



INTERNAL AUDIT DIVISION

REPORT 2023/012

Audit of downsizing at the International Residual Mechanism for Criminal Tribunals

**The downsizing process was satisfactorily
conducted but there is room for further
improvement**

26 April 2023

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Audit of downsizing at the International Residual Mechanism for Criminal Tribunals

EXECUTIVE SUMMARY

The Office of Internal Oversight Services (OIOS) conducted an audit of downsizing at the International Residual Mechanism for Criminal Tribunals (IRMCT). The objective of the audit was to assess the adequacy and effectiveness of internal controls put in place by the Mechanism to ensure that downsizing is effectively implemented at IRMCT. The audit covered the period from July 2020 to January 2023.

The audit showed that the downsizing process was satisfactorily conducted, but there is room for further improvement.

OIOS made two recommendations. To address the issues identified in the audit, IRMCT needed to:

- Ensure that the Joint Negotiation Committee meets as required to discuss the impact and realities of proposed downsizing and assess the need to revise the downsizing policy in view of the agreed termination option and the new administrative instruction ST/AI/2023/1; and
- Ensure that performance documents are completed for all staff as required, and performance ratings of “exceeds performance expectation” are adequately justified to ensure fairness and consistency during the comparative review process.

IRMCT accepted the recommendations and has initiated action to implement them. Actions required to close the recommendations are indicated in Annex I.

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Audit of downsizing at the International Residual Mechanism for Criminal Tribunals

I. BACKGROUND

1. The Office of Internal Oversight Services (OIOS) conducted an audit of downsizing at the International Residual Mechanism for Criminal Tribunals (IRMCT).

2. The Security Council established IRMCT in 2010 as an international court to take over the remaining functions of the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda, after completion of their mandates. The Mechanism consists of three organs: (a) Chambers; (b) Office of the Prosecutor; and (c) Registry, which are headed by Principals. The Mechanism has two branches: one in Arusha, Tanzania and the other in The Hague, Netherlands. The Mechanism's activities consist of mandated continuing functions such as witness protection, supervision of the enforcement of sentences, assistance to national jurisdictions, tracking of fugitives, and archives management; and ad hoc judicial activities which are mainly related to trial and appeals proceedings.

3. The Mechanism was established to be a small, temporary and efficient structure whose functions and size will diminish over time. Its residual functions have substantially reduced over the years, resulting in periodic downsizing of staff. The reduction in staffing resources is inextricably linked with the conclusion of the Mechanism's ad hoc judicial activities. The downsizing process starts after submission of the budget in July prior to the year when downsizing takes place. The Mechanism downsized a total of 48 staff members between December 2020 and December 2022 (six in 2020, 15 in 2021 and 27 in 2022).

4. To enable rapid recruitment of additional staff as may be required to perform the ad hoc functions, particularly in the Office of the Prosecutor and Registry, the Mechanism is required to maintain rosters of qualified potential staff, preferably from among persons with experience from the former Tribunals.

5. The General Assembly had appropriated \$97.5 million, \$89.7 million, and \$81.9 million to finance the IRMCT activities for budget years 2021, 2022 and 2023 respectively. The General Assembly also approved 187 posts for the continuous functions of the Mechanism in 2021 and 2022, which decreased to 137 in the 2023 approved budget. For the same budget years, the Mechanism had 386 (in 2021), 298 (in 2022) and 205 (in 2023) general temporary assistance (GTA) positions, which were utilized for ad hoc judicial activities. Nine posts were funded from extra budgetary resources for 2021, 2022 and 2023.

6. Comments provided by IRMCT are incorporated in italics.

II. AUDIT OBJECTIVE, SCOPE AND METHODOLOGY

7. The objective of the audit was to assess the adequacy and effectiveness of internal controls put in place by the Mechanism to ensure that downsizing is effectively implemented at IRMCT.

8. This audit was included in the 2022 risk-based work plan of OIOS due to the risk that ineffective implementation of downsizing at the Mechanism could impact the delivery of its mandated activities.

9. OIOS conducted this audit from October 2022 to February 2023 in The Hague and Arusha branches of IRMCT. The audit covered the period from July 2020 to January 2023. Based on an activity-level risk assessment, the audit covered risk areas relating to implementation of the downsizing process at the Mechanism.

10. The audit methodology included: (a) interviews with key personnel; (b) review of relevant documentation; (c) analytical review of data; (d) sample testing of performance appraisal documents using a combination of random approach and professional judgement; and (e) staff survey.

11. The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing.

III. AUDIT RESULTS

A. Regulatory framework

The downsizing policy was satisfactorily implemented but could be updated to include new developments

12. The Security Council resolution (S/RES/1966 (2010)) emphasized that in view of the substantially reduced nature of its residual functions, IRMCT should be a small, temporary and efficient structure whose functions and size will diminish over time, with a small number of staff commensurate with its reduced functions.

13. To implement the Security Council resolution, the Mechanism established its downsizing policy in June 2018 and revised it in June 2019 to regulate the downsizing of staff due to abolition of posts or reduction in its approved budget. The overarching principles for the policy are that the downsizing must: (i) meet the operational needs of the Mechanism; (ii) be transparent; (iii) be fair and consistently applied; (iv) be objective; and (v) be understandable. The policy was developed in line with the established framework provided in the Staff Regulations and Rules of the United Nations (ST/SGB/2018/1/Rev.2). To avoid termination of contracts, the Mechanism aligned the expiration of fixed term appointments to coincide with abolition of posts.

14. Prior to December 2022, the downsizing policy did not provide for agreed termination, as well as the criteria for implementing it. Within the delegated authority of the Registrar, the Mechanism decided to offer an agreed termination option starting in 2023. As a result, the downsizing policy will need to be updated to include the agreed termination option.

The Joint Negotiating Committee needed to meet regularly as required

15. The Joint Negotiating Committee (JNC) comprised of representatives from the Mechanism's Staff Union and Management. JNC is required to meet at least quarterly to discuss the impact of proposed abolition of posts or reduction of staff and the operational requirements of the Mechanism, and recommend necessary revision of the downsizing policy to the Registrar. However, JNC did not meet in 2022. It will also need to assess whether the Mechanism's downsizing policy is aligned with the new administrative instruction (ST/AI/2023/1) on "Downsizing or restructuring resulting in termination of appointments" that was issued in February 2023.

(1) IRMCT should ensure that the Joint Negotiation Committee meets as required to discuss the impact and realities of proposed downsizing and assess the need to revise the downsizing policy in view of the agreed termination option and the new administrative instruction ST/AI/2023/1.

IRMCT accepted recommendation 1 and stated that it has already convened the JNC to tackle the issues noted. The assessment in regard to possible revision of the downsizing policy will be completed, with any revised policy in place by mid-year.

Adequate oversight was provided by the Review board

16. The Mechanism’s downsizing policy states that the Review Board will provide oversight of the implementation of the downsizing policy and make recommendations to the Registrar on matters relating to its implementation. The Review Board is composed of: an independent chair (an individual who is not a current staff member of the Mechanism, but who has knowledge of the operations of the former Tribunals and/or the Mechanism); representatives of Management; and representatives nominated by the Staff Union. The independent chair is nominated by JNC and appointed by the Registrar.

17. For each downsizing exercise, the Review Board meets three times as follows: (i) to review the structure of standalone posts and comparative review pools (CRPs); (ii) to review placement of staff against standalone posts or CRPs, and to ensure that tie-breaking criteria have been applied in the sequential lists of staff on CRPs; and (iii) to consider appeals from staff who will be downsized. The Review Board met as required to provide oversight of the implementation of the policy in the downsizing exercises for the budget periods 2021 to 2023.

Gender parity requirements were considered in the downsizing process

18. In August 2020, ST/AI/2020/5 titled “Temporary special measures for the achievement of gender parity” was issued to address gender imbalance in accordance with the General Assembly resolution 70/133. The implementation of special measures is also applicable during periods of downsizing. The Mechanism’s downsizing policy considered gender: (i) as a tie-breaking point; and (ii) as a ground to request exception to comparative review where there is loss of specific skills of a staff member, or gender representation that would result in inability of the Mechanism to meet its operational needs.

19. For downsizing during 2022-2023, the Chief of Security and Safety Section (SSS) requested for exceptional approval to apply the gender parity mandate to the SSS Arusha branch because the CRP results showed a greater gender imbalance at the Branch. Further, the Chief of SSS indicated that female security officers were required in some crucial security services such as the investigation of reported burglary in women staff members’ residences.

Need to ensure that performance documents are completed in accordance with ST/AI/2021/4

20. ST/AI/2021/4 on Performance Management and Development System (PMDS) requires all staff members who hold appointments of at least one year to have their performance evaluated. PMDS is an accountability tool that the Organization utilizes to plan, assign, monitor, and evaluate staff. The head of entity is responsible for complying with and consistently and fairly implementing PMDS, including the overall ratings which are: (i) exceeds performance expectation; (ii) successfully meets performance expectation; (iii) partially meets performance expectation; and (iv) does not meet performance expectation.

21. IRMCT’s downsizing policy utilizes performance scores as multipliers in determining ratings in CRPs. The multipliers are: exceeds performance expectation – two (2); fully meets performance expectation – one (1); and partially meets performance expectation or does not meet expectations – zero (0). A staff member without a performance rating for a particular cycle will be treated as having received a “fully meets performance expectation” rating for the purpose of calculating his/her CRP. Table 1 below shows that 51 per cent of staff members received the rating of “exceeds performance expectation” for 2019-2020 cycle; and 59 per cent exceeded performance expectation for the 2020-2021 and 2021-2022 cycles. For the performance cycles 2020-2021 and 2021-2022, OIOS reviewed 50 sample performance documents for each cycle. For the performance cycle 2020-2021, 34 of the 50 sampled performance documents had

final ratings of “exceeds performance expectation”. However, only eight of the 34 performance documents had justification for how the staff exceeded performance expectations. Of the 50 sampled documents for performance cycle 2021-2022, 30 had final ratings of “exceeds performance expectation”, but only 13 documents had justification for how the staff exceeded expectation. A rating of “exceeds performance expectation” without proper justification could lead to unfair and inconsistent implementation of the downsizing policy.

Performance cycle Period	Total number of staff to be appraised	Number of staff with ‘exceeds performance expectation’	Number of staff with ‘successfully meets performance expectation’	Number of staff without performance rating
2019-2020	486	249	163	74
2020-2021	439	258	102	79
2021-2022	371	220	108	43

22. Table 1 above shows that between 12 to 18 per cent of staff did not have completed performance documents for the performance cycles 2019-2020 to 2021-2022. Staff without (or with incomplete) performance documents could be denied a fair chance of employment in the United Nations common system because complete performance documents are required for such staff to be considered for employment.

(2) IRMCT should ensure that: (a) performance documents are completed for all staff as required; and (b) performance ratings of “exceeds performance expectation” are adequately justified to ensure fairness and consistency during the comparative review process.

IRMCT accepted recommendation 2 and stated that the Human Resources Section has been sending regular periodic messages to staff reminding them of their obligation to complete their performance documents. Additionally, the Registrar will emphasize to second reporting officers that they have to ensure that the first reporting officers’ ratings of “exceeds performance expectation” are fully justified.

B. Communication and staff support

Information sharing with staff and staff representatives was adequate

23. The Mechanism maintains an internal webpage which contains information and updates relating to the yearly downsizing process. The same information and updates are also published through email broadcasts. The Mechanism’s Principals discussed the downsizing exercises during town hall meetings held between 2020 and 2022. The Registrar also held information sessions in 2021 and 2022. In the 2022 information sessions, the Registrar particularly informed staff about downsizing for 2023 and addressed various questions from staff. In addition, managers were involved in informing and updating their staff about the status of the downsizing applicable to their units or sections. OIOS concluded that information sharing with staff and staff representatives was adequate.

Training and assistance to staff to identify career opportunities were provided

24. A best practice for effective downsizing is the provision of training and assistance to staff that will help them in identifying career opportunities outside of the organization.

25. In the OIOS staff survey which was administered to all Mechanism staff, 65 per cent of the 94 respondents stated that the Mechanism had not provided sufficient training that could be beneficial to their employability outside IRMCT; 77 per cent of respondents stated that the Mechanism had not provided the staff with tangible help regarding outplacement in advance of the actual downsizing. Management stated that there was insufficient funding for providing such training.

26. However, the Mechanism held a job fair in Arusha branch in November 2022. The Registrar informed staff that he was reaching out to his counterparts in the Secretariat about possible career opportunities for Mechanism staff. In this regard, two managers reached out to their counterparts in the United Nations Secretariat to assist their staff in identifying career opportunities.

27. In October 2022, the Mechanism developed a portal with a list of external employment opportunities that staff could use. In view of the action taken by the Mechanism, OIOS did not make a recommendation on this aspect.

IV. ACKNOWLEDGEMENT

28. OIOS wishes to express its appreciation to the management and staff of IRMCT for the assistance and cooperation extended to the auditors during this assignment.

Internal Audit Division
Office of Internal Oversight Services

STATUS OF AUDIT RECOMMENDATIONS

Audit of downsizing at the International Residual Mechanism for Criminal Tribunals

Rec. no.	Recommendation	Critical¹/ Important²	C/ O³	Actions needed to close recommendation	Implementation date⁴
1	IRMCT should ensure that the Joint Negotiation Committee meets as required to discuss the impact and realities of proposed downsizing and assess the need to revise the downsizing policy in view of the agreed termination option and the new administrative instruction ST/AI/2023/1.	Important	O	Receipt of evidence that the JNC meets as required to discuss the impact and realities of proposed downsizing policy, and an assessment of the need to revise the downsizing policy in view of the agreed termination option and the new administrative instruction ST/AI/2023/1.	30 June 2024
2	IRMCT should ensure that (a) performance documents for all staff are completed as required; and (b) performance ratings of “exceeds performance expectation” are adequately justified to ensure fairness and consistency during the comparative review process.	Important	O	Receipt of evidence that (a) performance documents for all staff are completed as required; and (b) performance ratings of “exceeds performance expectation” are adequately justified.	30 June 2024

¹ Critical recommendations address those risk issues that require immediate management attention. Failure to take action could have a critical or significant adverse impact on the Organization.

² Important recommendations address those risk issues that require timely management attention. Failure to take action could have a high or moderate adverse impact on the Organization.

³ Please note the value C denotes closed recommendations whereas O refers to open recommendations.

⁴ Date provided by IRMCT in response to recommendations.

APPENDIX I

Management Response

Management Response

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Rec. no.	Recommendation	Critical ¹ / Important ²	Accepted? (Yes/No)	Title of responsible individual	Implementation date	Client comments
1	IRMCT should ensure that the Joint Negotiation Committee meets as required to discuss the impact and realities of proposed downsizing and assess the need to revise the downsizing policy in view of the agreed termination option and the new administrative instruction ST/AI/2023/1.	Important	Yes	Registrar	Q2 2024	The IRMCT has already convened the JNC to tackle the issues noted. The assessment in regard to possible revision of the downsizing policy will be completed, with any revised policy in place by mid-year.
2	IRMCT should ensure that (a) performance documents for all staff are completed as required; and (b) performance ratings of “exceeds performance expectation” are adequately justified to ensure fairness and consistency during the comparative review process.	Important	Yes	Chief of Human Resources	Q2 2024	The HR Section has been sending regular periodic messages to staff reminding them of their obligation to complete their performance documents. Additionally, the Registrar will emphasize to second reporting officers that they have to ensure that the first reporting officers’ ratings of “exceeds performance expectation” are fully justified.

¹ Critical recommendations address those risk issues that require immediate management attention. Failure to take action could have a critical or significant adverse impact on the Organization.

² Important recommendations address those risk issues that require timely management attention. Failure to take action could have a high or moderate adverse impact on the Organization.