

## Democratic Republic of Congo

### Confronting outbreaks of violence and political unrest in order to safeguard democratic change

*March 2017*

On 31 March 2017, the United Nations Security Council will be called upon to renew the mandate of the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) together with its Intervention Brigade. The strengthening of MONUSCO is absolutely necessary in the present circumstances. The armed violence in the east and localized outbreaks of violence in the central regions of the country have added to the persistent repression of opposition voices and increased restrictions to democratic discourse in the pre-election context. This increasingly generalized process of destabilization appears partly to be encouraged and exploited by the Congolese authorities, with the aim of delaying the elections and maintaining power. In order to prevent the country from collapsing into chaos, it is vital that the elections be held within the period envisaged.



In face of these challenges, the international community must redouble its efforts to defuse existing conflicts, press for the implementation of the political Accord of 31 December 2016, support the organization of elections, and guarantee the democratic transition called for with virtual unanimity by the Congolese people. DRC currently finds itself at a crossroads and the involvement of the international community, including the United Nations Security Council and the European Union, will be decisive in the coming months.

## I. Persistence of political blockages and tensions

Having served two mandates as the Head of the Democratic Republic of the Congo (DRC), under the terms of the Congolese Constitution, Joseph Kabila was supposed to leave power on 19 December 2016. The day before the end of his mandate demonstrations on an enormous scale took place in the country's major cities, calling for the departure of President Kabila. The necessary conditions for holding new elections within the time limits laid down by the Constitution were not in place which was mainly due to the efforts undertaken by the Congolese authorities to change the electoral calendar and postpone those elections. The demonstrators were violently suppressed.

In order to diminish tensions, following intense negotiations organized under the mediation of the Catholic Church, on 31 December 2016 a political accord, sometimes referred to as the Saint Sylvester Accord, was signed between representatives of the presidential majority, the opposition, and civil society organizations. The Accord envisages that elections (presidential, legislative, and provincial) be held before the end of 2017, and that President Kabila remain in power during that period to allow a democratic transition. The Accord also contains dispositions clearly indicating that there will be no referendum or modification of the Constitution that would allow President Kabila to enter a third mandate.

The Accord was rejected by a broad section of civil society and citizens' movements, as it legitimizes President Kabila's unconstitutional hold on power, and presents serious challenges that have already delayed its implementation. The presidential majority and Rassemblement, the opposition coalition, must reach an agreement on a "special arrangement" designed to permit full application of the Accord. The National Episcopal Conference of the Congo (CENCO), which continues to play the mediation role, gave 28 January 2017 as the deadline for such an arrangement to be signed. While the negotiations continue, the points of contention remaining are: the method for appointing the new prime minister, who is to be chosen by Rassemblement<sup>1</sup>; those appointed to occupy the main posts within the new government (which must include members of the opposition); and the composition of the National Council for Monitoring the Accord and the Electoral Process (CNSA), notably the choice of its president, who must emerge from the opposition. Moreover, the Accord does not define a detailed calendar for the implementation of its dispositions. Many observers doubt that it is possible to organize three elections in the course of 2017 and believe that the strategy of the Congolese authorities – who had pushed for the adoption of the measure – is to further delay the preparation of the presidential election.

At the same time, "measures for the easing of tension" envisaged by the 31 December Accord have been slowly implemented, and a climate of oppression continues to reign in the country. While certain pro-democracy activists and political prisoners have been freed, many others remain under arbitrary arrest or the targets of judicial harassment. Several radio channels are still blocked. Freedom of expression and peaceful assembly remain largely obstructed, and members of the opposition, human-rights defenders, activists of citizens' movements, and journalists continue to be under pressure, all of which does not contribute to the return of a peaceful environment capable of permitting the organization to run credible and fair elections.

In the east and center of DRC, there are renewed attacks by rebel armed groups, localized violence in central regions, revitalized tensions between certain communities, and abuses committed in reprisal by the Congolese Army during recent months, which have led to the commission of grave violations of human rights, including killings, abductions, the recruitment of child soldiers, acts of sexual violence, and the looting and burning of tens of villages. The situation with respect to security and human rights in several provinces of the country constitutes a very serious hurdle to the process of enrolling voters, which has begun under the auspices of CENI. Our organizations are afraid that the Congolese authorities will exploit the lack of security in the east and center in order to justify a repeated postponement of the elections.

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Rassemblement wishes to designate the prime minister to be appointed by the President, while the presidential majority would like the President to be able to choose between several candidates designated by the opposition.

Despite the signing of a political agreement, the situation in the run-up to the elections therefore remains very tense and the risk that new grave human rights violations will be committed as the date of the elections approaches is extremely high. This is all the more troubling as those responsible for the crimes committed in the course of 2016, during the suppression of demonstrations organized in protest against President Kabila's continue to hold onto power beyond his second and final mandate authorized by the Constitution, remain largely unpunished. The majority of the senior officials concerned continue to occupy their positions within the security services and organs of the regime's political apparatus.

International sanctions were implemented at the end of 2016 against some of the individuals involved in repressive actions. The European Union (EU) adopted sanctions<sup>2</sup> against seven high-ranking officials<sup>3</sup> of the army, the police, and the Congolese administration responsible for grave violations of human rights committed at the time of the demonstrations of 19 September 2016. The US government, for its part, has sanctioned Minister of the Interior Evariste Boshab and head of the National Intelligence Agency (NIA) Kalev Mutond, both accused of "undermining the democratic process"<sup>4</sup>.

Although these measures were leverage to bring the Congolese authorities back to the negotiating table in December 2016, strong diplomatic pressure remains necessary if the Congolese authorities are to undertake concrete actions capable of creating the conditions to holding elections before the end of 2017.

## **II. Increase in grave human rights violations on an enormous scale**

Human rights violations and the tense atmosphere linked to the electoral context have intensified in 2016. MONUSCO has noted 5 190 human rights violations in the DRC in 2016, a 30% increase in comparison to 2015. "*Members of the national police force remain in majority those responsible for these violations with a total of 1 553 abuses*" underlines the UN report. The abuses are continuing throughout 2017 and are expected to reach levels unrivaled in several past years.

Our organizations are extremely worried by outbreaks of violence in several provinces in eastern DRC, notably in North Kivu in the territories of Beni, Butembo, and Rutshuru, as well as in the Kasai provinces. These outbreaks involved grave violations of human rights and international humanitarian law. They have been committed by both traditional and new armed groups, local militias, and the Armed Forces of DRC (FARDC), which have caused several hundred casualties, principally among civilians.

### **2. 1. Massacres of civilians in North Kivu**

#### ***A. In Beni territory***

Our organizations are extremely worried by massacres of civilians carried out in the territory of Beni, causing tens of civilian victims. These violent acts have been committed mainly by elements of the Allied Democratic Forces (ADF) in the course of attacks carried out against villages. Civilians have also been killed in the course of military operations carried out by FARDC in retaliation for attacks by ADF.

On 24 December 2016, at least 21 civilians were killed by presumed members of the ADF in

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FIDH, "EU/United States: Call to sanction high-ranking officials in DR Congo" <https://www.fidh.org/fr/regions/afrique/rdc/ue-etats-unis-appel-a-sanctionner-de-hauts-responsables-en-rd-congo>

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Council of the European Union, 12 December 2016, <http://www.consilium.europa.eu/fr/press/press-releases/2016/12/12-drc-sanctions/>

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U. S. Department of the Treasury, "Treasury Sanctions Two Congolese Government Officials", 12 December 2016, <https://www.treasury.gov/press-center/press-releases/Pages/j10682.aspx>

several villages situated in the neighborhood of Eringeti, notably at Mapini, Maitatu, and Baobab. It is said that four rebels belonging to ADF were killed in the course of the response carried out by the FARDC<sup>5</sup>.

Several tens of civilians have also been killed since October 2016 in a series of attacks carried out by members of the ADF on various villages (at Kasinga, Malolu, Mamudioma, Kitevya), and sometimes on positions occupied by the FARDC (at Boikene). The UN Secretary General emphasizes in his report of 29 December 2016 on MONUSCO that the inability of FARDC and MONUSCO to assure the security of the population and put an end to the grave crimes committed by ADF has led “since October (...) to the emergence of groups of Mai Mai said to number several hundred.”<sup>6</sup> Our organizations are worried that the creation of new groups of armed men in response to acts of violence aggravates the situation with respect to security and human rights in the territory of Beni.

More than 36 civilians were killed on 13 August 2016 in the course of a massacre that took place at Rwangoma, an eastern district of the town of Beni, by presumed elements of ADF armed with machetes, hatchets, and Kalashnikovs<sup>7</sup>. Certain witnesses indicate that villagers had alerted FARDC several hours before the massacre that a group of ADF fighters were moving towards Rwangoma, without, however, resulting in any action on the part of FARDC. Information collected by our organizations in any case clearly demonstrates the incapacity of the Congolese Army or the forces of MONUSCO to protect the civilian population, even in areas close to large urban centers.

Nine civilians were killed on 5 July 2016 in the course of an attack by ADF on a village situated near Oïcha, 23 kilometers from the town of Beni. Another attack took place on 30 July at Tenambo. The United Nations Group of Experts on the Democratic Republic of the Congo indicates in its report of 28 December 2016 that the operation carried out by FARDC supported by MONUSCO in response to these attacks caused the deaths of two civilians<sup>8</sup>.

### *B. In the territories of Lubero and Rutshuru*

Attacks by militias and armed groups together with inter-communal violence have also increased since July 2016 in the territory of Lubero, spreading into that of Rutshuru. Tensions between the Hutu community on the one hand, perceived as “foreign”, and the Hunde and Nande communities on the other, regarded as “indigenous”, are being exacerbated by a series of attacks on various villages by militias supporting each camp. While the resurgence of these abuses has been reported for many months, for lack of sufficient protection by FARDC and MONUSCO civilians continue to be the victims of militias and armed groups, even though these have been identified.

27 civilians are said to have been killed, 6 others abducted, and 5 wounded during the night of 16 to 17 February 2017, in a massacre presumed to have been carried out in the community of Mutanda, in the territory of Rutshuru, by Mai-Mai Mazembe allied to the group Nduma Defense of Congo/Rénové (NDC/R)<sup>9</sup>. An attack by Mai-Mai Nyatura militia during the night of 21 to 22 December 2016 on the village of Bwalanda, in Rutshuru, caused the deaths of more than 20

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See notably Radio Okapi, “Tueries de Beni: le bilan revu à la hausse (25 morts)”, 25 December 2016, <http://www.radiookapi.net/2016/12/25/actualite/securite/tueries-de-beni-le-bilan-revu-la-hausse-25-morts>

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Op. Cit.

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Report of the Secretary General of the United Nations on MONUSCO, 29 December 2016, *Ibid*.

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Report of the United Nations Group of Experts on DRC, 28 December 2016, *Ibid*.

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See the declaration by the president of the inter-communal Baraza of Nyanzale, Antoine Nta Muntu, Radio Okapi, North Kivu: “nouvelle attaque des miliciens signalée à Mutanda”, 18 February 2017, <http://www.radiookapi.net/2017/02/18/actualite/securite/nord-kivu-nouvelle-attaque-des-miliciens-signalee-mutanda>

members of the Nande community. A reprisal operation by Nande militia caused the death of more than ten Hutu civilian victims at Nyanzale on 25 December 2016.

Observers also indicated in July 2016 that more than 90 civilians were killed between the villages of Nyanzale and Kibirizi, in the Rutshuru territory, during confrontations between elements of Maï-Maï Mazembe allied to the group Nduma Defense of Congo/Rénové (NDC/R) and a Nyatura Hutu group supported by FDLR. During the first two weeks of July, Maï-Maï Mazembe and NDC/R carried out attacks on several villages (Kikuru, Kiyeye, Kitunda, Mutanda) in order to wrest control of them from Nyatura-FDLR. During the course of these attacks, at least 73 members of the Hutu community in these villages, supported by Nyatura-FDLR, were killed. Hundreds of houses were destroyed, giving rise to enormous population movements. In some of these villages, more than 75 % of the population fled to seek shelter. FARDC were deployed belatedly at the scene, and local observers reported that their numbers were too reduced to be able to quell the violence.<sup>10</sup> During the course of the last two weeks of July, reprisal attacks were carried out by Nyatura groups with the support of FDLR, notably at Kibirizi on 17 and 18 July. These attacks caused the deaths of at least 20 members of the Hunde and Nande communities. The expert group indicates in its report that “*at the beginning of August, attacks and reprisals reached their height in the generalized spread of arson attacks against houses at Nyanzale and in the surrounding villages*”, laying emphasis on a “*fresh outbreak of small-scale attacks in October 2016*”<sup>11</sup>.

MONUSCO must be more effective in fulfilling its mandate of protection of civilians, conferred by UNSC Resolution 2277 adopted on 30 March 2016<sup>12</sup>. It must strengthen its presence in the east, in order to improve its ability to prevent this type of violence, by carrying out surveillance activities and neutralizing these groups and armed militias, and by intervening more rapidly and effectively when movements or attacks by these groups are identified, all the while strictly respecting human rights and international humanitarian law.

## 2. 2. Large Scale Human Rights Violations in the Kasai provinces

### *A. Origins of the conflict: challenge to the authority of the state*

A violent crisis has also broken out in the Kasai provinces, Central Kasai and Eastern Kasai, situated at the center of DRC, and grave violations of human rights on a massive scale have been committed since the middle of 2016, for the most part by the Congolese Army. The violence, which continues, has created several hundred victims, and affected “tens of thousands of innocent civilians”<sup>13</sup>: 150,000 according to the estimate of the UN Office for the Coordination of Humanitarian Affairs (OCHA) in January 2017, and 50,000 school students<sup>14</sup> according to BCNUDH (Joint UN Office for Human Rights) figures in January 2017.

The violence originated in a conflict between the traditional chief Kamuina Nsapu, real name Jean Pierre Pandi, and the Congolese authorities. This former doctor who lived in South Africa had returned to DRC upon the death of his father in 2006 to inherit his powers as traditional chief. He had then delegated the exercise of those powers and had returned to practice as a doctor in South

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See esp. Radio Okapi, “North Kivu : the deployment of FARDC at Nyanzale ‘is in progress’”, 14 July 2016, <http://www.radiookapi.net/2016/07/14/actualite/secure/nord-kivu-le-deploiement-des-fardc-nyanzale-est-en-cours> Radio Okapi, « Nord-Kivu: l’armée renforce sa présence à Nyanzale », 12 juillet 2016, <http://www.radiookapi.net/2016/07/12/actualite/secure/nord-kivu-larmee-renforce-sa-presence-nyanzale>

<sup>11</sup>

Report of the Secretary General of the United Nations on MONUSCO, 29 December 2016, *Ibid.*

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Security Council of the United Nations, S/RES/2277 (2016), 30 March 2016, <https://monusco.unmissions.org/sites/default/files/n1608883.pdf>

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OCHA, Communiqué of 6 January 2017, [https://www.humanitarianresponse.info/system/files/documents/files/ocha\\_communique\\_de\\_presse\\_violences\\_kasai\\_06012017\\_fr.pdf](https://www.humanitarianresponse.info/system/files/documents/files/ocha_communique_de_presse_violences_kasai_06012017_fr.pdf)

<sup>14</sup>

BCNUDH, Analysis of the human rights situation in January 2017

Africa, before coming back to DRC between March and April 2016. The purpose of his return was to obtain official recognition of his status as traditional chief, to which he had the right by virtue of the law establishing the status of traditional chiefs adopted in August 2015<sup>15</sup>. Certain sources indicate that the Congolese authorities refused to grant him that status because he failed to support them. Chief Kamuina Nsapu then called on the population, who were loyal to him, to commit civil disobedience, and openly challenged the legitimacy of the regime in place and the authority of the state. Following an official search of his home in his absence by the Congolese security services in April 2016, perceived as a desecration of his traditional powers, individuals loyal to Kamuina Nsapu became radicalized, and began to carry out attacks on state buildings, state symbols and representatives, and in particular the Congolese security forces.

Chief Kamuina Nsapu was killed in the course of an assault by the Congolese security forces on his village, situated near the Pshikula Catholic mission in the territory of Tshimbulu, on 12 August 2016. Local observers have described the attack as a “punitive operation” against the traditional chief, and indicated to our organizations that the Congolese security services targeted the village and its inhabitants. Kamuina Nsapu was killed in the course of the confrontation, and, again according to local sources, several tens of other civilians were summarily executed. Some of the bodies were then said to have been move to the town of Kananga, capital of Central Kasai, and deposited within the football stadium. Police officers are also said to have been injured, and eleven killed, according to statements by Lambert Mendé, government spokesman. Kamuina Nsapu’s body is then said to have been mutilated, and taken away by the security forces. It has still not been returned to the community.

#### *B. Murderous security response by FARDC*

Attacks by what the United Nations characterizes as a local militia, the Kamuina Nsapu militia named after their chief, whose death they seek to avenge, have since intensified. Institutions of the state (administrative offices, courts, town halls, police stations, prisons), churches, as well as soldiers and police officers, have been targeted. Villages have been burned. In certain cases, in response to these attacks FARDC has used force, including lethal force, in an excessive, disproportionate, and sometimes indiscriminate manner. Information indicates that most of the victims of these confrontations are unarmed militia. Several sources report that, in the context of operations carried out against the militia, soldiers have summarily executed unarmed civilians.

Between 8 and 13 February 2017, at least 150 members of the Kamuina Nsapu militia have been killed in a series of clashes with Congolese armed forces that have taken place in the territory of Dibaya (West Kasai), and especially in the town of Tshimbulu. Soldiers are also said to have been wounded. In the majority of the attacks, militia members have penetrated the town of Tshimbulu bearing fetishes and armed with sticks, spears, and sometimes machetes and home-made firearms. According to the statements of inhabitants, FARDC has intervened firing live rounds and using automatic and heavy weapons, notably rocket-launchers.

In a communiqué published on 20 February 2017<sup>16</sup>, United Nations High Commissioner for Human Rights Zeid Ra’ad Al-Husseini emphasized that there exist “*many serious allegations of violations of human rights on a massive scale in Kasai, Central Kasai, East Kasai, and the province of Lomami, in the context of a pronounced deterioration of the security situation, including persons being targeted by soldiers for their alleged affiliation with a local militia*”. He adds that extra-judiciary executions are said to have been committed by members of FARDC, and calls on the Congolese authorities to “*put an end to a brutal military response that does nothing to address the fundamental causes of conflict between the government and local militias, but rather targets civilians on the basis of their presumed links with the militias*”. The communiqué also indicates that

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Law determining the status of traditional chiefs, August 2015, Republic of Congo, <http://www.droitcongolais.info/files/1.11.1.-Loi-du-25-aout-2015-Statut-des-chefs-coutumiers.pdf>

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Declaration by the High Commissioner for Human Rights, 20 February 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx>

the United Nations Joint Office for Human Rights (BCNUDH) has received information concerning the killing of 50 individuals by members of the Congolese armed forces between 6 and 8 February, and the killing of a further 101 members between 9 and 13 February, supposedly Kamuina Nsapu militia. BCNUDH has documented more than 280 killings carried out in the context of this violent outbreak since July 2016.

Some days later, on 17 February 2017, a video broadcast on the Internet showed presumed soldiers of FARDC carrying out the summary execution of at least ten alleged militia members on a road between Ntenda and Mwanza Lomba, between the provinces of Central and East Kasai, according to the re-transcription of words spoken in Lingala by a presumed soldier. The images show, in the foreground, a group of 6 presumed soldiers of FARDC, in full uniform, opening unrestrained fire on a group of individuals situated some tens of meters from them, and to all appearances presenting no direct danger to the presumed soldiers. Having kept up sustained fire, the presumed soldiers approach the victims, all of whom are wounded by bullets and lying on the ground, and execute them one by one by firing shots at close range. One of the victims is stabbed with a bladed weapon by a presumed soldier, appearing to wish to make sure that the victim is really dead. The video's author, probably a soldier belonging to the same detachment, regularly calls out in Lingala or Swahili: "*You're already a goner! Animals!*", "*That's ok, he's already a goner*", or "*That one's not dead*", before a presumed soldier intervenes to finish off the victim. Some of the bodies are then removed by the presumed soldiers and assembled near a military truck then seen on the video, at the same time as another group of about ten presumed soldiers.

Upon analyzing the images, our organizations were able to count 13 bodies, among them those of at least two women. Some of the victims also appear to be very young, and could be children. Some victims are wearing a red band around their heads and left arms, a distinctive sign of the Kamuina Nsapu militia. The images show that they are armed only with sticks, clubs, and sling-shots, demonstrating that the soldiers resorted to unbridled force in executing individuals who in no instance presented a grave or direct threat to them. The fundamental principles of the United Nations regarding recourse to force and the use of firearms by those charged with enforcing the law stipulate that agents of the state "*in the accomplishment of their functions will as far as possible resort to non-violent means before using force or firearms*", and that they "*must not use firearms against persons except in the case of self defense or to defend third parties against an imminent threat of death or grave injury*"<sup>17</sup>. They emphasize that, if there is recourse to force, those agents "*must identify themselves as such, and give a clear warning of their intention of using firearms, leaving a sufficient delay for the warning to take effect*". None of these fundamental principles were visibly respected by the presumed soldiers.

Although our organizations have not for the moment been able to authenticate the video, a variety of elements gives cause to believe that these acts were in fact perpetrated by elements of FARDC in their conflict with the Kamuina Nsapu militia, and those elements are consistent with other cases of grave violations of human rights committed in these regions and documented by our organizations. The Congolese Minister of Information Lambert Mende reacted to this video by indicating in a communiqué published on 18 February that it represented "*a set-up perpetrated [...] by opponents of the government*", and a "*macabre fabrication in very bad taste, which has the air of an apology for terrorism*", even before it had been possible to carry out serious on-the-spot investigations. On the same day, Minister of Human Rights Marie-Ange Mushobekwa announced that an investigation had been opened into the allegations of crimes, and this was confirmed by the Congolese government on 22 February, notably in the face of appeals from the United Nations, the

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Basic Principles of the United Nations on the Use of Force and Firearms by Law Enforcement Officials, September 1990, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/UseOfForceAndFirearms.aspx>

European Union<sup>18</sup>, France<sup>19</sup>, and the United States<sup>20</sup>.

On 27 January 2017, our organizations in Kananga were notified of confrontations between elements of FADRC and of the Congolese National Police (PNC) and some 30 members of the Kamuina Nsapu militia. According to information provided by BCNUDH in its report of January 2017, and not yet confirmed, the response of the Congolese security forces to this attack by militia, which especially targeted the Kananga courthouse, the town hall, and the governor's office, caused the deaths of at least nine persons, including two boys and a girl of 13. The report especially emphasizes that *"the majority of the victims appear to have been militia armed with sticks and bearing fetishes"*<sup>21</sup>. Another video broadcast on the Internet, supposedly filmed on 27 January, shows a young girl wounded and bleeding, lying on the ground in front of the governor's office in Kananga. She is wearing red bands around her head and her left arm, indicating that she might belong to the Kamuina Nsapu group, and she is not armed. Men engaged in interrogating her, while refusing to take her to the hospital, kick her several times in the face. The video allows us to see that one of the men is wearing a pair of navy blue trousers, the color of the Congolese police uniform, which may indicate that this was a member of the PNC. A witness reported to France 24 having *"seen this young girl – still alive – being dragged along the ground"*. The witness adds: *"You could see that she also had gunshot wounds"*, and that *"she was in any case dead a short while later, because the soldiers did not want to take her to hospital"*. The girl says on the video that she had been enrolled into a group by force, and compelled to drink a potion that was supposed to make her stronger. The witness indicates having seen the bodies of two other boys along with three other corpses. The same witness affirmed that *"young people wearing red bands and coming from Nganza [had a little earlier] approached the stand that had been erected for the arrival of the Prime Minister. They were armed with sticks and brooms, but I did not see any firearms. Soldiers then started firing"*<sup>22</sup>. Our organizations were not able to contact this witness directly, but this information is consistent with other elements of information reported to FIDH and its member organizations in DRC.

Similar violent events were notified to our organizations in July, September, mid-October, and December 2016, notably at Kananga, Kena Nkuna, in Central Kasai, at Tshikapa in Kasai, and at Mbuji-Mayi in East Kasai. In his report on MONUSCO in December 2016, the Secretary General of the United Nations notes that *"in Central Kasai, grave outbreaks of violence that shook the province in July and October, notably its capital Kananga, caused at least 140 deaths and a much higher number of wounded, according to unconfirmed information"*<sup>23</sup>.

Our organizations condemn the attacks carried out by the Kamuina Nsapu militia, and are extremely concerned by consistent information that this militia recruits and uses children, sometimes less than 14 years old, including their use as human shields<sup>24</sup>. Some sources report

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Local Declaration of the Delegation of the European Union Concerning Violence in the Kasai Provinces, 20 February 2017, [https://eeas.europa.eu/delegations/dr-congo-kinshasa/20977/declaration-locale-de-la-delegation-de-lunion-europeenne-concernant-les-violences-dans-les\\_en](https://eeas.europa.eu/delegations/dr-congo-kinshasa/20977/declaration-locale-de-la-delegation-de-lunion-europeenne-concernant-les-violences-dans-les_en)

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Democratic Republic of the Congo - Situation in Kasai, 20 February 2017, <http://www.diplomatie.gouv.fr/fr/dossiers-pays/republique-democratique-du-congo/evenements/article/republique-democratique-du-congo-situation-dans-le-kasai-20-02-17>

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United States Department of State, <https://cd.usembassy.gov/fr/declaration-de-mark-toner-porte-parole-interimaire/>, <https://cd.usembassy.gov/statement-mark-toner-acting-spokesperson/>

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Ibid.

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France 24, "Soldiers fire on a young girl in DR: 'But she was not armed'", 22 February 2017, <http://observers.france24.com/fr/20170222-rdc-congo-kasai-kananga-video-militaires-tirent-jeune-fille-desarmee-kamuina-nsapu>

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Report of the UN Secretary General on MONUSCO, 29 December 2017, *Ibid.*

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that 50% of the strength of Kamuina Nsapu is said to comprise minors. The UN OCHA estimates that “**tens of minors** are said to have been enrolled into the ranks of the militia”<sup>25</sup>.

Our organizations call on the Congolese authorities to put an immediate end to extra-judicial killings, and to all violations of human rights and international humanitarian law committed by Congolese soldiers in the context of this conflict. The authorities must give clear orders prohibiting FARDC from using force in an excessive and disproportionate manner against supposed militia members, and must take all measures to cease the brutal security response so far applied to this crisis, which has led only to further violence. Independent, impartial, and effective investigations must be carried out by the authorities with the aim of identifying and prosecuting those responsible for these crimes.

The Congolese authorities must also allow human rights organizations and journalists to inquire into these crimes, as our organizations are concerned by the fact that the Congolese authorities seek to conceal the abuses committed in the central regions of the country by threatening and silencing certain journalists. In a communiqué published on 21 February 2017, the organization *Reporters sans frontières* (RSF) stressed that journalists were “*pressurized to draw a veil over massacres in the province of Kasai*”, adding that “*journalists reporting on massacres committed by members of the ‘Kamuina Nsapu’ militia and the Armed Forces of the DRC face threats of immediate death*”. At least four journalists in the region of Kananga are said to have been “*taken to task*” between 13 and 19 February 2017. The organization specifies that “*two of them have had to flee the region to protect themselves*”<sup>26</sup>.

The Kasai region was largely peaceful in recent years. It is the native province of Etienne Tshisekedi, former leader of the opposition party Union for Democracy and Social Progress (UDSP), who died on 1 February last. Various information indicates that the destabilization of this bastion of the opposition is associated with the national political situation, as the Congolese armed forces support traditional chiefs considered to be loyal to President Kabila. In order to dissuade the commission of such crimes, MONUSCO should intervene itself if necessary for the protection of civilians, continue to document violations of human rights committed by all parties, and overall strengthen its presence in the zones affected by this conflict.

### 2. 3. The continued repression of voices engaged in democratic struggle

In parallel with this deterioration of the situation with respect to security and human rights in the east and center of the country, DRC is going through an electoral crisis that has entailed a restriction of the democratic space, and the commission of grave human rights violations in the west and in the country’s main urban centers, notably in Kinshasa, Goma, Bukavu, Lubumbashi, Kananga, and Mbuji-Mayi, where voices are calling for the departure of President Kabila at the end of his second and final constitutional mandate were violently suppressed at the end of 2016. Although the main purpose of the 31 December Accord was to defuse these tensions and permit the return of a more peaceful climate, civil society, citizen movements, human-rights defenders, the media and journalists, as well as representatives of the political opposition continue to be under pressure. Little progress has been made towards ending the repression of opposition voices.

#### *A. Setting free those detained for their peaceful actions to promote democracy*

Although the political agreement of December 31, 2016 calls for the release of pro-democracy activists and representatives of the political opposition, many of them continue to be victims of arbitrary arrest, are still being detained, and are the victims of judicial harassment. On 24 February

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On this same subject see also the BCNUDH report of January 2017, *Ibid*.

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OCHA, Communiqué of 6 January 2017, *Ibid*.

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*Reporters sans frontières*, “Journalists ‘encouraged’ not to cover massacres in the province of Kasai in DRC”, 21 February 2017, <https://rsf.org/fr/actualites/les-journalistes-incites-ne-pas-evoquer-les-massacres-dans-la-province-du-kasai-en-rdc>

2017, Mr. Paul Nsapu, President of the League of Electors and FIDH's Deputy Secretary General, was threatened with assassination. He received two text messages (SMS) in the Lingala language on his mobile phone threatening him and his family in these words: "Have you forgotten what happened to your friends in Katanga? You're nothing, we will not let you go until you fall, you're a little tree. We know everything you do, where you hide yourself. " The second message said, "You're stubborn, you do not want to understand, we're going to finish you. Even if you have run away your children and your brothers and sisters, we will finish those who are here. The days are numbered. You're going to learn. We know where they are ". These threats follow the comments made by the Minister of Communication and Media, Lambert Mende Omalanga, in an interview given to ACTUALITE.CD on 18 February, in which he implied that Mr. Paul Nsapu was one of the instigators of a "video montage" on the massacre of alleged militiamen Kamuina Nsapu, carried out for political purposes to hold the FARDC and the Congolese authorities responsible for serious crimes. Our organizations are concerned that these threats are linked to the human rights activities of Mr. Paul Nsapu in favor of the victims of murders and other abuses committed in recent months, particularly against unarmed civilians, including in the regions of the Central Kasai and in Kinshasa, perpetrated by the Congolese security services. He could also be targeted for his public support to members of citizens' movements such as LUCHA, Filimbi or Countdown, victims of harassment, intimidation, arbitrary arrest and detention by the Congolese authorities<sup>27</sup>.

On March 18, a member of the movement Fight for Change (Lucha) Mr. Fabrice Kubuya Mutsirwa was released from the Goma prison. He was subjected to ill-treatment during his detention and is hospitalized since his release. On 7 March, he was sentenced to three months imprisonment and is due to be released on 19 March. Three other Lucha activists, Faustin Dunia, Jacques Muhindo and Glody Ntambwe, charged with "incitement to revolt", "disturbance of public order", "violation of domicile", "usurpation of functions" and "death threats" were also condemned by the Goma Peace Tribunal to three months' imprisonment on 8 February. They were immediately released as they had already served their prison terms. The last three were kidnapped on 24 October 2016 and beaten in Goma by young leaders of the presidential majority while they sensitized the civilian population during sit-in organized the following days on the presidential mandate. Although these activists were released, they were not cleared. The judicial decisions taken against them have not been annulled and their arrest and detention have not been deemed arbitrary.

Mr. Patrick Musasa Tshibanda, of the LUCHA Movement, spent more than a month in arbitrary detention at the premises of the National Intelligence Agency in Kinshasa. He was abducted in Kinshasa on 16 December 2016, detained at the Tshatshi military camp before being transferred to the ANR premises on 26 December. He was detained incommunicado without access to legal assistance before being released at the end of January. Two other young Lucha activists, Nicolas Mbiya Kabeya and Jean-Paul Mualaba Biaya, who had been arbitrarily detained in Mbuji-Mayi since 20 December 2016, were acquitted on 1 February and released.

Three activists of the "Countdown" (Compte à Rebours), Chris Shematsi, John Ngandu and Samuel Bosasele, who were detained in Kinshasa were also released on 8 February. Nevertheless, there are reports that since their release they have been summoned several times to the ANR office. They were arrested on December 13, 2016 with Mr. Carbone Beni Wa Beya, in charge of mobilization and deployment in the Filimbi collective, while they were participating in a peaceful sit-in to call for respect of the Constitution before the headquarters Of the CENCO in Kinshasa, where political negotiations were taking place. Mr. Carbone Beni Wa Beya was detained at Tshatshi military camp, a T2 presidential division before being transferred to the ANR on 26 December 2016 and released on 11 January 2017 after 29 days of detention. According to information received, Mr. Carbone Beni Wa Beya suffered ill-treatment during his detention at the Tshatshi military camp. The three members of Count to Rebours remain detained in the cell of the "Zulu" in the premises of the ANR in Kinshasa / Gombe without access to their lawyer. There were

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L'Observatoire pour la protection des défenseurs des droits de l'homme, RDC : Menaces de mort à l'encontre de M. Paul Nsapu, 1<sup>er</sup> mars 2017, <https://www.fidh.org/fr/themes/defenseurs-des-droits-humains/rdc-menaces-de-mort-a-l-encontre-de-m-paul-nsapu>

no formal charges against any of the four defenders.

### *B. Ending the detention and harassment of members of the political opposition*

Certain political leaders are also being detained and the charges against them have not yet been dismissed. Franck Diongo, deputy and leader of the Progressive Lumumbist Movement (MLP), remains in detention at the Kinshasa central prison. He was arrested on 19 December, and sentenced on 28 December by the Supreme Court of Justice to five years in prison for arbitrary arrest and aggravated illegal detention, during an expedited trial during which he appeared, accompanied by his lawyers and medical assistants, in a wheelchair with an IV. He was guilty charged of illegally confining three soldiers of the Republican Guard in his home. According to information obtained by our organizations, the opposition leader was arbitrarily arrested while he was at home. On Monday, January 9, 2017, the police intervened before and during a press conference organized in Kinshasa by Franck Diongo's lawyers, and arrested two members of the MLP, beat supporters of Franck Diongo, and damaged or destroyed property (chairs, posters and photos)<sup>28</sup>. Our organizations call upon the Congolese authorities to release Franck Diongo and his supporters, who are being held for political reasons, and, where appropriate, to put an end to their harassment, including legal harassment.

On 7 January Gabriel Kyungu, chairman of the Union of Nationalists and Federalists of the Congo (UNAFEC) was prevented from traveling to Kinshasa, where he hoped to participate in work on implementing the 31 December Accord, by the security services at Luano airport in Lubumbashi in the province of Haut-Katanga. He has already been the victim of harassment by the Congolese authorities when he left the presidential majority in September 2015. On January 5, 2017, Gabriel Kyungu was called in by the office of the prosecutor and questioned about a video, in which he allegedly insulted President Kabila. His parliamentary immunity was lifted by the provincial parliament of Haut-Katanga at the end of December 2016.

Our organizations do, however, welcome the release of Moise Moni Della, chairman of the Guardians of Nature and Democrats (CONADE) opposition party, on 28 January in Kinshasa. He had been arrested on 19 September 2016 by elements of FADRC and prosecuted for rebellion, inciting civil disobedience, and attacking the Head of State. The Gombe Tribunal de Grande Instance granted his temporary release on 27 January. On 15 January the opposition figure Roger Lumbala of the Congolese Rally for Democracy (RDC/N) returned to the DRC after an exile of four years. On 12 January the vice-president of the UDSP, David Mukeba, who had been arbitrarily detained by ANR in Kinshasa since 19 November along with three other individuals, previously released, was also returned to freedom<sup>29</sup>.

Our organizations call upon the Congolese authorities to implement the necessary confidence building measures, as set forth in the 31 December 2016 Agreement, and to release and cease all prosecution of activists, human rights defenders, political opponents, and individuals arbitrarily detained in the context of the repression of voices are opposed to President Kabila's remaining in power.

### *C. Guaranteeing the freedom of the press and media*

The media and journalists continue to be targeted by the authorities. While Radio Liberté and Canal Congo Télévision (CCTV) has been allowed to broadcast as of 23 January, seven other opposition news providers remain muzzled, including six Congolese media: Congo News, Radio Lisanga Télévision (RLTV), Nyota Télévision, Radiotélévision Lubumbashi JUA (RTLJ), La Voix du

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See Politico, "The police disperses a press conference by the lawyers of Franck Diongo in Kinshasa", 9 January 2017, <http://www.politico.cd/encontinu/2017/01/09/police-disperse-point-de-presse-avocats-de-franck-diongo-a-kinshasa.html>

29

See notably the report by BCNUDH, *Ibid*.

Katanga and Radiotélévision Mapendo. Radio France Internationale (RFI) signals are still suspended in Kinshasa and in the neighboring city of Brazzaville, a situation that has already gone on for more than three months.

These restrictive measures are part of a framework of heightened repression of the freedom of the press and media since the end of 2016. The facilities of certain radio stations have been ransacked, radio shows have been suspended, media forbidden to transmit. Journalists have been intimidated or threatened, and have become victims of violence on the part of the Congolese security services<sup>30</sup>. On December 14, 2016, telecommunications companies received a letter from the Post and Telecommunications Regulatory Authority (ARPTC)<sup>31</sup> on the orders of the Presidency of the Republic, instructing them to block access to social networks and to suspend all Internet access if the former measures were not possible, beginning on 18 December at midnight, the day before the last day of the second and final constitutional mandate of President Kabila.

These measures constitute a serious violation of the freedom of the press and media and of Congolese citizens' access to information. The country is at a crucial moment in its history. The legitimate claims of the Congolese people to build a more democratic DRC must be heard by the authorities. This must be achieved with respect for the freedoms of expression and opinion, the physical integrity of journalists, and by immediately lifting bans and restrictions that inhibit the press.

#### *D. Rendering justice to the victims of the repression of demonstrations*

Our organizations also call upon Congolese authorities to carry out independent and impartial investigations to shed light on the serious human rights violations that were committed during demonstrations on 19 September and 19 December 2016 against President Kabila's remaining in power, and to hold those responsible accountable for their crimes.

In its report published on 1 March 2017, BCNUDH indicated that the Congolese security and defense forces "*made excessive and disproportionate use of force, sometimes lethally, in order to prevent and contain demonstrations in December 2016.*" Thus "*at least 40 people, including five women and two children, were killed between 15 and 31 December 2016, in several cities of the DRC, including Kinshasa, Lubumbashi, Boma and Matadi,*" according again to BCNUDH. The report emphasizes that all the victims, except for two, were killed by gunshot wounds, with most wounds being sustained on the upper part of the body, and that the majority of the victims were unarmed, suggesting that these individuals were executed in an extrajudicial manner. During the same period, "*at least 147 people, including 14 women and 18 children, were wounded by State agents, and at least 917 people, including 30 women and 95 children, were arrested by security and defense forces.*" The report also indicates that "*certain demonstrators committed acts of violence, including the murder of at least one member of the Congolese National Police (PNC) in Kinshasa on 20 December 2016.*"<sup>32</sup>

According to our organizations, between 19 and 20 September tens of civilians had already been killed in Kinshasa by the forces of order, which fired live rounds into the crowd in order to repress

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See notably *Reporters sans frontières*, "Censorship and violence against journalists: a somber end to President Kabila's mandate", 16 December 2016, <https://rsf.org/fr/actualites/censure-et-violences-contre-les-journalistes-une-sombre-fin-de-mandat-pour-le-president-kabila> "Demonstrations in Kinshasa : RSF and JED demand the opening of an inquiry after the acts of violence committed against journalists", 23 September 2016, <https://rsf.org/fr/actualites/manifestations-kinshasa-rsf-et-jed-demandent-louverture-dune-enquete-apres-les-violences-commises>

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[https://rsf.org/sites/default/files/censure\\_reseaux\\_sociaux\\_rdc\\_19122016.pdf](https://rsf.org/sites/default/files/censure_reseaux_sociaux_rdc_19122016.pdf)

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BCNUDH, "The defense and security forces of DRC committed grave violations of human rights in December 2016 », 1 March 2017, <https://monusco.unmissions.org/les-forces-de-d%C3%A9fense-et-de-s%C3%A9curit%C3%A9-de-la-rdc-ont-commis-de-graves-violations-des-droits-de-l'homme>

demonstrations<sup>33</sup>. In a communiqué published on 22 September 2016, United Nations High Commissioner for Human Rights Zeid Ra'ad Al Hussein also indicated that “*at least 50 people, including four police officers, were allegedly killed during clashes and violence in the capital city of Kinshasa on 19 and 20 September, and at least 77 others were wounded,*” and that these figures may in fact be too conservative<sup>34</sup>.

### **III. The strengthening of MONUSCO’s abilities to meet the needs of protecting civilians and organizing elections**

As the UN Group of Experts on the DRC has emphasized, overall security conditions in the country did not improve during 2016. In addition to the exactions committed by armed groups and local militias, there is violence related to heightened political tension, due to attempts made by President Kabila to remain in power. Against this backdrop, our organizations are calling upon the United Nations Security Council to renew the mandate of MONUSCO and in particular the mandate of the Intervention Brigade, and make the protection of civilians in all zones affected by violence and support for election organizations a priority of its mandate.

#### **3. 1. Guaranteeing the protection of civilians**

As our organizations have stressed in the present note, the security and human rights situation is of grave concern in the east of the country. Exactions by armed groups and militias continue to cause numerous victims among the civilian population.

In addition to these traditional groups, new groups have also been created, such the Maï-Maï self-defense forces, the Carmel Body of Christ group, which became active in the Butembo and Beni regions at the end of 2016, and the National Council for the Renewal of Democracy (NCRD) in South Kivu.

NCRD grew out of the split-up of FDLR in May 2016, which led to desertion from and the subsequent weakening of the latter. During the second half of 2016, more than 50 members allegedly deserted from FDLR, 99 other fighters were supposedly killed by the Congolese army, and more than 400 were demobilized by MONUSCO. The Group of Experts noted in its report of December 2016 that the zones under FDLR control have dwindled considerably and are now restricted to the North Kivu region, primarily Rutshuru territory. The entire FDLR operational system in South Kivu has fallen into the hands of NCRD, which comprises one third or even one half of the members of FDLR, most notably several dozen of its officers. In order to strengthen their ability to act, FDLR has provided increased support to certain armed factions of Nyatura (weapons and training) and has even carried out joint operations. Other armed Nyatura groups have chosen to support NCRD. In the context of these struggles for power and influence, fighting between local armed groups has led to serious violence and the killing of several civilians<sup>35</sup>.

Our organizations call on MONUSCO to protect the civilian population in the east of DRC, and to continue to carry out operations to neutralize these groups. Our organizations call on MONUSCO to continue to monitor the activities of these groups, and to take into account the creation of new armed groups in its operational strategies in order to effectively fight against all of these groups and militias and to strengthen its presence in the affected zones, notably those that are subject to repeated attacks, within the strictest respect of international humanitarian law.

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FIDH, “DRC under scrutiny: the Human Rights Council makes the country the focus of its attention”, 30 September 2016, <https://www.fidh.org/fr/regions/afrique/rdc/la-rdc-sous-surveillance-le-conseil-des-droits-de-l-homme-place-le>

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UN Communiqué, “DRC: the UN Human Rights office warns of a deterioration of the situation”, 22 September 2016, <http://www.un.org/apps/newsFr/storyF.asp?NewsID=38116#.WLa-YtyPbFc>

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Report of the Group of Experts, *Ibid.*

### 3. 2. Strengthening MONUSCO actions in the center of the country

In Kasai, Central Kasai and West Kasai, the risk that the crisis will continue and even intensify remains very high. Recent allegations of serious violations of human rights, notably the extra-judicial killings of alleged Kamina Nsapu militia members, might encourage this group to continue its attacks. Moreover, the strong politicization of the populations of Central Kasai, an opposition stronghold, could also lead to an increase in tensions if a resolution to this crisis is not quickly found.

One of the main issues is that of traditional chieftainships. MONUSCO should encourage local and national authorities to begin a mediation process with the community of chief Kamuina Nsapu. This process should seek to establish an agreement concerning the recognition of the authority of the chief of this community, in accordance with the law of August 2015, which establishes the status of traditional chiefs. MONUSCO should also encourage the Congolese authorities to return the body of chief Kamuina Nsapu to his community in order to make the traditional transfer of power possible, and calm the current climate. A similar mediation process should be undertaken with all the traditional chiefs or community leaders who are in conflict with the authorities, to avoid a spread of violence.

Broadly speaking, MONUSCO should refrain from supporting elements of the Congolese armed forces in operations that directly or indirectly support certain traditional chiefs depending on the loyalty they have for president Kabila. The mission should continue to carry out evaluation operations in these areas and document human rights violations that are committed there. It should also support the Congolese authorities in carrying out independent, impartial and efficient investigations of the serious crimes committed, including those committed by FADRC, in order to end impunity for these crimes and to avoid their repetition.

### 3. 3. Intervening to protect civilians in urban zones and creating favorable conditions to hold free and fair elections

During demonstrations in September and December of 2016, which occurred in the major cities of the country, MONUSCO forces did not fulfill their mandate to protect civilians, and tens of people were victims of repression by the Congolese security services. Several national and international human rights organizations, however, including FIDH, the League of Electors, the Lotus Group, and ASADHO had warned of a high risk of serious human rights violations<sup>36</sup>. This observation would seem to indicate that not only were MONUSCO forces re-positioned too late from the east to the west of the country, but that they were also unprepared for peacekeeping operations in urban areas, and/or were not employed to protect civilians from excessive and disproportionate use of force by security services. MONUSCO should improve its preventive and reactive capacities in order to be able to effectively protect civilians during demonstrations. Such gatherings are expected to take place during 2017, especially as elections draw near, and MONUSCO must be ready to completely fulfill its mandate.

Human rights defenders, activists and members of the political opposition have been and continue to be the first target of the repression exerted by the authorities. Our organizations would like to reiterate that MONUSCO is tasked with protecting civilians “*by paying particular attention (...) to human-rights defenders,*” among others<sup>37</sup>. It absolutely must also do everything possible to support “*the creation of conditions that are propitious to holding free and fair elections according to the defined schedule, so as to reduce the risk of instability, primarily by providing an open political arena and by ensuring the promotion and protection of human rights,*” in keeping with its

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FIDH, League of Electors, Lotus Group, ASADHO: “President Kabila must put an end to repression and respect the constitution”, 15 December 2016, <https://www.fidh.org/fr/regions/afrique/rdc/le-president-kabila-doit-mettre-un-terme-a-la-repression-et-respecter>

<sup>37</sup>

UN Security Council, S/RES/2277 (2016), 30 March 2016, <https://monusco.unmissions.org/sites/default/files/n1608883.pdf>

mandate<sup>38</sup>. This must be done through the efficient protection of human rights defenders, activists, journalists, and members of the political opposition, and through support for the implementation of the 31 December 2016 Accord, notably confidence building measures. MONUSCO should also support the staff of the Independent National Electoral Commission (CENI) in preparing for elections and protecting its staff as well as the facilities where it carries out its activities, especially the voter registration offices.

#### **IV. The international community must redouble efforts to ensure a democratic process**

The United Nations, the European Union, the African Union, the International Organization of la Francophonie and the diplomats of the influential countries are particularly involved in monitoring the electoral crisis in the DRC. On 31 March 2017, the UN Security Council will also be called upon to renew the mandate of the United Nations Stabilization Mission in the Democratic Republic of Congo (MONUSCO) and its intervention brigade. In a tense context, the strengthening of the capacities of MONUSCO is absolutely necessary. Similarly, a series of decisions have been made, they must be maintained and amplified in order to achieve compliance with the political agreements, to hold the presidential election and to avoid the country's flare-up.

International sanctions were imposed in late 2016 against some of the individuals involved in the crackdown. On December 12, 2016, the US government sanctioned Interior Minister Evariste Boshab and the head of the National Intelligence Agency (ANR), Kalev Mutond, accused of "undermining the democratic process".<sup>39</sup>

On the same day, the Council of the European Union (EU) adopted sanctions against seven high-ranking officials holding positions in the chain of command of the Congolese security forces who used disproportionate force, notably during the demonstrations of 19 September 2016<sup>40</sup>. These measures include a travel ban and the freezing of assets in the Union. The European Union, unlike the United States, has not, however, imposed sanctions on Evariste Boshab or Kalev Mutond. However, the European Parliament had called for sanctions to be imposed on the latter<sup>41</sup>. The Council of the European Union, however, stressed that new sanctions could be envisaged in the event of obstruction of the democratic process or new violence.

On 6 March 2017, the Council reiterated to political leaders and members of the Congolese security forces that "the European Union is ready to adopt new individual restrictive measures against those responsible for serious human rights violations, for inciting violence or impeding a peaceful and consensual exit from the crisis, respectful of the aspiration of the Congolese people to elect its representatives ". At the same time, the Council invited the High Representative of the European Union to "initiate work in this direction"<sup>42</sup>

Targeted sanctions imposed by the United States and the European Union have helped bring the Congolese authorities back to the negotiating table in December 2016. Today, it is a matter of getting the Congolese government and President Kabila to proceed as soon as possible to the signature of the agreement of 31 December 2016 and the appointment of a transitional

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<sup>38</sup>

Op. Cit.

<sup>39</sup> U. S. Department of the Treasury, « Treasury Sanctions Two Congolese Government Officials », 12 décembre 2016, <https://www.treasury.gov/press-center/press-releases/Pages/jl0682.aspx>

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Council of the European Union, 12 December 2016, <http://www.consilium.europa.eu/fr/press/press-releases/2016/12/12-drc-sanctions/>

Also see, 6 March, 2017, [http://eur-lex.europa.eu/legal-content/EN/TXT/uri=uriserv:OJ.L\\_.2017.060.01.0041.01.ENG&toc=OJ:L:2017:060:TOC](http://eur-lex.europa.eu/legal-content/EN/TXT/uri=uriserv:OJ.L_.2017.060.01.0041.01.ENG&toc=OJ:L:2017:060:TOC)

<sup>41</sup> European Parliament, December 1st, 2016, (2016/3001(RSP), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fTEXT%2bTA%2bP8-TA-2016-0479%2b0%2bDOC%2bXML%2bV0%2f%2fFR&language=FR>

<sup>42</sup> Conclusions of the EU Council on the DRC, 6 March, 2017, <http://data.consilium.europa.eu/doc/document/ST-6791-2017-INIT/fr/pdf>

government as provided for in that agreement. Diplomatic pressure remains necessary for the Congolese authorities to create conditions for the holding of elections before the end of 2017 and the adoption of new individual restrictive measures against several Congolese security and political officials by the European Union, The United Nations or the African Union may help to avoid a new shift in the organization of crucial elections for the country.

## **V. Conclusion and recommendations**

The precarious security situation in the DRC could rapidly degenerate and plunge the country into widespread violence, which may in turn further destabilize the region, which has already been rocked by the serious consequences of the crises in Burundi and South Sudan. In this situation, the international community, including the European Union and its member-states, must ensure that the Security Council renews MONUSCO's mandate and provides the Mission with the necessary means to strengthen its presence in the east and center of the country, and in the major urban centers, prior to any large demonstrations. MONUSCO's ability to efficiently protect civilians as well as human rights defenders, activists, journalists, and political antagonists from armed groups must be improved regardless of cost. MONUSCO must redouble its efforts to reopen a political arena, ease political tensions and improve the situation as regards security and human rights.

In addition, using the other instruments available to them, the international community, the European Union and its Member States, taking stock of the gravity of the situation, must pursue their efforts in support of the implementation of the Agreement Of 31 December 2016 and a return to respect for human rights.

### **Our organizations urge the Member States of the Security Council to take the following actions:**

#### **With regards to MONUSCO**

- Renew the mandate of MONUSCO and its Intervention Brigade and ensure that it has the mandate and the capacity to ensure the protection of civilian populations in a timely and rapid manner as tensions develop, Center and west of the DRC;
- Respond to the dual challenge of securing the population in the eastern, central and western parts of the country and organizing the elections by allowing a temporary reinforcement of the MONUSCO;
- Make the protection of civilians an effective priority of the MONUSCO's mandate, in particular civilians in the east and in the center of the country, human rights defenders, journalists and political opponents;
- Strengthen the police force within MONUSCO in order to allow rapid and punctual redeployment of the Mission to urban areas, in particular during demonstrations, to ensure the protection of civilian populations;
- With regard to prevention, ensure the strengthening of the capacity of the MONUSCO's Human Rights Office to document human rights violations committed in different regions of the territory, especially during the electoral period;
- Ensure assistance to the organization of elections by enabling the MONUSCO to provide technical and logistical support to the Ceni;
- Ensure the deployment of the MONUSCO near voter registration centers and in the vicinity of polling stations at the time of elections, especially in areas where the Mission's human rights Bureau and NGOs have noted a deterioration in the security situation.

## **With regards to the Congolese authorities**

- Maintain diplomatic pressure on the Congolese authorities so that the provisions of the political Accord signed on 31 December 2016 are implemented without further delay, primarily the confidence building measures and the holding of the presidential election by the end of 2017;
- Extending targeted sanctions, including travel bans and asset freezes, against those responsible for serious human rights violations committed in the Kasai and elsewhere in the DRC, as well as against political leaders who constitute an obstacle to peace and security ;
- Call on Congolese authorities to put an end to the prosecution of all human rights defenders, activists of citizen-based movements, and arbitrarily detained political opponents, and/or to release them;
- Call on the authorities to guarantee the freedom of the press and to remove restrictions on certain Congolese and international press publications and to cease intimidation, threats and attacks against journalists.

## **Our organizations urge the Member States of the European Union to take the following additional actions:**

- Adopt individual restrictive measures against:
  - The Deputy Prime Minister and Minister of the Interior Evariste Boshab and the Director of the Congolese National Intelligence Agency (ANR) Kalev Mutond knowing that the resolution of the European Parliament of 1 December 2016 already recommended sanctions against the latter ;
  - Congolese officials and nationals "who would be responsible for serious human rights violations, inciting violence or impeding a peaceful and consensual exit from the crisis, respectful of the aspiration of the Congolese people to elect their representatives";
- Urge the holding of a structured dialogue as provided for in Article 8 of the Cotonou Agreement as soon as the relevant confidence building measures provided for under the agreement of 31 December have been implemented.
- Consider the implementation of Article 96 of the Cotonou Agreement deciding on a reorientation of aid for the benefit of the populations if the dialogue proves impossible or is not conclusive, or if the Congolese authorities persist in not implementing the 31 December Agreement, or if they persist in failing to take appropriate measures to combat impunity and respect for human rights.
- Strengthen support to independent civil society, including citizen movements, journalists and human rights defenders.