union, the United Nations, too, stands in support. The United Nations will continue to be guided by the relevant mandates of the Security Council in that regard.

The United Nations recognizes that the conduct of national elections is the sovereign right of the Government and people of South Sudan. The United Nations can only provide an assessment on the fulfilment of the electoral preconditions and what is needed to promote a credible and accepted process so that elections do not become a driver for conflict. Preventing civil war in South Sudan is the primary mandate assigned to the United Nations Mission in South Sudan (UNMISS) by the Security Council.



By its resolution 2567 (2021), the Security Council requested a needs assessment mission to ascertain, among others, “the security, procedural and logistical requirements” to create an enabling environment for elections in South Sudan. The needs assessment mission recommended that United Nations electoral assistance be provided in two phases (see S/2021/661). The first phase would focus on support to establishing an enabling environment and building the capacity to hold elections; and only thereafter, in a second phase, determine and support the precise needs of South Sudan to conduct the actual elections as negotiated by the parties.

In July 2023, UNMISS, together with the African Union and IGAD as the trilateral mechanism, presented to the Transitional Government and the political parties through the joint task force for the implementation of constitution-making and electoral processes, a list of 10 key priority decisions and related questions. These required immediate attention to allow for the organization of a credible and accepted electoral process. The presentation of the list was prompted by the delays in implementing the preparations required for elections and by a lack of clarity on planning and budgeting for the elections. However, there has been no formal response to the list.

At the beginning of 2024, in view of the delays in the implementation of the Revitalized Agreement and the prevailing uncertainty, UNMISS requested an internal follow-up needs assessment mission. The follow-up needs assessment mission observed that essential election tasks and preconditions continued to remain behind schedule and substantial progress was necessary. The assessment also concluded that South Sudanese stakeholders remained in urgent need of technical, legal and operational expertise and assistance for elections to be conducted in December 2024 or after. It further noted a lack of progress in operationalizing the three critical electoral commissions and highlighted the extensive list of administrative and other tasks required in a short span of time.

On the basis of the above, the critical preconditions can be grouped into three categories: (a) technical preparations; (b) political and security preparations; and (c) legislative reform.

Technical preparations

Necessary electoral institutions

Progress was made on the establishment of the necessary electoral institutions through the adoption of relevant legislation, such as the Political Parties Act 2012 (Amendment) Act 2022; the Constitution-Making Process Act (2022); and the National Elections Act, 2012 (Amendment) Act, 2023. In addition, the National Constitutional Review Commission, the Political Parties Council and the National Election Commission were reconstituted. Furthermore, the National Bureau of Statistics was requested to provide an assessment on the timeline for the conduct of a census. All of the above institutions have yet to receive funding and therefore are far from assuming an operational role. The disbursement of funds is necessary in order for the institutions to prepare their workplans, including the hiring and training of staff, procuring equipment and securing office space. The prevailing economic challenges in South Sudan are likely to further compound the difficulties related to the provision of resources for these electoral processes and institutions.

Decision on the level of elections

The parties are yet to determine the type and number of elections to be conducted before the end of the transitional period. Holding multiple elections at the national, state and local levels (10 in the case of South Sudan) on the same day would be challenging. In order to allow for planning, budgeting and staffing, it is vital and urgent that a decision be made on how many elections will be held at the same time.

Boundary delimitation process

The census, which is the basis for the boundary delimitation process for the implementation of first-past-the-post legislative elections, as envisaged in the National Elections Act, has also been delayed. The National Bureau of Statistics has indicated that it would require at least 16 months to complete a census. This exceeds the deadline for elections by December 2024. In addition, the National Elections Act prescribes that boundary delimitation should be completed at least 12 months before a general election. The combined provisions make the legal framework incompatible with holding first-past-the-post legislative elections within the current deadline. No steps have so far been taken to conduct a census.

Voter registration

The electoral legal framework timelines require a voter registration process to be completed six months ahead of election day – in other words, by June 2024. The rainy season, which starts in April, places difficulties on the implementation of the voter registration exercise. Moreover, voter registration, which is inherently a complex and labour-intensive process, necessitates consensus among the political parties regarding its principles and modalities. Considering the June 2024 deadline for the completion of the voter registration process, the fact that the National Election Commission is unlikely to be fully operational before the end of April indicates the difficulty in meeting that timeline. In addition, there has been no discussions on the specific approaches to be adopted regarding voter registration.

Participation of refugees and internally displaced persons

The participation of a large portion of the most vulnerable population in South Sudan, refugees and internally displaced persons, is not specifically regulated in the National Elections Act and will require decisions for their enfranchisement and to mitigate potential community-level violence. The parties have yet to discuss and engage on the modalities of the participation of internally displaced persons and refugees in the envisaged elections. The Revitalized Agreement is unclear on the modalities for the return of refugees. However, involuntary returns would be contrary to international law, and the return of refugees is unlikely to be fully completed by December 2024.

Electoral dispute resolution

An agreement on an electoral dispute resolution mechanism also remains pending. Without such a mechanism, an effective electoral framework, which would enable the resolution of disputes between the parties, as well as the protection of electoral rights, cannot be established. As a result, conflict resolution and the mitigation of possible electoral violence would be difficult. Aggrieved parties and voters may find themselves with no alternative but to express their grievances through public demonstrations or violent protests.

Results management

The National Elections Act prescribes a 48-hour timeline for the declaration of final electoral results after the counting of votes, without distinguishing between the different types of elections and levels. That timeline may lead to unrealistic expectations for an early announcement despite the logistical challenges in South Sudan. Notably, stakeholders have underscored the need for an agreement between the parties on the announcement of the electoral outcome.

Political and security preparations

Political and civic space and level playing field

Under the Revitalized Agreement, it is expected that the South Sudanese leaders will meet and foster an atmosphere of trust and tolerance and that this trust extends beyond the political leadership to include political parties and the electorate.

Article 1.9.1 of the Revitalized Agreement emphasizes the need for “collaboration in decision-making and continuous consultations within the Presidency, including the President, the First Vice President and the Four Vice Presidents, to ensure effective governance during the Transitional Period”. However, engagements between the President and the First Vice President have remained limited.

The establishment of a secure and inclusive civic and political environment is critical to facilitating the engagement of all South Sudanese citizens in an electoral process so that they perceive it as both fair and transparent. Concerns remain regarding restrictions on the freedoms of opinion, expression, peaceful assembly and association. Reports on the detention of activists and journalists, as well as restrictions placed on the media, remain consistent. This has prompted requests from both political parties and civil society organizations for an expansion of the political and civic space, along with the necessary guarantees to be able to exercise political freedoms without fear.

Some opposition parties have called for amendments to articles 54 and 55 of the National Security Act 2014, which grant the National Security Service – the security agency largely tasked with overseeing the conduct of elections – the power of arrest. The amendment bill is under consideration in Parliament.

A level political playing field is critical for the legitimacy of any electoral event. No party should be seen as receiving preferential political treatment, including unilateral access to state resources.

The procedures for the registration of political parties have raised concern among several South Sudanese actors, including civil society actors. The Political Parties Council has set the registration fees for political parties at \$75,000 to complete the process. Those registration fees are seen as unreasonable in the current economic context of South Sudan. Furthermore, the registration of political parties envisages a process that could take more than a year, including the timelines for complaints and appeals. That could lead to one or more political parties not completing the registration process in time for the candidate nomination process ahead of elections, raising further concerns about the inclusivity of the process. The matter requires a discussion between the parties on what is reasonable regarding the registration of the political parties.

Any revision of an agreed-upon framework should be the subject of inter-party dialogue, establishing the proper parameters of legitimate political behaviour and the rights of the parties to campaign throughout the country. This is normally included in

a code of conduct agreed to by the parties. Importantly, on 4 April 2024, political parties endorsed the text of a draft code of conduct. Any framework for transparent elections should also make provisions for adequate and independent monitoring across the country.

Necessary Unified Forces

The Revitalized Agreement includes the requirement that all transitional security arrangements will be completed before elections, based upon the principle that the security of South Sudan should not fall under the control of the security apparatus controlled by any single political party. The elaborate arrangements for the Necessary Unified Forces are based on the framework accepted by the parties during the negotiations on the Revitalized Agreement.

The deployment of phase I forces has remained limited. According to the Chairperson of the Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism, approximately 6 per cent of the planned 83,000 Necessary Unified Forces personnel have been deployed as of the end of March 2024. The assembly, training and deployment of the second batch have not yet commenced. No agreement has yet been reached on the middle echelons of the unified command, and concerns continue to linger on the differential treatment of personnel on the basis of their original affiliations, in particular regarding salaries and equipment. This could hinder the realization and deployment of a single, unified, national security apparatus in time for elections.

As things stand, the Necessary Unified Forces appear ill-prepared and incapable of providing the requisite secure environment expected of them before, during and after the elections.

Election security

Despite assurances by the Transitional Government that the operationalization of a national electoral security plan is under way, the absence of a decision on the nature of the elections to be conducted indicates that the operationalization of the national electoral security plan by the National Police Service and its synchronization and harmonization with the national electoral plans remain outstanding.

Intercommunal violence

Intercommunal violence is geographically dispersed throughout the country. There is also a broad recognition that the country is awash with small arms and light weapons. South Sudanese leaders have also acknowledged that the widespread subnational violence poses challenges to the conduct of elections. However, it remains unclear whether the limited deployment of the Necessary Unified Forces would be able to address this challenge of national proportions.

Constitution-making process

The Revitalized Agreement considers the adoption of a permanent constitution as a pre-condition to holding elections. The provisions of the permanent constitution would inform the constitutional review of electoral legislation ahead of the first electoral cycle. Considering the timeline envisaged in the road map and in the relevant legislation and the current delays in commencing the constitution-making process, a decision on the realignment of the overall timeline is required, assuming the retention of the December 2024 timeline. The main opposition party, the Sudan People's Liberation Movement in Opposition, however, has so far insisted on the finalization of the constitution-making process prior to an election.

Legislative reform

To proceed with an electoral process in December 2024 that adheres to its legal framework, several tasks and decisions outlined under the technical preparations section above require adjustments across various levels, including the Revitalized Agreement, the road map, the Transitional Constitution of the Republic of South Sudan, the National Elections Act and other related principal and subordinate legislation. Such a review process will necessitate time and comprehensive dialogue among the parties. In addition, the Revitalized Agreement aims for the establishment of a constitutional court in the transitional period, which has yet to be established. However, the National Elections Act confers authority and jurisdiction upon the Supreme Court.

The trilateral mechanism has briefed the African Union Peace and Security Council twice, most recently on 27 February 2024, emphasizing that the conduct of elections requires “ample preparations to build consensus among parties and confidence among citizens to minimize the potential for a relapse to violence.” In its subsequent communiqué, the Peace and Security Council of the African Union emphasized the importance of expediting all remaining transitional tasks.

The reconstituted Joint Monitoring and Evaluation Commission, the body responsible for monitoring and overseeing the implementation of the Revitalized Agreement, in its reports, has articulated an assessment similar to the one reflected in the present letter. It has consistently warned against the failure to meet deadlines and the risk this poses to the Revitalized Agreement. While welcoming the progress on the implementation of the Revitalized Agreement, the interim Chairperson of the Commission, in his statement of 8 February 2024, called upon the Transitional Government to undertake the steps towards the implementation of the Revitalized Agreement. He also emphasized the need for dialogue and consensus-building among the political parties, their leaders and various stakeholders.

In light of the above, it is my view that the parties must commit to take urgent steps to achieve a “critical mass” of implementation necessary for a peaceful conduct of free, fair and credible elections.

The peaceful conduct of credible elections and the implementation of the results is a shared strategic goal of South Sudanese stakeholders and their international partners. While I note and welcome the inter-party dialogue currently under way to discuss the elections, I urge the leaders of South Sudan to display political will, build mutual trust, make the political decisions needed and allocate the resources necessary to operationalize the various institutions of a democratic transition in line with the provisions of the Revitalized Agreement. The United Nations stands ready to support South Sudan in that regard, including through the efforts being undertaken by the African Union and IGAD.

(Signed) António **Guterres**
