



INTERNAL AUDIT DIVISION

REPORT 2018/052

Audit of liquidation activities at the
International Criminal Tribunal for the
former Yugoslavia

Overall, liquidation activities were performed
satisfactorily

31 May 2018
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Audit of liquidation activities at the International Criminal Tribunal for the former Yugoslavia

EXECUTIVE SUMMARY

The Office of Internal Oversight Services (OIOS) conducted an audit of liquidation activities at the International Criminal Tribunal for the former Yugoslavia (ICTY). The objective of the audit was to assess the adequacy and effectiveness of ICTY's governance, risk management and control processes regarding effective management of its liquidation activities. The audit covered the period from 1 January 2016 to 9 March 2018 and included a review of: planning, oversight and reporting on liquidation activities; financial aspects; separation of staff; disposal of assets and closure of premises; and records management and archives.

Overall, ICTY liquidation activities were performed satisfactorily. ICTY and the International Residual Mechanism for Criminal Tribunals (IRMCT) had implemented a risk-based liquidation plan which was developed based on the Department of Field Support's Liquidation Manual taking into consideration the lessons learned from the liquidation of the International Criminal Tribunal for Rwanda. Management reported the progress of ICTY liquidation activities to the concerned offices of the Department of Management. Major liquidation activities were completed as of 31 December 2017 which included: asset disposal; transfer of records to IRMCT; and termination and handover of procurement contracts to IRMCT. At the time of audit, liquidation activities relating to separation of staff, submission of pension schedules to Headquarters, and year-end closure of ICTY accounts for preparation of final financial statements were also completed. The final financial statements of ICTY were submitted to the Board of Auditors on 29 March 2018.

The residual activities relating to ICTY liquidation primarily related to clearance of accounts receivable and payable which was being implemented by IRMCT.

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Audit of liquidation activities at the International Criminal Tribunal for the former Yugoslavia

I. BACKGROUND

1. The Office of Internal Oversight Services (OIOS) conducted an audit of liquidation activities at the International Criminal Tribunal for the former Yugoslavia (ICTY).
2. ICTY was established by the Security Council resolution 827 (1993) as a temporary institution mandated to prosecute persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia from 1 January 1991. Security Council resolutions 1503 (2003) and 1534 (2004) addressed the completion of the tribunal's substantive work and endorsed the ICTY Completion Strategy. In resolution 2329 (2016), the Security Council reiterated its request to ICTY to complete its work and facilitate closure of the Tribunal as expeditiously as possible to complete the transition to the International Residual Mechanism for Criminal Tribunals (IRMCT).
3. On 22 November 2017, ICTY delivered its judgment on the last case before the Trial Chambers. The last appeals case before the Tribunal's Appeals Chamber was completed on 29 November 2017. After the completion of its judicial work, the ICTY mandate concluded as of 31 December 2017 and all its staff were separated from the Tribunal as of that date. The liquidation process of the Tribunal's operation included amalgamation of identifiable assets and liabilities into the Mechanism's financial accounts as of 1 January 2018. The Mechanism was established by Security Council resolution 1966 (2010) to carry out the residual functions of ICTY and the International Criminal Tribunal for Rwanda (ICTR).
4. In October 2014, ICTY established a Liquidation Task Force (LTF) with 19 members comprising section chiefs of administrative offices and representatives from substantive offices of the Tribunal and IRMCT. LTF was tasked to develop the strategic liquidation plan and monitor its implementation. Fifteen of the 19 members of LTF were employed by the Mechanism as at January 2018 and they continued to perform ICTY liquidation activities. In addition to LTF, an Asset Liquidation Working Group and Records and Archives Working Group were created to develop detailed plans and oversee implementation of liquidation activities on asset disposal, disposition and transfer of ICTY records and archives to IRMCT.
5. The ICTY proposed budget for the 2016-2017 biennium amounted to \$113,609,500 (before re-costing). By its resolution 71/268, the General Assembly approved a revised appropriation amounting to \$98,064,000 (gross). After considering ICTY's second performance report, the General Assembly approved a final appropriation amounting to \$105,779,400 (gross) in its resolution 72/257. The 2016-2017 biennial budget took into account: (a) completion of all remaining judicial proceedings within the jurisdiction of the Tribunal; (b) the continuing and progressive transfer of all functions, both substantive and administrative, to IRMCT; and (c) the preparation and transfer of records and archives to IRMCT. The 2016-2017 budget included the resources needed for final remuneration and separation entitlements accrued up to 31 December 2017 relating to ICTY staff.
6. For the 2018-2019 biennium, IRMCT proposed a budget that included \$462,200 to support residual liquidation activities for ICTY which were expected to be completed within the first semester of 2018. The provision was for a total of 39 work-months of general temporary assistance, contractual services, and general operating services to perform liquidation tasks.
7. The Advisory Committee on Administrative and Budgetary Questions (ACABQ) recommended to the General Assembly that no additional resources for the liquidation of ICTY should be approved and any such costs be absorbed within the resources approved for IRMCT for the biennium 2018-2019. The General

Assembly endorsed the conclusions and recommendations of the ACABQ. Accordingly, it did not approve the entire budget of IRMCT but authorized the Secretary-General to enter into commitments in an amount not to exceed \$87,796,600 (gross) for maintenance of IRMCT for a one-year period from 1 January to 31 December 2018.

II. AUDIT OBJECTIVE, SCOPE AND METHODOLOGY

8. The objective of the audit was to assess the adequacy and effectiveness of ICTY's governance, risk management and control processes regarding effective management of its liquidation activities.

9. This audit was included in the 2017 risk-based work plan of OIOS due to the risk that potential weaknesses in management of liquidation activities of ICTY may prolong the liquidation process, entailing additional costs.

10. OIOS conducted this audit in February and March 2018. The audit covered the period from 1 January 2016 to 9 March 2018. Based on an activity-level risk assessment, the audit covered higher and medium risk areas in the liquidation activities at ICTY, which included: planning, oversight and reporting on liquidation activities; financial aspects; separation of staff; disposal of assets and closure of premises; and records management and archives.

11. The audit methodology included: (a) interviews of key personnel, (b) reviews of relevant documentation, (c) analytical reviews of data, and (d) sample testing of transactions using a combination of random sampling and professional judgment from population generated from Umoja Enterprise Central Component (ECC) and Business Intelligence (BI) reports.

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

III. AUDIT RESULTS

A. Planning, oversight and reporting on liquidation activities

Liquidation plan was developed and implemented satisfactorily

13. ICTY prepared its liquidation plan with reference to the Department of Field Support (DFS) Liquidation Manual which states that successful completion of liquidation tasks requires the development of a written plan containing relevant parameters of the office to be liquidated.

14. The ICTY liquidation plan was initially developed in December 2014 and continued to be updated, with the last update in August 2017. The elements outlined in the liquidation plan included: (a) staff downsizing; (b) asset disposal and handover of premises (including transfer of assets to the IRMCT); (c) termination and handover of procurement activities to IRMCT; (d) financial activities; (e) records disposition; (f) transition of information technology systems; (g) interaction with non-United Nations authorities; and (h) liquidation activities reporting. The ICTY liquidation plan also included: risks and mitigation strategies; resources required to carry out all liquidation tasks in coordination with Headquarters; and lessons learned from oversight reports and liquidation of ICTR. Target milestones and key performance indicators/benchmarks were identified to complete the tasks prior to closure of ICTY, including identification of residual tasks such as issuance of final financial statements. Based on the above, OIOS concluded that controls over the liquidation planning process were generally satisfactory.

ICTY coordinated with the Department of Management on liquidation planning activities

15. Paragraphs 3 and 4 of General Assembly resolution 71/267 requested the Secretary-General to ensure that: Headquarters provides guidance, oversight and support to future liquidation processes, including accurate budget estimates and feasible time frames; and that lessons learned from the liquidation of ICTR are incorporated, as appropriate, into future liquidations of tribunals and other entities, as well as into relevant policies and procedures. In a previous OIOS audit (Report 2017/040) on the effectiveness of liquidation activities at ICTR, the Department of Management (DM) accepted OIOS' recommendation to document the lessons learned from the ICTR liquidation to improve planning of future liquidations of tribunals and similar operations including review and monitoring of liquidation plans. Implementation of this recommendation is in progress.

16. ICTY prepared its liquidation plan in coordination with respective offices of DM, namely, the Office of Human Resources Management (OHRM), Office of Programme Planning, Budget and Accounts (OPPBA), and Office of Central Support Services (OCSS). In February 2018, IRMCT submitted a status update of the ICTY liquidation to OPPBA as at 31 January 2018.

Key liquidation tasks were completed according to plan

17. Section 1.3 of the ICTY liquidation plan states that LTF is responsible for strategic liquidation planning and monitoring the implementation of the liquidation plan. Through regular meetings, LTF monitored the implementation of key liquidation activities.

18. In addition, ICTY created the Asset Liquidation Working Group and Records and Archives Working Group which were tasked to prepare and monitor detailed liquidation plans for disposal of assets and transfer of records and archives to IRMCT. Both groups established benchmarks for meeting their target outputs and monitored implementation of the detailed plans through regular meetings. At the time of audit, liquidation tasks were completed in the following areas: asset disposal; transfer of records to IRMCT; termination and handover of procurement contracts to IRMCT; transition of information technology; year-end closure of ICTY accounts for preparation of financial statements; separation of staff; and submission of pension schedules to Headquarters. The residual liquidation activities primarily related to: (a) clearing remaining accounts receivable and payable; and (b) preparing pension fund schedules for separations processed in 2018. IRMCT subsequently confirmed that the final financial statements for ICTY were submitted to the Board of Auditors on 29 March 2018.

B. Financial aspects

Outstanding accounts receivable and payable

19. Sections 7.6 to 7.11 of the DFS Liquidation Manual require a liquidating entity to clear all outstanding balances prior to its closure. The Tribunal was required to address and clear outstanding accounts receivable prior to final closure of the liquidation period.

20. As of 31 December 2017, accounts receivable for immediate settlement were \$519,295 which had reduced to \$377,275 as of 9 March 2018 while accounts payable to vendors and staff amounted to \$89,292. IRMCT was reviewing and clearing remaining balances. Considering the action being taken by IRMCT, OIOS did not make a recommendation.

ICTY non-house bank accounts had been closed

21. After implementation of Umoja in June 2015, ICTY no longer maintained bank accounts associated with individual entities because the United Nations adopted a concept of house banks and therefore closed the individual accounts. At the time of audit, ICTY and IRMCT operated four house bank accounts: one in The Hague, Netherlands, two in Arusha, Tanzania and one in Sarajevo, Bosnia and Herzegovina. After ICTY's closure on 31 December 2017, IRMCT assumed responsibility for and continued to operate the house banks. OIOS reviewed and confirmed that three bank accounts operated by ICTY prior to implementation of Umoja had been closed.

ICTY petty cash and imprest accounts were closed and transferred as required

22. In line with Section 7.4 of the DFS Liquidation Manual, all petty cash accounts should be closed and only one petty cash account should be operated by the liquidation team until the final closure of the office.

23. ICTY operated one imprest and three petty cash accounts prior to its closure on 31 December 2017. On 8 January 2018, the Accounts Division at Headquarters authorized the closure of one petty cash account for Belgrade Field Office and cancelled the related delegation of authority. On the same date, the Accounts Division authorized the ICTY Chief Administrative Officer to transfer ICTY's petty cash and imprest accounts to IRMCT. On 23 January 2018, the Accounts Division revoked the delegation of approving authority for two staff members who separated from ICTY by 31 December 2017 and their functional roles were de-mapped in Umoja. OIOS concluded that necessary steps were followed to close petty cash accounts, revoke the delegation of authority over petty cash accounts, and transfer the remaining petty cash and imprest account to IRMCT.

Procurement contracts were transferred to IRMCT

24. Section 7.9 of the DFS Liquidation Manual requires that all local contractors, vendors and suppliers be paid in full prior to closure of the office to be liquidated. ICTY was required to issue notices to all contractors and vendors informing them of the Tribunal's closure by 31 December 2017 and requiring them to submit any pending invoices for settlement which included performance bonds and clearance of deposits held by the contractors, among others.

25. As of 31 December 2017, ICTY had 29 ongoing contracts which were transferred to IRMCT. ICTY had not issued termination notices to 11 vendors out of 15 contracts that had expired on 31 December 2017. IRMCT subsequently sent letters to the 11 vendors on 23 April 2018 to: (a) notify them of ICTY's closure; (b) inform them that IRMCT is the legal successor of ICTY; and (c) request immediate submission of invoices to finalize payments, if any.

C. Disposal of assets and closure of premises

ICTY assets were disposed of in line with the disposal plan

26. The Assistant Secretary-General, OCSS (ASG-OCSS) approved the initial ICTY asset disposal plan in July 2010. This guided ICTY's disposal of assets until December 2016. The plan authorized the Tribunal to donate all electronic data processing equipment to government, non-government and not-for-profit organizations in the former Yugoslavia. All other assets were required to be disposed of by commercial sale on an "as is where is" basis either by mass auction or sealed competitive bidding. Assets

that remained unsold were to be disposed of by donation to government, non-government or not-for profit organizations and assets which cannot be sold or donated were to be disposed of as scrap.

27. In December 2016, the ASG-OCSS approved the revised ICTY asset disposal plan for 7,741 assets which prioritized transfer of assets to IRMCT, United Nations agencies, funds and programmes. The remaining assets were to be disposed of in order of priority as follows: (i) commercial sale on “as is where is” basis by competitive bidding exercise; (ii) gifted or sold at nominal value to government, non-government or not-for-profit organizations; and (iii) destruction or scrap. After approval of the revised asset disposal plan in 2016, ICTY transferred nearly 88 per cent of its assets to IRMCT, which were duly acknowledged by the IRMCT Registrar and recorded as IRMCT assets in Umoja. The remaining assets were written off and disposed of through donation, destruction or scrap. OIOS reviewed a sample of 30 out of 132 disposal actions recorded in Umoja from January 2016 to December 2017 and noted that ICTY complied with the disposal plan.

28. ICTY was required to document and record all its disposal actions, update its inventory records and following final disposal, submit a report to OCSS indicating the disposal methods applied. With regard to capitalized property items, a copy of the report should be submitted to the Accounts Division through ICTY Finance. IRMCT stated that on 11 April 2018, it had submitted a report of disposal action taken by ICTY to the Headquarters Property Survey Board. In addition, the Controller had certified the ICTY financial statements on 23 March 2018, which contain disclosure notes on the disposal of capitalized assets.

Firearms were transferred or disposed of in accordance with applicable procedure

29. Firearms included in the inventory of ICTY, The Hague were transferred to IRMCT. The 2018 weapons permit issued by the host government in The Hague showed that an exemption to possess, carry and transport firearms was issued to IRMCT. However, the Government of Serbia declined a request of the ICTY Liaison Office in Belgrade to carry three firearms to the airport for delivery to ICTY offices in The Hague. According to a Note Verbale from the Government of Serbia, ICTY had failed to report and register the firearms with the Government of Serbia. Consequently, ICTY disposed of the fully depreciated firearms through destruction within the Liaison Office premises and issued the necessary destruction certificates as required by established procedures.

D. Separation of staff

Check-out procedures for separated staff were completed except for two cases

30. Section 5.5. of the DFS Liquidation Manual requires that departure procedures must include an orderly check-out system for all categories of personnel. Sufficiently in advance of actual separation of staff members, attention should be paid to reviewing and updating individual staff files, reconciliation of time and attendance records, providing information on separation entitlements including possible recoveries and payment of outstanding entitlements, and requesting staff members to provide information that may affect timely processing of final payments, as applicable.

31. ICTY commenced its initial downsizing exercise in December 2004 with the closure of the Office of the Prosecutor’s Investigations Division. Thereafter, there was progressive downsizing from 379 staff in December 2015 to 97 by 31 December 2017.

32. During the check-out process and prior to departure of staff, the ICTY Human Resources Section was required to send separation notification memos to departing staff and Judges at least three months in advance, together with all supporting documents. OIOS review of a sample of 30 personnel files out of

160 staff who separated from ICTY during the period January 2016 to December 2017 showed that 28 separated staff members had completed the check-out process. Considering that the two exceptions did not represent a significant control weakness in the check-out procedure, OIOS did not make a recommendation.

2017 pension schedule adjustments were completed and submitted to Headquarters

33. According to section 7.13.4 of the DFS Liquidation Manual, all pension schedules must be completed and submitted to the United Nations Joint Staff Pension Fund (UNJSPF) and all P.35 forms duly completed. ICTY was expected to finalize the pension schedules and submit them to Headquarters by March 2018 for onward transmission to UNJSPF. OIOS noted that IRMCT completed and submitted to Headquarters the 2017 pension schedules for ICTY staff and expected adjustments on 19 January 2018. The schedules were duly submitted to UNJSPF on 15 February 2018.

E. Records management and archives

ICTY records and archives had been transferred to the Mechanism

34. The Mechanism was designated by Security Council resolution 1966 (2010) to receive the physical and digital records of ICTY, both active and inactive records. Section 10.1 of the ICTY liquidation plan requires that prior to closure of ICTY, all offices must appraise their records to determine whether the records should be: (i) destroyed before closure of ICTY or during the liquidation period; (ii) retained for a fixed period of time after closure for use by the Mechanism, other United Nations offices or third parties, and then destroyed; or (iii) retained permanently as ICTY archives. The ICTY offices prepared their respective Records Retention Schedules which served as the authority for making decisions on destruction or retention of records at ICTY. All active records to be retained after closure needed to be transferred to respective Mechanism offices taking over the Tribunal's functions, while inactive records were required to be transferred to the Mechanism's Archives and Records Section (MARS) for temporary storage pending destruction or permanent preservation as archives.

35. In 2014, the ICTY Registrar established the Records and Archives Working Group to oversee and coordinate preparation and transfer of records. MARS also drew up a high-level timeline and targets for preparation of ICTY records for transfer to the Mechanism to complete the transfer of records before final closure of the Tribunal on 31 December 2017. From October 2015 to February 2018, ICTY transferred a total of 1,613,090 gigabytes of digital records and a total of 4,713 linear meters of physical records to the respective IRMCT offices or MARS. ICTY also destroyed a total of 2,432 linear meters of physical records during the same period, which were deemed as not required. ICTY managed the transfer of records by implementing the records transfer system, monitoring progress of transfer, and check-out processes based on a consolidated risk assessment and mitigation plan. OIOS concluded that adequate measures had been instituted to ensure proper transfer and archiving of ICTY records.

IV. ACKNOWLEDGEMENT

36. 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.

(Signed) Eleanor T. Burns
Director, Internal Audit Division
Office of Internal Oversight Services

APPENDIX I

Management Response



INTERNAL MEMORANDUM - MEMORANDUM INTERIEUR

Date: 25 May 2018

To: Agness Chilinda
A: Section Chief, Nairobi Audit Section, OIOS/IAD

Copy: Marites Sese
Copie: Resident Auditor

From: David Falces
De: Chief Administrative Officer 

Subject: **OIOS-2018-00780 Draft report on an audit of liquidation activities at the**
Objet: **International Criminal Tribunal for the former Yugoslavia (Assignment No. AA2017/261/08)**

1. Reference is made to the above-mentioned draft audit report. We have reviewed OIOS' proposed changes sent 24 May 2018 and have no further comments.
2. On behalf of the IRMCT, I wish to thank OIOS and its audit team members for their dedication and professionalism during the course of this audit these past few months. We are pleased to note OIOS' assessment that all liquidation activities were undertaken satisfactorily, and that no recommendations have been issued.