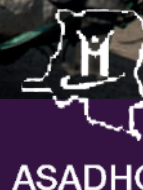




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Democratic Republic of the Congo Hopes and concerns three years after the submission of a Roadmap by our organisations:

What progress has been made on the five priorities addressed to President Félix-Antoine Tshisekedi?

Note

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ACRONYMS

| | |
|----------------|---|
| ADF | Allied Democratic Forces |
| ANR | National Intelligence Agency (<i>Agence nationale de renseignements</i>) |
| ASADHO | <i>Association africaine de défense des droits de l'Homme</i> |
| AU | African Union |
| CACH | <i>Cap pour le changement</i> |
| CENI | Independent National Electoral Commission (<i>Commission électorale nationale indépendante</i>) |
| CNDH | National Human Rights Commission (<i>Commission nationale des droits de l'Homme</i>) |
| DRC | Democratic Republic of the Congo |
| DDR | Disarmament, demobilisation and reintegration |
| FARDC | Armed Forces of the Democratic Republic of the Congo (<i>Forces armées de la RDC</i>) |
| FCC | <i>Front commun pour le Congo</i> |
| FDLR | <i>Forces démocratiques de libération du Rwanda</i> |
| FIDH | International Federation for Human Rights |
| FRPI | <i>Front de résistance patriotique de l'Ituri</i> |
| GL | <i>Groupe Lotus</i> |
| ICC | International Criminal Court |
| LE | <i>Ligue des Électeurs</i> |
| MONUC | United Nations Organisation Mission in the Democratic Republic of the Congo |
| MONUSCO | United Nations Organisation Stabilisation Mission in the Democratic Republic of the Congo |
| M23 | 23 March Movement |
| OHCHR | Office of the United Nations High Commissioner for Human Rights |
| PNC | Congolese National Police (<i>Police nationale congolaise</i>) |
| UNJHRO | United Nations Joint Human Rights Office |
| UNSC | United Nations Security Council |

INTRODUCTION

In a previous note published in March 2019 (the “March 2019 Roadmap”), at the beginning of President Félix-Antoine Tshisekedi’s first term of office, the International Federation for Human Rights (FIDH) and its member organisations in the Democratic Republic of the Congo (DRC), *Groupe Lotus*, *Association africaine de défense des droits de l’Homme* (ASADHO) and *Ligue des Électeurs*, presented an assessment of the human rights situation in the DRC with a series of recommendations. Five priorities were identified and addressed by our organisations to the then newly elected President: (1) Fighting impunity, promoting truth and strengthening justice to ensure national reconciliation and lasting peace; (2) Ensuring respect for fundamental rights and promoting political dialogue; (3) Defending and promoting women’s rights and gender equality; (4) Strengthening the Rule of Law and democracy; (5) Cooperating with the international and regional community and implementing human rights protection mechanisms.¹

Since this note was presented to President Tshisekedi by our organisations in Kinshasa in March 2019, the general political situation shaping the country’s policies, particularly in the area of human rights, has undergone multiple twists and turns, in the context of the health crises linked first to the Ebola epidemic in certain parts of the country, and then to the global COVID-19 pandemic.

In this new note, our organisations review and clarify the progress made in implementing the five priorities identified for human rights policy in the DRC, more than three years after the inauguration of President Tshisekedi. While a parliamentary session has been underway in the DRC since 15 March 2022, and the country is entering a pre-electoral period following the appointment of new members of the National Independent Electoral Commission (*Commission électorale nationale indépendante* – CENI) at the end of 2021, our organisations recall the priorities to be addressed and achieved in terms of human rights protection before the end of the presidential term in December 2023.

Methodology

Our organisations produced this note based on research from several sources cited in the body of this document. In addition, our organisations carried out a mission to Kinshasa from 7 to 11 March 2022 in order to further assess implementation of the March 2019 Roadmap, share concerns and address recommendations to various human rights actors in the country. The delegation met with national political, administrative and religious authorities, but also representatives of Congolese civil society and the United Nations, members of the political opposition, lawyers and diplomats.

Thus, most of the recommendations made in the March 2019 Roadmap have been addressed by our organisations in this update. Given the evolution of the political and human rights context in the DRC since March 2019, some recommendations have been adapted and priority recommendations have emerged, while other recommendations remain unchanged. The full set of recommendations from the March 2019 Roadmap can be found in the Annex to this note.

1. <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/five-human-rights-priorities-addressed-to-president-felix-tshisekedi>.

Context

After delays in the organisation of national elections generating popular discontent, a long pre-election period marked by repression and human rights violations, and divisions within the opposition over the nomination of a presidential candidate, Félix-Antoine Tshisekedi was finally declared the winner of the presidential election by CENI and was sworn in as president on 20 January 2019 by the Constitutional Court. His election was strongly contested by the opposition and civil society, who pointed to irregularities and saw it as the result of a power-sharing arrangement between the newly elected president and the outgoing president, Joseph Kabila. Opposition candidate Martin Fayulu declared himself president of the DRC, but the Constitutional Court rejected his appeal and confirmed Tshisekedi's victory.²

Several months after President Tshisekedi's inauguration, on the basis of the results of the parliamentary elections won by *Front commun pour le Congo* (FCC), the coalition party of the outgoing president, Joseph Kabila, a coalition government was formed in May 2019 with Tshisekedi's coalition, *Cap sur le changement* (CACH), led by a prime minister and several ministers aligned with Kabila.³ A few months after the inauguration of the new president, the FCC held the majority of seats in the National Assembly and the Senate, as well as the majority of provincial governorships.

However, this political landscape, which gave the impression that the new president would have no room for manoeuvre and that it would be controlled by the outgoing president, who had been in power for 18 years and was leader of the FCC majority coalition, has evolved since January 2019. Since President Tshisekedi's announcement in early December 2020 that he was ending the ruling CACH/FCC coalition after national consultations,⁴ figures from the majority party established by President Tshisekedi in April 2021, *Union sacrée de la Nation*, have dominated the government and parliament.⁵

This turnaround in the Congolese political situation has paved the way for the current President to tackle major challenges, on which progress had been blocked by a fragile and divided coalition. However, some sections of civil society also consider that this change in favour of the newly established presidential majority, *Union sacrée de la Nation*, was achieved in an undemocratic manner, by poaching a number of prominent figures from all political camps. Fresh civil society protests against the government have recently emerged regarding the appointment, in October 2021, of the new chair of CENI, Denis Kadima, who is considered too close to President Tshisekedi. The political opposition, civil society and the church contest the legitimacy of CENI and have organised demonstrations and sit-ins, particularly in the capital Kinshasa, which have been repressed by the police and have led to arrests and intimidation through legal actions.

In response to the growing insecurity in the east of the country, caused by the activities of armed groups,⁶ leading to renewed dissatisfaction with the United Nations Stabilisation Mission in the DRC (MONUSCO) among the civilian population, the President of the DRC declared a state of siege in the provinces of North Kivu and Ituri from May 2021. Military governors were appointed to manage the situation, replacing the civilian authorities, and the civil justice system was suspended in favour of the

2. See, for example *Jeune Afrique*, "RDC: Martin Fayulu s'autoproclame 'seul président légitime' du pays", 20 January 2019, <https://www.jeuneafrique.com/711471/politique/rdc-martin-fayulu-denonce-un-coup-detat-electoral/> (in French).

3. See, for example *Le Monde*, "RDC: le futur gouvernement de coalition finalement dévoilé", 26 August 2019, https://www.lemonde.fr/afrique/article/2019/08/26/rdc-le-futur-gouvernement-de-coalition-finalement-devoile_5502865_3212.html (in French).

4. See <https://www.rfi.fr/fr/afrique/20201206-rdc-f%C3%A9lix-tshisekedi-annonce-la-fin-de-la-coalition-fcc-cach> (in French).

5. On 15 February 2021, Sama Lukonde Kyenge, former Director General of the *Générale des Carrières et des Mines* (Gécamines) in Katanga, was appointed head of the *Union sacrée* government. In early February, Christophe Mboso was elected head of the National Assembly and in early March, Modeste Bahati Lukwebo was elected head of the Senate.

6. According to the Group of Experts on the DRC, armed groups have continued to operate with near impunity in eastern DRC. See Letter dated 10 June 2021 addressed to the President of the Security Council: <https://www.undocs.org/en/S/2021/560>.

military justice system.⁷ The arrival of these military governors, often former rebels, has raised fears about the return of peace and security in eastern DRC and has been criticised by civil society.⁸ The introduction of the state of siege was followed by a spike in violence, according to a parliamentary report on the situation in North Kivu from 2008 to 2021.⁹ Another report by the National Assembly's Defence and Security Committee also documents the misconduct, human rights violations and corruption among military judges and prosecutors in the two provinces since the state of siege began.¹⁰ Furthermore, military cooperation with the Ugandan army to step up the fight against the armed group ADF-NALU in these provinces raises concerns among civil society and the Congolese population, which is still nursing the wounds of the Ugandan army's intervention during the second Congo war (1998-2003).

In addition, from February 2021 President Tshisekedi was Chair of the African Union (AU) for one year.¹¹ According to Professor Alphonse Ntumba Luaba, coordinator of the Panel supporting the DRC's term as chair of the AU, the DRC's mid-term assessment was positive, particularly with regard to "peace, security, gender and the fight against sexual violence".¹² During Felix Tshisekedi's state of the nation address in December 2021, he emphasised the DRC's new stance aimed at "breaking its diplomatic isolation" by bringing the country back onto the international stage.¹³ However, the results have been mixed. Despite mediation efforts, consultation and involvement of civil society in the functioning of the organisation has been weak, and respect for human rights and democracy on the continent has not been at the centre of the discussions.

The last elections, by bringing about the long-awaited political changeover after the concentration of power in the hands of Mobutu and then the Kabilas, gave rise to high hopes for an improvement in the situation of the Congolese people. This hope was boosted by a number of measures taken and signs of progress, as well as promises and announcements, particularly in the area of human rights, immediately after President Tshisekedi took power. However, all the actors interviewed for this note agree that the Congolese population is disillusioned by promises that have not been kept or followed through and is concerned about the return of certain practices inherited from Kabila's authoritarian regime.

7. See <https://www.rfi.fr/fr/afrique/20210504-rdc-le-pr%C3%A9sident-tshisekedi-pose-les-contours-de-l-%C3%A9tat-de-si%C3%A8ge-en-ituri-et-au-nord-kivu> (in French).

8. See <https://www.rfi.fr/fr/afrique/20210506-rdc-l-%C3%A9tat-de-si%C3%A8ge-entre-en-vigueur-dans-les-provinces-du-nord-kivu-et-de-l-ituri> (in French).

9. See <https://www.rfi.fr/fr/afrique/20211110-violences-dans-les-territoires-de-beni-et-irumu-en-rdc-un-rapport-accablant-et-fouill%C3%A9> (in French).

10. See <https://www.rfi.fr/fr/afrique/20211031-rdc-un-rapport-%C3%A9pingle-de-graves-entorses-%C3%A0-l-%C3%A9tat-de-si%C3%A8ge-en-ituri-et-au-nord-kivu> (in French).

11. See <https://www.un.org/africarenewal/magazine/february-2021/new-au-chair-drc-president-felix-tshisekedi-sets-ambitious-agenda-2021>.

12. See <https://ouragan.cd/2021/09/ua-ntumba-luaba-dresse-un-bilan-positif-a-mi-parcours-de-la-mandature-de-felix-tshisekedi/> (in French).

13. See <https://www.jeuneafrique.com/1281191/politique/rdc-ce-qu'il-faut-retenir-du-discours-de-felix-tshisekedi-sur-letat-de-la-nation/> (in French).

Priority 1

Fighting impunity, promoting truth and strengthening justice to ensure national reconciliation and lasting peace

In the March 2019 Roadmap, our organisations stressed the need to prosecute international crimes and punish those most responsible, to initiate a process of truth and national reconciliation on past crimes, to rule on the instrumentalisation of community conflicts and to promote mediation, to provide reparation to victims, and to promote the establishment of an independent and effective judicial system.

Given the scale and repetition of the crimes committed throughout the DRC, our organisations called for the implementation of a holistic transitional justice policy, which could be based on the creation of specialised mixed chambers and a Truth and Reconciliation Commission, responsible for establishing the truth about past crimes, delivering justice to the victims, including by proposing reparation measures, and recommending institutional reforms.

The implementation of transitional justice mechanisms which could contribute to the fight against impunity in the DRC was also a recommendation of the 2010 UN Mapping Exercise Report by the Office of the High Commissioner for Human Rights (OHCHR),¹⁴ and supported by our organisations.¹⁵ The report lists the serious violations of human rights and international humanitarian law perpetrated between 1993 and 2003 on the territory of the DRC and sets out options for transitional justice mechanisms.

Since Tshisekedi came to power, there have been increasing calls from the international community for the establishment of a transitional justice mechanism in the DRC. In his December 2021 report on the situation in the DRC, the UN Secretary-General expressed concern about the deteriorating human rights situation in conflict-affected areas and encouraged the Congolese government to adopt a national strategy on transitional justice.¹⁶

In the eastern province of Ituri, in the context of the demobilisation of elements of the armed group *Front de résistance patriotique de l'Ituri* (FRPI), members of the Follow-up Committee for the Stabilisation and Reconstruction Plan for armed conflict-affected areas (STAREC) proposed measures at ministerial level, including the creation of a national commission on transitional justice and a compensation fund for victims of serious crimes.¹⁷

In addition, regarding the Kasai provinces, the team of international experts on the situation in the Kasai regions, in its report to the Human Rights Council in June 2019, also called for the establishment of a transitional justice mechanism to investigate the truth and the root causes of the conflict, and to provide reparations to victims.¹⁸

14. See https://www.ohchr.org/sites/default/files/Documents/Countries/CD/DRC_MAPPING_REPORT_FINAL_EN.pdf.

15. See <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/1-october-2020-10th-anniversary-of-the-publication-of-the-report-of> and <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/empire-du-silence-impunity-cycles-violence-drc>.

16. See <https://undocs.org/en/S/2021/987>.

17. *Ibid.*

18. See UN Human Rights Council, Report of the Team of International Experts on the situation in Kasai, June 2019, <https://undocs.org/en/A/HRC/41/31>.

In the province of Tshopo, in June 2021, during a commemoration of the clashes that took place in Kisangani 21 years earlier, Dr Denis Mukwege raised the urgent need to adopt a holistic national transitional justice strategy, expressing the hope that “all the driving forces of the nation will become involved in the transitional justice process emerging in the DRC and will take ownership of the content of this strategy in order to demand from the Congolese government and the international community the establishment of an International Criminal Tribunal for the Democratic Republic of the Congo.”¹⁹

At the beginning of his mandate, President Tshisekedi launched a process of reflection on transitional justice for the most serious crimes in the DRC. In addition, during the 3rd National Roundtable bringing together representatives of the authorities and civil society, organised in December 2020 by FIDH’s member organisation *Groupe Lotus*, the Minister for Human Rights also made a commitment to identify and support projects to establish transitional justice mechanisms in the DRC through regular consultations with Congolese civil society.²⁰

At the national level, these commitments by the national authorities to transitional justice have led to the creation of a joint commission composed of the Presidency, the Ministry of Justice and the Ministry for Human Rights, and the development of a roadmap based on the four pillars of transitional justice.²¹

At the provincial level, public consultations are underway to determine the transitional justice mechanisms best suited to the local situation. This initiative began in Kasai-Central in 2019 with the PAJURR (Peace, Justice, Reconciliation and Reconstruction in Kasai-Central) project, launched by the Congolese authorities and the United Nations Joint Human Rights Office (UNJHRO) in collaboration with other partners, including the United Nations Development Programme (UNDP). This project was aimed at promoting community reconciliation and social cohesion through initiatives to establish the truth, starting with the organisation of public consultations on the various forms of justice, reparation, reconciliation and guarantees of non-repetition in relation to the conflicts in Kasai-Central.²² The final report of these consultations, held in August 2019 at the initiative of the provincial government, was delivered in February 2020 and calls for the establishment of a truth commission, reconciliation of local communities torn apart by the conflict, reparations or compensation for all victims, criminal justice proceedings as well as remembrance efforts.²³ In August 2020, MONUSCO and its partners concluded the mobile court hearing before the Kananga Garrison Military Court in Luiza, Kasai-Central province. Judgments were handed down in four of the five cases relating in particular to acts of rape, summary and extrajudicial executions of civilians by elements of the Congolese National Police (*Police nationale congolaise* – PNC), the Armed Forces of the DRC (*Forces armées de la RDC* – FARDC) and alleged Kamuina Nsapu militia in Luiza territory between 2016 and 2018.²⁴

Our organisations welcome the efforts of the DRC, with the support of its partners, to establish a national transitional justice policy and encourage the continuation of initiatives in the provinces. We stress the importance of taking into account the particularities of each situation at the local level in the elaboration of the national transitional justice strategy, as well as ensuring coordination between partners supporting the Congolese authorities in this area.

19. See <https://www.rfi.fr/fr/afrique/20210606-rdc-vibrant-plaidoyer-du-dr-denis-mukwege-pour-la-justice> (in French).

20. See <https://www.politico.cd/encontinu/2020/12/06/3eme-table-ronde-nationale-la-bipartite-autorites-defenseurs-plaide-pour-un-projet-de-loi-sur-la-protection-des-acteurs-impliques-dans-la-defense-des-droits-humains-en-rdc.html/73054/> (in French).

21. The UN has identified four pillars of transitional justice: truth, justice, reparation and guarantees of non-repetition.

22. See MONUSCO News, “Une justice transitionnelle est-elle nécessaire au Kasai central?”, 16 August 2019, <https://monusco.unmissions.org/une-justice-transitionnelle-est-elle-n%C3%A9cessaire-au-kasa%C3%AF-central> (in French).

23. See <https://drcongo.un.org/index.php/fr/34304-rapport-des-consultations-populaires-sur-les-besoins-de-justice-reparations-et-prevention-de> (in French).

24. See https://reliefweb.int/sites/reliefweb.int/files/resources/compte-rendu_de_lactualite_des_nations_unies_en_rdc_a_la_date_du_19_aout_2020_final.pdf (in French).

In terms of reparations to victims of serious crimes in the DRC, including sexual violence, there was a breakthrough when funds were delivered to victims of the Six-Day War in Kisangani, the first Congolese victims to receive money from this national compensation fund for the harm they suffered. This fund, officially named the Provisional Rehabilitation Fund for Victims of the Kisangani Wars, is managed by the Ministry for Human Rights and was set up with a budget of USD 11,500,000. In January 2021, the Congolese government allocated the first instalment (USD 450,000) to the victims of the six-day war in Kisangani which took place in 2000.²⁵ However, civil society in Kisangani, including *Groupe Lotus*, was disappointed by this action, which comes more than 20 years after the events, highlighting the lack of transparency in the distribution and payment of funds. In the case opposing the DRC and Uganda before the International Court of Justice (ICJ), in February 2022 the Ugandan State was ordered to pay USD 325 million to the Congolese State as reparations for the clashes that took place on the territory of the DRC between 1998 and 2003.²⁶ **Our organisations insist that a national reparation mechanism be implemented as soon as possible for the victims of these clashes.**

With regard to sexual violence, in 2019 our organisations called for a specific reparations programme for victims, given the scale of sexual violence committed in the territory and the specific impact of such violence on victims. In her 2019 report, the Special Representative of the UN Secretary-General on Sexual Violence in Conflict reported that the procedure for claiming reparations in the DRC is arduous, and legal clinics lack funding to assist survivors of sexual violence after judgments are delivered.²⁷ To date, although there have been court decisions granting reparations in cases of sexual violence in the DRC, to the knowledge of our organisations, there have been no concrete measures to disburse these funds.²⁸ Moreover, no specific reparations programme for victims of sexual violence has been adopted by the Congolese government.

According to information gathered by our organisations, the establishment of a reparations fund for serious crimes including sexual violence in the DRC is under consideration at the National Assembly, and **our organisations call for it to be debated and adopted during the March 2022 parliamentary session in the DRC, and rapidly implemented. Our organisations also stress the need for the compensation fund for victims of violations to include a coordination mechanism with the ICC Trust Fund for Victims** regarding reparations in the Lubanga and Katanga cases, and soon in the Ntaganda case.

In terms of the fight against impunity, our organisations welcome the reopening in September 2021 of the trial for the murder of human rights defender Floribert Chebeya and the disappearance of his driver, Fidèle Bazana, eleven years earlier. While the case had been closed since the last appeal proceedings in 2015, new elements have made it possible to reopen the case. These include the arrest in September 2020 of Christian Ngoy Kenga Kenga, who was convicted *in absentia* at first instance and had been on the run since the events, as well as statements made in early 2021 by Hergile Ilunga wa Ilunga, a sergeant major in the police force at the time of the events, in the service of Colonel Daniel Mukalay, and by Alain Kayeye Longwa, a driver for Major Christian Ngoy Kenga Kenga, both of whom confessed to being agents in the double murder of Floribert Chebeya and Fidèle Bazana.²⁹

25. See <https://www.radiokapi.net/2021/01/29/actualite/justice/tshopo-le-ministre-des-droits-humains-remet-des-fonds-de-rehabilitation> (in French).

26. See <https://news.un.org/fr/story/2022/02/1114002>.

27. See <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/07/report/conflict-related-sexual-violence-report-of-the-united-nations-secretary-general/2019-SG-Report.pdf>.

28. See the recent case of Commander, Takungomo Mukambilwa Le Pouce, of the armed group Raïa Mutomboki in South Kivu, who was sentenced to 20 years' imprisonment at mobile court hearings for several crimes, including rape and sexual slavery. Reparations were granted to 170 victims, as well as resettlement measures. See <https://trialinternational.org/latest-post/migamba-case-drc-when-mining-exploitation-leads-to-mass-crimes/>.

29. Jacques Migabo had been sentenced *in absentia* in the 2011 Chebeya case and at the time of the events was bodyguard to Major Cristian Ngoy Kenga Kenga, who was arrested in September 2020. See <https://www.rfi.fr/fr/afrique/20210218-rdc-arrestation-de-jacques-mugabo-l-un-des-assassins-pr%C3%A9sum%C3%A9s-de-chebeya-et-bazana> (in French).

This evidence supported the version given by Paul Mwilambwe, the main witness in the case who was convicted *in absentia* at the 2011 trial and sentenced to the death penalty. Following the statements of Hergile Ilunga and Alain Kayeye Longwa in 2021, other police officers were arrested, including Lieutenant Jacques Mugabo, convicted *in absentia* in 2011 and arrested and imprisoned in February 2021.

Since the resumption of the hearings in September 2021 in Kinshasa, several police officers have been heard by the Congolese justice system, including the senior commissioner Christian Ngoy Kenga Kenga and the deputy commissioner Jacques Mugabo. Others, who were not tried at the original trial, such as Doudou Ilunga, Jeancy Mulang and General Zelwa Katanga Djadjidja, were also heard by the courts as sources of information. A court inspection was also authorised in November 2021 at the site where the body of Fidèle Bazana was allegedly buried, on a plot of land belonging to General Djadjidja, head of the military police at the time of the events. Paul Mwilambwe, the main witness in the case, decided to appear voluntarily before the court in the DRC after more than ten years on the run and was also heard as a witness in the case.³⁰

The decision of the Military High Court, on 25 March 2022, to reopen proceedings to hear some of the people named in the trial, in particular General Ponde, FARDC military prosecutor,³¹ was welcomed by our organisations, who continue to demand truth and justice for the families of the victims as well as for all individuals and organisations defending human rights in the DRC. Our organisations emphasise the need to punish those most responsible in this case, including by opening an investigation against General John Numbi, who is considered to be the instigator of these acts,³² and who is currently on the run and subject to an international arrest warrant. **Accordingly, our organisations call for the request for John Numbi's dismissal, filed by lawyers for the civil parties on 16 March 2022, to be considered and accepted by the Congolese authorities so that he can, if apprehended, appear before the competent courts.**³³

In May 2019, five months after the inauguration of Tshisekedi, civil society also deplored the lack of progress in the field of justice, particularly regarding the crimes committed in Yumbi and those resulting from the repression of protests during the pre-electoral period.³⁴ More than a year after the elections, the same observation was made by Amnesty International in relation to the violations committed during the repression in the pre-electoral period between 2015 and 2018, and the lack of political will to move forward on the issue.³⁵

Our organisations, who investigated the events, found that the attacks that took place in Yumbi, in the province of Mai-Ndombe, between 16 and 18 December 2018, resulted in more than 500 victims of murder, mutilation, including sexual mutilation, acts of torture and degrading and inhuman treatment, and pillaging.³⁶ These attacks, which stemmed from community tensions exacerbated in the context of the elections, may constitute crimes against humanity and should lead to the prosecution of those

30. See <https://www.fidh.org/fr/regions/afrique/rdc/rdc-proces-des-responsables-de-l-assassinat-de-floribert-chebeya-et> (in French).

31. See <https://actualite.cd/2022/03/25/proces-chebeya-la-haute-cour-militaire-ordonne-la-reouverture-des-debats-pour-les> (in French).

32. A complaint had been filed in 2010 with the Congolese justice system by Mr Chebeya's widow against former DRC President Joseph Kabila and his right-hand man and Inspector General of the PNC, General John Numbi Banza Tambo, currently on the run, in the same case. Following the fresh arrests and revelations made in the case, a second complaint was filed in October 2020 by lawyers for the civil parties and the matter was referred to the Military High Court for determination.

33. See <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/drc-imminent-verdict-in-the-chebeya-bazana-trial>.

34. See <https://www.rfi.fr/fr/afrique/20190505-rdc-100-jours-tshisekedi-bilan-droits-homme> (in French).

35. See <https://www.amnesty.org/en/latest/news/2020/01/drc-one-year-since-tshisekedi-took-office-insecurity-and-impunity-still-imperil-human-rights/>.

36. See <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/tense-electoral-period-in-yumbi-risks-another-outbreak-of-violence>.

allegedly responsible. The trial has been open since March 2021 before the Military High Court and nearly 60 people have been charged. Our organisations lament the slow progress in this case, which concerns events that took place more than three years ago. Our organisations also deplore the fact that one of the alleged perpetrators of the Yumbi massacres, at the time governor of the province of Mai-Ndombe, currently holds political office as governor of the city-province of Kinshasa.³⁷

Investigations into serious human rights violations committed in the Kasai provinces between community militias instrumentalised by the government in the run-up to the elections and the Congolese defence and security forces, which our organisations have documented,³⁸ have seen little progress to date. Several FARDC officers, stationed in the Kasais at the time, were arrested in 2020,³⁹ and the trial of one of the leaders of the Kamuina Nsapu armed insurgency, Nsumbu Katende, for war crimes and terrorism, opened in March 2021 in Kasai-Central in a mobile court.⁴⁰ On a visit to Kasai in June 2021, the Congolese Minister for Human Rights, Fabrice Puella, asked for forgiveness for the 2017 massacres, stressing that his presence in Kasai was a “clear signal” that “the fight against impunity should not spare anyone”.⁴¹ However, given the scale of the massacres, these actions are deemed insufficient by our organisations, considering the slow progress observed since the crimes commenced in 2016 and the absence of charges against high-ranking Congolese officials, considered by civil society to bear responsibility for these crimes.

On 29 January 2022, in the trial for the murder of the two UN experts in Kasai, Michael Sharp and Zaida Catalán, in Kasai in March 2017, while they were investigating massacres in that region, the Military Court in Kananga, Kasai, issued a decision sentencing 49 members of the Kamuina Nsapu militia to death, and army colonel Jean de Dieu Mambweni to 10 years in prison.⁴² However, our organisations are not satisfied with this verdict, which has been appealed by the military prosecutor’s office, because they consider on the one hand that the Court failed to establish the role of the defence and security forces and politicians in the case, and on the other hand that the principles of fair trial and criminal procedure have not been respected. This verdict comes at the end of a trial that has been marked by delays, as highlighted by the UN Human Rights Council’s team of international experts on the situation in Kasai: “[T]he team of international experts doubts that, with its current resources, the Congolese justice system is able to work effectively and that the proceedings it has initiated can meet the need for justice arising from this crisis, even in cases chosen for their symbolic significance.”⁴³

In terms of the fight against impunity of those most responsible, some individuals occupying key positions within these forces are still subject to restrictive measures imposed by the European Union (EU) for their involvement in acts that constitute serious human rights violations or abuses.⁴⁴ These measures, which have been in place since 2016, were renewed in December 2021 by the Council of the European Union.⁴⁵ While new appointments within the army were made in 2020, some of

37. See <https://www.rfi.fr/fr/afrique/20190411-rdc-gentiny-ngobila-mbaka-elu-gouverneur-kinshasa-controverses> (in French).

38. See <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/slaughter-in-kasai-crimes-against-humanity-perpetrated-to-create>.

39. See <https://www.rfi.fr/fr/afrique/20200809-massacre-civils-en-rdc-arrestations-dofficiers-larm%C3%A9e-et-la-police-%C3%A0-b%C3%A9> (in French).

40. See <https://trialinternational.org/fr/latest-post/republique-democratique-du-congo-limpunite-recule-aussi-au-kasai/> (in French).

41. See <https://www.rfi.fr/fr/afrique/20210623-rdc-dans-le-kasa%C3%AF-le-ministre-fabrice-puella-demande-pardon-pour-les-massacres-de-2017> (in French).

42. See <https://www.rfi.fr/fr/afrique/20220131-proc%C3%A8s-de-l-assassinat-des-experts-de-l-onu-en-rdc-ne-pas-perdre-espoir-de-faire-toute-la-lumi%C3%A8re> (in French).

43. See <https://undocs.org/en/A/HRC/45/50>.

44. See <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/fidh-welcomes-eu-decision-to-maintain-individual-sanctions-against>.

45. Only the former Governor of Haut-Katanga, Jean-Claude Kazembe Musonda, was removed from the list of individual measures in 2021 due to his death in July 2021 in the DRC. See <https://op.europa.eu/en/publication-detail/-/publication/3d3353e0-598c-11ec-91ac-01aa75ed71a1/language-en/format-PDF/source-256570248> and <https://www.radiokapi.net/2021/07/31/>

these individuals have been retained in influential positions within the Congolese security apparatus. However, General John Numbi, a Kabila protégé and alleged perpetrator of a number of serious human rights violations, was removed from the army by Tshisekedi, which is an important step in the vetting process of the security and defence forces.⁴⁶ Yet, he remains on the run and civil society is still awaiting the opening of proceedings against him in the Chebeya/Bazana case. Our organisations therefore stress the need for accountability, including at the highest level, of those responsible for human rights violations committed in particular by the Congolese defence and security forces.

Our organisations deplore the delays and slow progress in the fight against impunity in certain cases, in particular the Yumbi case and the cases in the Kasais, and the lack of political will to try those most responsible in these cases, some of whom are still holding positions within the state apparatus. Our organisations call for the cases to be processed as soon as possible, with the support of partners, particularly with regard to the exhumation of the bodies, so that the victims of these crimes can obtain reparation and have their rights recognised.⁴⁷

In addition, **our organisations reiterate the need for a vetting procedure** to ensure that “public officials and employees who are personally responsible for gross violations of human rights, in particular those involved in military, security, police, intelligence and judicial sectors, [do] not continue to serve in State institutions”⁴⁸ and do not benefit from amnesty measures or occupy posts within the country's new institutions.

With regard to the reform of the justice system, in relation to which the lack of independence and modernisation were the main criticisms made by civil society at the end of Kabila's presidency, our organisations note that little progress has been made, over the past three years, in the reform of the judicial system. Our organisations acknowledge the (incremental) increase in the salaries of prosecutors and judges since the end of 2021, as well as the launch of the recruitment process for new prosecutors and judges at the beginning of February 2022. However, our organisations note a shortage of prosecutors and judges, particularly military prosecutors and judges, and the inadequacy of judicial infrastructure throughout the country, which leads to delays and slow progress in certain proceedings. This lack of judicial resources has been exacerbated by the establishment and maintenance of the state of siege in the provinces of Ituri and North Kivu, where a military administration has replaced the civil administration.⁴⁹ Our organisations note that, in March 2022, President Tshisekedi issued an order amending the May 2021 order on the state of siege, to restrict the jurisdiction of military courts to certain offences,⁵⁰ and **emphasise the need to recruit and train new prosecutors and judges, with the support of the DRC's partners, and to strengthen the resources of civil courts, including the capacity of civil prosecutors and judges.**

[actualite/politique/haut-katanga-lancien-gouverneur-jean-claude-kazembe-est-decede](#) (in French).

46. See <https://www.rfi.fr/fr/afrique/20200718-rdc-f%C3%A9lix-tshisekedi-remanie-numbi-arm%C3%A9e-grandes-largeurs> (in French).

47. In its resolution A/HRC/RES/48/20 of 11 October 2021, the UN Human Rights Council decided to renew the mandate of the team of international experts on the situation in Kasai and to extend it to cover the entire territory of the DRC in the area of forensics and sexual violence, in order to support the Congolese judicial authorities in their investigations into human rights violations. See <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/285/67/PDF/G2128567.pdf?OpenElement>.

48. See Updated Set of principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/2005/102/Add.1), Principle 36.

49. The state of siege was decreed in May 2021 in the provinces of North Kivu and Ituri by President Tshisekedi. As a result, some military prosecutors and judges were transferred to the two provinces concerned, but without being replaced in their original provinces.

50. See <https://actualite.cd/index.php/2022/03/25/rdc-felix-tshisekedi-modifie-lordonnance-sur-letat-de-siege-et-reduit-les-competences> (in French).

Priority 2

Ensuring respect for fundamental rights and promoting political dialogue

During the first year of Tshisekedi's mandate, between January and December 2019, the UNJHRO⁵¹ noted a decrease in the number of violations committed throughout the territory of the DRC compared to 2018, with 6,545 violations. It also observed a "definite improvement in conditions for the exercise of public freedoms following the December 2018 elections with the arrival of the new authorities",⁵² with 778 violations of human rights and fundamental freedoms linked to restrictions on democratic space.

Over the course of 2020, the UNJHRO noted a significant increase in the number of violations committed in the DRC compared to 2019, with 7,909 violations, reflecting both the deterioration of the security situation in the eastern provinces of the country due to the activity of armed groups, and an increase in the number of violations of fundamental rights and freedoms linked to democratic space (935 violations). According to the UNJHRO, the increase in violations related to democratic space is linked to the political context (repression of demonstrations in connection with multiple crises within the ruling coalition), actions taken by the administrative authorities at the provincial level, as well as the restrictive context caused by the COVID-19 pandemic and the related state of emergency decreed in March 2020.⁵³

In 2021, however, a decrease in the number of violations was recorded by the UNJHRO, with 6,989 violations, including a decline in the number of violations related to restrictions on democratic space (476 violations). According to the same source, this overall decrease does not reflect the situation in certain provinces.⁵⁴

This analysis of the human rights situation over Tshisekedi's three years in office reflects the analysis of most of the actors consulted for the purposes of drafting this note.

At the end of his term, Joseph Kabila, who had been in power for 18 years, left a country experiencing armed conflict in the east (in the provinces of Kivu and Ituri), riven by community tensions and conflicts, particularly in the provinces of Tanganyika and the Kasais, and a democratic space restricted by years of repression and violence against civil society, the political opposition and the media. After his election in 2019, President Tshisekedi was quick to declare his commitment to ending repression and restoring the Rule of Law and democracy in the DRC. Thus, in the first few months of his mandate, 700 political prisoners were released by presidential pardon⁵⁵ and exiled opponents returned to

51. "As part of its mandate, the United Nations Joint Human Rights Office (UNJHRO) in the DRC closely monitors and analyses trends in the human rights situation in the country. These trends are regularly shared with the authorities so that they can take the necessary action, including bringing to justice alleged perpetrators of documented human rights violations, and are presented on a monthly basis at the UN weekly press conference." See https://monusco.unmissions.org/sites/default/files/bcnudh_-_communiqu_e_de_presse_-_note_annuelle_2019_0.pdf.

52. *Ibid.*

53. See https://monusco.unmissions.org/sites/default/files/unjhro_-_analysis_of_the_human_rights_situation_in_the_drc_-_2020.pdf.

54. See https://monusco.unmissions.org/sites/default/files/bcnudh_-_communiqu_e_de_presse_-_note_annuelle_2021_.pdf.

55. Seven hundred political prisoners were granted conditional release and freed from detention centres. Political opposition figure Franck Diongo and human rights defender and lawyer Firmin Yangambi were pardoned in March 2019 by presidential order

the country.⁵⁶ Civil society had the impression at that time that the civic space had opened up and emphasised the reduction in repression.⁵⁷ The release in January 2021, by presidential pardon, of several prisoners convicted in the case of the assassination of Laurent-Désiré Kabila, father of former president Joseph Kabila, and in particular of Colonel Eddy Kapend, was also welcomed by civil society and the families who had maintained his innocence for 20 years.⁵⁸

However, on the basis of the information collected for this note, our organisations observe that the situation in relation to democratic space has not improved since the beginning of President Tshisekedi's mandate, particularly in the provinces.

Since February 2021, the political turnaround in favour of the majority formed by Félix Tshisekedi has been accompanied by increasing divisions with the opposition and civil society, notably over the composition of CENI, which has led to discontent and several demonstrations repressed by the authorities.

The LUCHA citizens' movement also continued to face repression by the security forces. In May 2019, 36 LUCHA activists were arrested by the police in Goma, North Kivu, while peacefully demonstrating against rising telecommunication prices.⁵⁹ In September 2019, in Kananga, Kasai-Central, a LUCHA activist march was violently dispersed by the police.⁶⁰ In May 2020, in Beni, North Kivu, during a demonstration against insecurity, a LUCHA activist was killed by a police officer.⁶¹ On 12 February 2021, a LUCHA demonstration against insecurity was again repressed in Kananga.⁶² Other demonstrations also met with repression in 2019 and 2020. The demonstration of the opposition coalition *Lamuka* on 30 June 2019 was banned and repressed by the police in Kinshasa and Goma, where one demonstrator reportedly died of his injuries.⁶³ In July 2020, a civil society demonstration against the appointment of the chair of CENI was also repressed by the police in Kinshasa.⁶⁴

See RFI, "RDC : les opposants Firmin Yangambi et Franck Diongo graciés par Félix Tshisekedi", 14 March 2019, <http://www.rfi.fr/afrique/20190314-rdc-firmin-yangambi-franck-diongo-gracies-felix-tshisekedi> (in French). Firmin Yangambi, president of the NGO *Paix sur terre*, was sentenced on appeal to 20 years' imprisonment for attempting to organise an insurrectionary movement, and Franck Diongo, president of the *Mouvement lumumbiste progressiste* (MLP), was sentenced to five years' imprisonment for aggravated unlawful detention and assault of Republican Guard officers.

56. See, for example RFI, "Moïse Katumbi de retour en RDC : 'Nous serons une opposition exigeante'", 21 May 2019, <http://www.rfi.fr/afrique/20190521-moise-katumbi-retour-rdc-nous-serons-opposition-exigeante> (in French). Moïse Katumbi had been in exile for three years when he returned to the DRC in May 2019. Several legal actions had been initiated against him in the DRC while he was abroad for medical treatment, and he had been banned from obtaining a passport. He tried unsuccessfully to return in August 2018 to file his presidential candidacy and joined the opposition coalition from abroad. See also, for example *Jeune Afrique*, "RDC : nouveau retour à Kinshasa pour Jean-Pierre Bemba", 23 June 2019, <https://www.jeuneafrique.com/792790/politique/rdc-nouveau-retour-a-kinshasa-pour-jean-pierre-bemba/> (in French). Jean-Pierre Bemba had already returned to the DRC in August 2018 after being acquitted on appeal by the International Criminal Court (ICC) in June 2018. The ICC had sentenced him at first instance to 18 years in prison for war crimes and crimes against humanity committed by his militia in Central African Republic in 2002-2003. (See <https://www.fidh.org/en/issues/international-justice/international-criminal-court-icc/jean-pierre-bemba-sentenced-by-icc-to-18-years-in-prison-for-rape>). After his candidacy for the 2018 presidential elections was rejected by CENI due to his conviction by the ICC for witness tampering, Jean-Pierre Bemba had again left the DRC to join the opposition coalition abroad, before returning in June 2019.

57. See <https://www.rfi.fr/fr/afrique/20190505-rdc-100-jours-tshisekedi-bilan-droits-homme> (in French).

58. See <https://www.rfi.fr/en-bref/20210108-rdc-lib%C3%A9ration-d-eddy-kapend-l-un-des-principaux-condamn%C3%A9s-dans-l-assassinat-de-laurent-d%C3%A9sir%C3%A9-kabila> (in French).

59. See <https://www.rfi.fr/fr/afrique/20190921-rdc-lucha-liberation-36-militants-arretes-goma> (in French).

60. See <https://www.rfi.fr/fr/afrique/20190910-rdc-kananga-kasai-central-marche-lucha-reprimee-mouvement-citoyen-territoriale> (in French).

61. See <https://www.fidh.org/fr/themes/defenseurs-des-droits-humains/rdc-meurtre-du-militant-de-la-lucha-freddy-kambale> (in French).

62. See <https://www.rfi.fr/fr/afrique/20210214-rdc-face-%C3%A0-la-mont%C3%A9e-de-l-ins%C3%A9curit%C3%A9-au-kasa%C3%AF-central-la-soci%C3%A9t%C3%A9-civile-exasp%C3%A9r%C3%A9> (in French).

63. See <https://www.rfi.fr/fr/afrique/20190630-rdc-incident-lors-manifestations-interdites-autour-martin-fayulu> (in French).

64. See <https://www.rfi.fr/fr/afrique/20200704-rdc-manifestation-dispersee-contre-la-nomination-ceni-ronsard-malonda> (in French).

A recent trend of restrictions on freedom of movement was also reported to our organisations by various sources in the course of producing this note. The case of the senator for Maniema province, Augustin Matata Ponyo, who was prevented from travelling by the Directorate General for Migration (DGM) in Kinshasa to attend the funeral of his sister in Lubumbashi in February 2022, illustrates this trend.⁶⁵ Similarly, Martin Fayulu, member of the political opposition and President of *Engagement pour la citoyenneté et le développement* (ECIDE), was reported to have experienced restrictions on travel, particularly during his latest visit to Boende, in the former Equateur province.⁶⁶

A disturbing return to the practices of the National Intelligence Agency (*Agence nationale de renseignements* – ANR) in restricting human rights and fundamental freedoms has been noted by our organisations, despite the fact that President Tshisekedi had ordered the closure of the clandestine cells in 2019.⁶⁷ The ANR continues to arrest and detain people beyond legal time-limits and without being presented to the relevant judicial authorities. The case of François Beya, President Tshisekedi's security advisor, who was arrested in February 2022 by the ANR for "acts against national security" is of particular concern to our organisations.⁶⁸

In the course of drafting this note, our organisations received multiple reports of restrictions on democratic space in the provinces since 2020, particularly by the political-administrative authorities. This is particularly the case in relation to the media and journalists denouncing abuses by certain provincial governors.⁶⁹ In addition, there are frequent reports of abuses of human rights defenders by the political-administrative authorities in the provinces, demonstrating poor governance at the provincial level, beyond the control of the central authorities.⁷⁰

These restrictions are particularly visible in the provinces of Ituri and North Kivu, where a state of siege has been decreed by President Tshisekedi since May 2021 to address the increased activities of armed groups, particularly the Allied Democratic Forces (ADF). Several cases of abuse by the judicial and political-administrative authorities have been reported to our organisations, including attacks on freedom of expression for criticising the state of siege and demonstrating against the insecurity that persists despite the state of siege. This is notably the case of two provincial Members of Parliament (MPs) arrested by the DGM and the ANR in North Kivu in 2022,⁷¹ but also of 13 LUCHA members arrested by the ANR in November 2021 in Beni, North Kivu, 12 of whom were sentenced to 12 months' imprisonment.⁷² In addition, in a report by the National Assembly's Defence and Security Committee

65. See <https://actualite.cd/index.php/2022/02/25/rdc-empeche-de-voyager-pour-assister-aux-funeraillles-de-sa-soeur-lubumbashi-matata-saisi> (in French).

66. See <https://actualite.cd/2020/12/19/rdc-selon-lecide-linterdiction-des-manifestations-pour-manifestement-de-contraindre> (in French).

67. See <http://cas-info.ca/tous-les-cachots-clandestins-de-lanr-ont-ete-fermes-sur-decision-du-president-tshisekedi-affirme-le-ministre-de-linterieur/> (in French).

68. See <https://www.rfi.fr/fr/afrique/20220209-rdc-des-agissements-contre-la-s%C3%A9curit%C3%A9-nationale-%C3%A0-l'origine-de-l-arrestation-de-fran%C3%A7ois-beya> (in French).

69. With regard to the media in general, the organisation *Journaliste en danger* (JED) noted a "worrying upsurge" in attacks on journalists and the media in 2020 and early 2021, compared to 2019, with 116 attacks on press freedom and the security of journalists, including one death, one disappearance, some 40 arrests or detentions, as well as threats and attacks. See <https://www.rfi.fr/fr/afrique/20210504-m%C3%A9dias-en-rdc-l-ong-journaliste-en-danger-jed-tire-la-sonnette-d-alarme> and <https://www.rfi.fr/fr/afrique/2021103-rdc-jed-journaliste-en-danger-presse-m%C3%A9dias-liberte-expression> (in French). At least 110 cases of attacks against journalists and the media were recorded by JED in 2021. The organisation warns of an upsurge in cases targeting journalists based in North Kivu and Ituri. Moreover, as the pre-electoral period approaches, the organisation fears an increase in pressure on the media.

70. See, for example the case of community defenders against the Garamba National Park, <https://www.fidh.org/fr/themes/defenseurs-des-droits-humains/rdc-detention-arbitraire-de-mm-malitano-et-tandele> (in French).

71. Didier Lukogho and Jean-Paul Ngahangondi. See <https://liberteactu.com/index.php/2022/02/07/au-nord-kivu-sous-etat-de-siege-un-elu-provincial-interpelle-pour-son-activisme-politique/> (in French).

72. See <https://www.radiookapi.net/2021/11/11/actualite/justice/beni-13-militants-de-la-lucha-arretes-lors-dune-manifestation-contre> and <https://actualite.cd/2022/04/01/rdc-12-militants-de-la-lucha-condamnes-un-de-servitude-penale-principale-beni> (in French).

published in September 2021, MPs highlighted a sense of “divorce between the army and the civilian population” in the period from May to September 2021. The report mentions 156 cases of extortion, several cases of rape and arbitrary arrests, of which military prosecutors and judges are accused, and corroborates the observation made by the MPs of North Kivu on the escalation of criminality since the introduction of the state of siege in the east of the country.⁷³ Several sources consulted by our organisations for the purposes of writing this note, report an increase in attacks and insecurity since the beginning of Tshisekedi’s term of office, caused by the activities of armed groups in the east of the country, despite the introduction of the state of siege in May 2021 in the provinces of North Kivu and Ituri, in response to the upsurge in violence.

These restrictions on democratic space at the provincial level accentuate inter-community divisions and tensions, already present in some provinces. Our organisations have observed abuses of the right to freedom of expression through the dissemination of hate speech and incitement to hostility. This trend was identified by the UNJHRO in a March 2021 report.⁷⁴ Since the last elections in 2018, the UNJHRO observed “a resurgence in hate speech” with 30 cases documented between 1 May and 31 December 2020 throughout the Congolese territory. Forty percent of the authors of this type of message are political actors. According to the UNJHRO, one of the factors explaining the spread of hate speech is the increase in political tensions, particularly since 2019 within the CACH/FCC coalition. Although some actions have been taken by the Congolese authorities, the UNJHRO noted that no concrete disciplinary or judicial measures had been taken. **Our organisations call for the draft law on tribalism, racism and xenophobia to be considered during the March 2022 parliamentary session in the DRC.**

Our organisations have also issued several urgent appeals since 2019, including in relation to representatives of FIDH member organisations who have been subjected to death threats and harassment, reflecting a continuing climate of threats against human rights defenders in the DRC.⁷⁵ This is the case of Dismas Kitenge, president of *Groupe Lotus*,⁷⁶ due to his fight against impunity for crimes committed in Kisangani. Jean-Claude Katende,⁷⁷ lawyer and president of the *Association Africaine de Défense des Droits de l’Homme* (ASADHO), also faced obstacles to his human rights activities and death threats.⁷⁸ In November 2021, Mr Paul Nsapu, president of the *Ligue des Électeurs* (LE), was the victim of an attack and acts of intimidation as part of ongoing harassment against him due to his legitimate human rights activities over many years in the DRC.⁷⁹

In terms of the measures needed to calm the political climate and guarantee the conduct and continuation of a constant dialogue between the various political parties, our organisations have not observed many initiatives by the Head of State. Our organisations recognise that, at the end of 2020, national consultations were held between President Tshisekedi and several segments of Congolese society, particularly civil society and the political opposition. These consultations, convened at the initiative of the president because of political differences within the ruling CACH/FCC coalition, were

73. See <https://www.rfi.fr/fr/afrique/20211031-rdc-un-rapport-%C3%A9pingle-de-graves-entorses-%C3%A0-l-%C3%A9tat-de-si%C3%A8ge-en-ituri-et-au-nord-kivu> (in French).

74. See https://monusco.unmissions.org/sites/default/files/report_on_hate_speech_and_incitement_to_hostility_in_the_democratic_republic_of_the_congo_-_march_2021.pdf.

75. See <https://www.fidh.org/en/issues/human-rights-defenders/>.

76. See <https://www.fidh.org/fr/themes/defenseurs-des-droits-humains/rdc-menaces-de-mort-a-l-encontre-de-m-dismas-kitenge-president-du> (in French).

77. See <https://www.fidh.org/fr/themes/defenseurs-des-droits-humains/rdc-harcelement-a-l-encontre-de-m-jean-claude-katende-president-de-l> (in French).

78. See <https://www.fidh.org/fr/themes/defenseurs-des-droits-humains/rdc-menaces-de-mort-contre-jean-claude-katende> (in French).

79. See <https://www.fidh.org/fr/themes/defenseurs-des-droits-humains/rdc-nouvelle-attaque-contre-paul-nsapu> (in French).

not, however, unanimously supported by the opposition, and in particular by the *Lamuka* coalition.⁸⁰ While Jean-Pierre Bemba and Moïse Katumbi participated, and even joined Tshisekedi's *Union sacrée*, Martin Fayulu, the unsuccessful candidate in the 2018 presidential election, and Adolphe Muzito did not participate.⁸¹ In October 2021, the first opposition rally in a year took place, during which Martin Fayulu and Adolphe Muzito, the two leaders of the opposition platform *Lamuka*, spoke in front of thousands of activists in the municipality of Ndjili in order to denounce the politicisation of CENI and the risk of postponement of the 2023 elections, and to call for a consensus on reform of CENI and the return to civilian administration in the east of the country.⁸²

The restrictions on democratic space, notably in the provinces and in the context of the state of siege, as well as by certain state agencies such as the ANR and the DGM, are of particular concern to our organisations, who draw attention to the risk of increased repression in the run-up to the 2023 general elections.

80. Since the establishment of the new Congolese political landscape in the National Assembly, the Senate and the government, all of which are in favour of President Tshisekedi, the *Lamuka* coalition and Joseph Kabila's *Parti du peuple pour la reconstruction et la démocratie* (PPRD) have become part of the political opposition. Following the election of Félix Tshisekedi, the *Lamuka* coalition struggled to establish itself on the political scene, partly because of internal divisions and lack of a common vision. Indeed, its representatives, who held a rotating presidency, and notably the four main leaders, Martin Fayulu, Adolphe Muzito, Jean-Pierre Bemba and Moïse Katumbi, come from very different political backgrounds and joined forces for the purpose of the 2018 elections. At the outset, divisions were already apparent, with the withdrawal of Félix Tshisekedi and Vital Kamerhe from the coalition at the end of 2018 after the designation of Martin Fayulu as the common opposition candidate for the presidential election.

81. See <https://www.rfi.fr/fr/afrique/20201126-fin-des-consultations-nationales-en-rdc> (in French).

82. See <https://www.rfi.fr/fr/afrique/20211010-rdc-la-coalition-lamuka-s-invite-dans-le-d%C3%A9bat-sur-la-d%C3%A9signation-de-la-nouvelle-c%C3%A9ni> (in French).

Priority 3

Building an equal society by promoting women's rights and gender equality

With regard to sexual violence, based on information from the UNJHRO, our organisations note a decrease in the number of acts of conflict-related sexual violence against women committed in the east of the country (in the conflict-affected provinces) since 2019.⁸³ However, in relation to the province of Kasai-Central in particular, *Médecins Sans Frontières* (MSF) published an alarming assessment of the scale of sexual violence and the lack of support for victims in 2020. MSF referred to the “double penalty” faced by these victims: “Firstly, the physical and psychological violence experienced by these victims, and secondly, the medium- and long-term consequences that lead to stigmatisation, social exclusion and, for some of these victims, the loss of their livelihoods” (translation from French). In 2020, nearly 11,000 people received support from the humanitarian organisation’s teams in the DRC for physical and psychological conditions related to sexual violence.⁸⁴ In Kasai-Central, *Médecins Sans Frontières* reported having treated 1,373 victims between January and March 2021, calling it a “very worrying situation”.⁸⁵

In terms of the fight against impunity for sexual violence in the DRC, some progress has been noted by our organisations since the beginning of President Tshisekedi’s term of office. The trial of “Cobra Matata”, former leader of the armed group *Front de résistance patriotique de l’Ituri* (FRPI), for crimes against humanity, including rape, began in 2019. Another rebel leader, Sheka, of the armed movement Nduma Defence of Congo (NDC) in North Kivu, was also tried by the Congolese justice system and was sentenced to life imprisonment for several crimes including mass rape and sexual slavery.⁸⁶ Moreover, although it is not a national court, the conviction in July 2019 by the International Criminal Court (ICC) of Bosco Ntaganda for crimes against humanity and war crimes, including rape and sexual slavery, constitutes a victory for the victims of these sexual crimes, that our organisations would like to emphasise.⁸⁷

In her 2020 annual report on the DRC, the UN High Commissioner for Human Rights also noted two important steps forward in the fight against sexual violence. A framework for collaboration between the UN and the Congolese authorities on the fight against sexual violence, defining respective commitments was signed in December 2019, and an action plan on the fight against sexual violence committed by the PNC was signed in November 2019.⁸⁸ However, despite the adoption of action plans and the creation of a police unit specialising in child protection and the prevention of sexual violence, the Congolese army and police deplore the lack of means to put an end to impunity.⁸⁹

83. See monthly reports 2019, 2020 and 2021. The UNJHRO recorded 1,048 women victims of sexual violence in 2019, 679 in 2020 and 531 in 2021.

84. See <https://www.msf.org/thousands-survivors-sexual-violence-need-physical-and-psychological-care-drc>.

85. See <https://information.tv5monde.com/terriennes/les-violences-sexuelles-en-recrudescence-dans-le-centre-de-la-rdc-selon-msf-408339> (in French).

86. See <https://www.rfi.fr/fr/afrique/20201124-rdc-le-chef-de-milice-sheka-condamn%C3%A9-%C3%A0-la-perp%C3%A9tuit%C3%A9-par-une-cour-militaire> (in French).

87. See <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/07/report/conflict-related-sexual-violence-report-of-the-united-nations-secretary-general/2019-SG-Report.pdf>.

88. See <https://undocs.org/en/A/HRC/45/49>.

89. See <https://www.rfi.fr/fr/afrique/20210513-rdc-l-arm%C3%A9e-et-la-police-veulent-plus-de-moyens-pour-lutter-contre-les-violences-sexuelles> (in French).

The Congolese Government, with the support of the UNJHRO, also developed a three-year plan (2020-2023) for the implementation of the Joint Communiqué between the Government of the DRC and the United Nations on the fight against sexual violence in conflict, including the provision of holistic care of victims. The Ministry for Gender, Families and Children has created “integrated multi-sectoral service centres” to provide holistic assistance to victims of gender-based violence.⁹⁰

Our organisations welcome these developments and call on the Congolese authorities to continue their efforts to prevent sexual violence in the DRC and to combat impunity by implementing the framework for collaboration with the United Nations on sexual violence and the PNC action plan.

Regarding gender parity in Congolese institutions, our organisations welcome the appointment of 27% women in the new government of April 2021, some of whom occupy key positions, such as at the Ministries of Justice and Mines.⁹¹ President Tshisekedi’s newly appointed Prime Minister stated on his nomination that the participation of women in government should be improved and that “this time we will have a government with greater representation of women”.⁹²

However, our organisations emphasise that progress still needs to be made in the fight for gender equality in the DRC, particularly in terms of political representation. Article 14 of the 2006 Constitution, amended in 2011, states that “The State guarantees the implementation of gender parity in these institutions”.⁹³ A 30% quota for women in the country’s political affairs has been set⁹⁴ and President Tshisekedi committed himself to enforcing this quota in his inaugural speech.⁹⁵ However, this minimum is still far from being reached. The Congolese movement *Rien Sans les Femmes* (RSLF) is calling for the application of these commitments, drawing attention to the composition of the National Assembly and the absence of female candidates put forward by political parties for the posts of President, First Vice President, Second Vice President and Rapporteur.⁹⁶ At the National Roundtable between public authorities and human rights defenders in the DRC organised in December 2020 by *Groupe Lotus*, a national MP invited to participate indicated that the representation of women in public institutions remained weak and was of concern. She stated that at the level of the Senate, there were only 29 women.

Furthermore, the Human Rights Committee, in the framework of the 2019 Universal Periodic Review (UPR), recommended that the DRC “take all necessary measures to increase women’s participation in public life, in particular their representation at the highest levels of government and in the judicial system, and to strengthen education and awareness-raising initiatives for the general public, including traditional leaders, to combat traditional practices that were discriminatory and harmful to women and to eliminate gender stereotypes on the subordination of women to men and on the respective roles and responsibilities of women and men in the family and society”.⁹⁷

The organisation *Justice et Paix Congo* also notes that progress remains to be made with regard to the participation of Congolese women in the electoral process. The organisation observes that there is a “paradox” between the number of women voters and the number of women elected. In the last three

90. *Ibid.*

91. See <https://www.rfi.fr/en-bref/20210412-la-rdc-se-dote-d-un-nouveau-gouvernement> (in French).

92. See <https://actualite.cd/2021/02/19/rdc-des-activistes-feminines-livrent-leurs-attentes-apres-la-nomination-de-sama-lukonde> (in French).

93. See <https://aceproject.org/ero-en/regions/africa/CD/rdc-constitution-2011/view>.

94. In Law No. 15/013 of 1 August 2015 on the implementation of women’s rights and parity.

95. See <https://afrique.lalibre.be/31447/document-le-discours-dinvestiture-de-felix-tshisekedi/> (in French).

96. See <https://actualite.cd/2021/02/01/rdc-rien-sans-les-femmes-exige-cette-fois-ci-la-concretisation-des-declarations-de-felix> (in French).

97. See <https://undocs.org/A/HRC/WG.6/33/COD/2>.

general elections (2006, 2011 and 2018), while the proportion of women registered on the electoral lists represented almost 50% of the overall number of voters, very few women were candidates or elected.⁹⁸ **Our organisations endorse this analysis and call for efforts by the Congolese authorities, including CENI, and its partners, to be strengthened, in terms of raising awareness among women and men about the political participation of women in the DRC.** Our organisations consider that the provisions of the 2015 law on gender parity⁹⁹ must be included in the reform of the electoral law. The issue of the deposit to be provided should not be an obstacle to women's candidacies and **our organisations consider it important that the electoral law should encourage the emergence of independent candidates, who could promote the candidacies of women who would not have to go through the co-optation system.** Indeed, our organisations have noted that there are obstacles to women running for office from men, whether in their homes or in their political parties, including with regard to financial resources, which are concentrated in the hands of men.

In view of the upcoming general elections in 2023, our organisations urge the Congolese authorities and their partners to raise awareness among the Congolese population about the participation of women in elections, and to reform the electoral law during the March 2022 parliamentary session to ensure that gender parity is included.

98. See <https://cejprdc.org/evaluation-de-participation-politique-de-femme-congolaise-aux-elections-de-2018-2019/> (in French)..

99. See <http://leganet.cd/Legislation/Droit%20Public/DH/Loi.15.013.01.08.html> (in French).

Priority 4

Implementing major reforms to establish the Rule of Law and democracy

In the March 2019 Roadmap, our organisations highlighted the need for reforms of certain national institutions in order to build the Rule of Law and democracy in the DRC.

While efforts in the fight against corruption were observed at the beginning of President Tshisekedi's term of office, our organisations note a retreat in this area and deplore the judicial decisions in December 2021 to grant interim release to Vital Kamerhe, former director of the president's cabinet, who was convicted of misappropriation of funds in the context of the president's 100-day programme,¹⁰⁰ and former minister Eteni Longondo, who is strongly suspected of misappropriation of funds and corruption. The recent release by presidential pardon of the former Minister for National Education, Willy Bakonga, who had been convicted of corruption, is also called into question by our organisations, who consider that this signifies a let-up in the fight against corruption.

LUCHA's assessment since the president came to power has remained the same: a failure for the democracy and the Rule of Law. The citizens' movement considers that the Congolese people have not benefited from this political transition and that no reforms have been implemented. Its activists are calling for "exceptional reforms: reform of CENI, reform of the justice system, reform of security".¹⁰¹ Our organisations therefore consider it essential that a concrete and democratic process of reform of these institutions be undertaken in the DRC.

Moving towards more democracy by reforming CENI

The reform of CENI is undoubtedly one of the most contested issues in the DRC as the 2023 general elections approach. The reform of the organic law on the organisation and functioning of CENI, adopted in June 2021 by the Parliament, provided for a composition of 13 to 15 members. As a result of civil society advocacy for the depoliticization of the institution, the quota for civil society was increased from three to five members, while the quotas for the opposition and the majority remained unchanged. Our organisations consider that in the absence of a reform of the allocation of functions of the bureau (the presidency), which retains all the powers, and the plenary (the other members of CENI), the institution still fails to meet the criteria of independence and credibility.¹⁰²

In addition, the appointment of Denis Kadima by the Head of State on 22 October 2021 as chair of CENI was strongly criticised by civil society, including our organisations, religious organisations and the political opposition, who demonstrated against his appointment, considering him too close to the

100. See <https://www.rfi.fr/fr/afrique/20211207-rdc-la-justice-accorde-la-libert%C3%A9-provisoire-%C3%A0-vital-kamerhe> (in French).

101. See <https://www.rfi.fr/fr/afrique/20200126-rdc-felix-tshisekedi-fatshim%C3%A9rie-lucha-bilan-n%C3%A9gatif-premi%C3%A8re-ann%C3%A9e-pr%C3%A9sidence> and <https://www.rfi.fr/fr/afrique/20210213-rdc-le-regard-critique-de-la-lucha-sur-la-deuxi%C3%A8me-ann%C3%A9e-du-pr%C3%A9sident-tshisekedi> (in French).

102. See <https://www.radiokapi.net/2021/06/11/actualite/politique/rdc-le-senat-adopte-la-proposition-de-loi-sur-la-reforme-de-la-ceni> (in French).

government.¹⁰³ The choice of the chair of CENI has always been a flashpoint between the authorities and civil society in general, the opposition and religious groups, who criticise its lack of independence from the government. After the nomination under Joseph Kabila of Corneille Nangaa, who was heavily criticised during the 2015-2018 electoral period, the attempt to appoint Ronsard Malonda, who is close to the FCC, in 2020 did not meet with general approval from the opposition, religious groups and civil society, and was ultimately rejected by the government after large-scale demonstrations in the country.¹⁰⁴ In December 2021, after the nomination of Denis Kadima, the FCC, then in opposition after the end of the ruling FCC/CACH coalition, reiterated its refusal to present candidates and marched alongside civil society and the Lamuka coalition to demand the “depoliticization of the Electoral Commission”.¹⁰⁵ Three figures who were formerly members of Kabila’s coalition but who split, were eventually appointed to CENI at the end of December 2021 as members of the opposition.

Although our organisations have not observed any further demonstrations against the appointment of the chair of CENI, there is still mistrust of the institution among the Congolese population. **Our organisations believe that trust-building measures must be taken by the Congolese authorities, including by CENI itself, in particular by reforming the electoral law in an inclusive and consultative manner, by organising the elections within the constitutional time limits, and by pursuing the frameworks for consultation with civil society launched before each electoral process.**

In September 2020, the Consortium of National Electoral Observation Missions met to discuss the revision of the electoral system in preparation for the next elections in 2023. This resulted in the submission to the National Assembly by MPs of a proposal to reform the electoral law, including provisions on CENI.¹⁰⁶ In a speech on 6 December 2020, marking the end of the FCC/CACH coalition, the President stated that the reform of the electoral law and CENI were among his priorities.¹⁰⁷ The reform of the electoral law is the other controversial aspect of CENI reform. The September 2021 parliamentary session should have announced the reform of the electoral law, following a proposal from CENI. **Our organisations call for the law to be discussed during the March 2022 parliamentary session in the DRC, in order to address the reform of the legal framework of the elections and to prevent the risk of postponement of the elections, ensuring the participation of civil society in this process.** Our organisations consider that the reform of the electoral law should prioritise the transparency of the electoral process. For example, our organisations underline the need for everyone to have knowledge of all the polling stations in the country, in order to avoid fictitious polling stations, and the obligation to hand over the polling station reports to each candidate. In addition, the electoral law should include the provisions of the law on gender parity, in order to promote a balance in the candidacies, and to facilitate the entry into politics of independent candidates, to avoid the system of co-optation by the large political parties.

Concerning the local elections,¹⁰⁸ initially planned in the electoral calendar for 2019, as well as the election of several provincial governors, which are expected to be held after 2023 in accordance with

103. See <https://www.radiookapi.net/2021/10/16/actualite/politique/lassemblee-nationale-enterine-la-designation-des-membres-de-la-ceni> (in French).

104. See <https://www.aljazeera.com/news/2020/7/13/thousands-protest-in-dr-congo-over-electoral-commission-appointed> and <https://www.rfi.fr/fr/afrique/20200721-rdc-la-pol%C3%A9mique-autour-la-nomination-ronsard-malonda-%C3%A0-la-c%C3%A9-poursuit> (in French).

105. See <https://www.rfi.fr/fr/afrique/20211113-rdc-des-milliers-de-manifestants-d%C3%A9noncent-%C3%A0-kinshasa-la-politisation-de-la-c%C3%A9ni> (in French).

106. See <https://www.rfi.fr/fr/afrique/20200914-r%C3%A9formes-institutions-en-rdc-les-recommandations-la-soci%C3%A9t%C3%A9-civile> and <https://www.rfi.fr/fr/afrique/20200918-rdc-parlementaires-tentent-r%C3%A9former-la-loi-%C3%A9lectorale> (in French).

107. See <https://actualite.cd/2020/12/06/discours-de-felix-tshisekedi-lissue-des-consultations-integralite> (in French).

108. Local elections aim to elect mayors and their deputies, burgomasters and their deputies, sector chiefs and their deputies, chiefs of chieftaincies and their deputies, and organs of decentralised territorial entities such as councils (urban, municipal, sector and chieftaincy).

the roadmap for elections issued by Denis Kadima's CENI, **our organisations emphasise that this is a priority for local democracy**, and that these elections should be part of a more independent and credible process with the reform of CENI.

Given the delays in the general census, some parliamentarians are already concerned about whether the electoral calendar will be respected.¹⁰⁹ Based on the information collected by our organisations in the course of preparing this note, the issue of mutualisation by CENI, i.e., the census of the population at the same time as the identification and registration of voters, is often seen as a technical constraint in relation to the organisation of elections. **Our organisations underline that the elections must be held within the constitutional time limits.**

At the time of writing, a UN electoral needs assessment mission is underway in the DRC, and it is difficult for our organisations to anticipate its results and recommendations.¹¹⁰ **Our organisations stress the importance of consulting civil society in this needs assessment process and strengthening it, with a view to holding peaceful elections in the DRC. Our organisations also call on the DRC's partners to continue their efforts on awareness-raising and non-partisan, civic election observation.**

Ensuring the inclusiveness of the CNDH

At the 3rd National Roundtable¹¹¹ between public authorities and human rights defenders in the DRC, organised in December 2020 at the initiative of *Groupe Lotus*, in which representatives of the National Human Rights Commission (*Commission nationale des droits de l'Homme – CNDH*) participated, one of the CNDH advisors stated that as of December 2020, the CNDH had received, registered and processed several complaints, and had engaged in a number of interactions with state authorities with a view to obtaining immediate or incremental corrective measures to put an end to human rights violations. For example, following the repeated attacks in 2020 by the Bakata Katanga armed group led by Gédéon in the provinces of Haut-Katanga and Lualaba, the CNDH opened an investigation into the facts.¹¹² Furthermore, despite the challenges identified by the UN High Commissioner for Human Rights in her 2020 annual report,¹¹³ the CNDH, in its 2020 report, acknowledged "improvements in relation to operating costs and other items in the CNDH budget".¹¹⁴ Our organisations welcome these positive developments in the operation of the CNDH.

However, our organisations are concerned about the tacit renewal of its members, whose mandate, limited to 5 years and renewable once, expired in 2020. **We call for a renewal procedure to be initiated for the members of the CNDH in order to guarantee the legitimacy of the institution.**

Our organisations also recall the mechanism of provincial human rights liaison entities, bringing together public authorities, including the provincial government, civil society and the UNJHRO,¹¹⁵

109. See <https://www.rfi.fr/fr/afrique/20210714-rdc-les-parlementaires-du-g13-s-inqui%C3%A8tent-des-retards-pris-dans-le-processus-%C3%A9lectoral> (in French).

110. MONUSCO's Electoral Assistance Division conducted this mission in response to CENI's request for electoral support. See https://www.mediacongo.net/article-actualite-102158_ceni_une_mission_d_evaluation_des_besoins_electoraux_des_nations_unies_a_echange_avec_denis_kadima.html (in French).

111. This roundtable was organised in Kinshasa at the beginning of December 2020, with 141 participants, including representatives of public institutions, civil society in the country and national and international partners.

112. See <https://www.rfi.fr/fr/afrique/20200406-rdc-commission-enqu%C3%Aate-milice-g%C3%A9n%C3%A9ral-ex-katanga-fait-pol%C3%A9mique> (in French).

113. See <https://undocs.org/en/A/HRC/45/49>.

114. See <https://actualite.cd/2021/10/24/rdc-plus-de-52-000-violations-des-droits-de-lhomme-enregistrees-par-des-plaintes-la> (in French).

115. See https://www.mediacongo.net/article-actualite-3920_criminalisation_de_la_torture_la_vice_ministre_de_la_justice_en_appelle_a_lamelioration_des_conditions_carcerales.html (in French).

which was officially launched in 2013, based on a decree issued by the Prime Minister in 2009.¹¹⁶ Although to the knowledge of our organisations it appears that no further action has been taken in relation to this mechanism, we consider that the CNDH should promote it or a similar mechanism in order to improve monitoring of the human rights situation and coordination between the authorities and civil society, particularly at the local level.

Establishing a legal framework that protects freedoms and human rights defenders

Other recommendations were made by our organisations in their former Roadmap, regarding the draft law on human rights defenders which, in March 2019, was under consideration by the Congolese parliament. This bill contained worrying provisions that risked hindering the legitimate and peaceful activities of human rights defenders and threatened recognition of their status.

Three years after the presentation of our Roadmap, our organisations are still waiting for the adoption of an adequate protective legal framework for human rights defenders in the DRC. The UN High Commissioner for Human Rights, in her report on the UNJHRO's activities in 2020, also stated that "the reading of bills on the protection and responsibilities of human rights defenders, laying down measures to implement the right to protest, and on access to information has not progressed significantly".¹¹⁷ At the December 2020 Roundtable with public authorities, civil society raised this issue and suggested follow-up with the CNDH. The draft law on human rights defenders and access to information has never been examined, despite its inclusion on the agenda of the ordinary parliamentary session in March 2021.

Our organisations call for this draft law to be considered during the March 2022 parliamentary session by all stakeholders, in an inclusive manner with human rights defenders, so that it complies with regional and international standards on the protection of human rights defenders, notably those set out in the UN Declaration on Human Rights Defenders and Resolution 69 of the ACHPR, and that it provides for the most inclusive definition of human rights defenders possible.

116. See <http://leganet.cd/Legislation/Droit%20Public/DH/D.09.35.12.08.2009.htm> (in French).

117. See <https://undocs.org/en/A/HRC/45/49>.

Priority 5

Strengthening cooperation with the international community and human rights mechanisms

In terms of international and regional cooperation, positive changes have been observed since the beginning of President Tshisekedi's mandate. While his predecessor rarely went beyond the borders of the DRC, Tshisekedi has made many official trips to resume and develop international and regional cooperation.

In Resolution 2556 of December 2020 on MONUSCO's mandate, the UN Security Council welcomed the cooperation of the Congolese authorities with the team of international experts on the situation in the Kasai regions and noted that this cooperation had improved since the election of Félix Tshisekedi.¹¹⁸ In January 2020, the UN High Commissioner for Human Rights, Michelle Bachelet, visited the DRC where she met President Tshisekedi, one year after his inauguration.¹¹⁹ In December 2020, Jean-Pierre Lacroix, UN Deputy Secretary-General, was received by President Tshisekedi during a visit to the country.¹²⁰

With regard to MONUSCO, our organisations, who have long advocated for effective human rights protection within its mandate,¹²¹ note the gradual withdrawal of the mission in certain provinces, such as Tanganyika, as decided in the joint strategy agreed between MONUSCO and the Congolese authorities,¹²² and **stress that the UNJHRO must be provided with the necessary resources, particularly material and financial, to enable it to carry out its mandate to promote and protect human rights throughout the DRC, particularly in the run-up to the 2023 elections.**

In terms of UN human rights protection mechanisms, our organisations note the visit to the DRC in October 2021 of the Independent Expert on the enjoyment of human rights by persons with albinism as part of the Panel supporting the DRC's term as chair of the AU.¹²³ Following this visit, in November 2021, the Senate adopted the proposed Organic Law on the protection and promotion of the rights of people living with disabilities (including people with albinism).¹²⁴ Our organisations also encourage the DRC authorities to issue an invitation to the Special Rapporteur on the promotion of truth, justice and reparation and the Special Rapporteur on freedom of opinion and expression, in order to demonstrate a strong commitment of the Congolese authorities to progress and improvement in those areas.

Furthermore, during the 46th ordinary session of the Human Rights Council held from 22 February to 23 March 2021, the Congolese Minister for Human Rights announced the adoption in October 2020 of an "integrated plan for the implementation of the recommendations of regional and international human rights mechanisms" prepared by the Government with the support of the UNJHRO, with the assistance of the CNDH and civil society. Our organisations welcome the adoption of this plan and

118. See <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/376/57/PDF/N2037657.pdf?OpenElement>.

119. See <https://www.rfi.fr/fr/afrique/20200123-rdc-premi%C3%A8re-visite-haut-commissaire-droits-homme-lonu> (in French).

120. See <https://www.rfi.fr/fr/afrique/20201216-rdc-jean-pierre-lacroix-num%C3%A9ro-deux-de-l-onu-re%C3%A7u-par-f%C3%A9lix-tshisekedi> (in French).

121. See <https://www.fidh.org/en/region/Africa/monusco-still-has-work-to-do-drc-authorities-need-its-cooperation-to>.

122. See S/RES/2556/2020, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/376/58/PDF/N2037658.pdf?OpenElement>.

123. See <https://twitter.com/unjhro/status/1450197080098607105?s=20&t=DsFR37eQ1c9Sh88Bm5Qe5A>.

124. See <https://rtnc.cd/rdc-le-senat-vote-la-proposition-de-loi-sur-les-personnes-vivant-avec-handicap/> (in French).

encourage the DRC to continue this process aimed at respecting and reinforcing its commitments in relation to regional and international human rights protection mechanisms.¹²⁵ During the 49th session of the Human Rights Council, several participants underlined the quality of cooperation between the Congolese Ministry for Human Rights, represented by the Minister for Human Rights, and the United Nations, which our organisations commend.

In the area of international justice, efforts have also been noted. Since the publication of the Roadmap, our organisations have observed with satisfaction the conviction by the ICC in July 2019 of Bosco Ntaganda, former leader of the armed group *Forces patriotiques pour la libération du Congo* (FPLC), found guilty of 13 counts of war crimes and 5 counts of crimes against humanity, including sexual and gender-based crimes, committed during the 2002-2003 conflict in Ituri.¹²⁶ This decision, confirmed in appeal on 30 March 2021,¹²⁷ is a victory for the victims of these crimes, who await the implementation of the ICC decision on reparations in the case against Bosco Ntaganda, delivered on 8 March 2021.¹²⁸ In addition, the decision of the Operational Court of North Kivu in November 2020 to sentence Sheka, leader of the armed movement *Nduma Defence of Congo* (NDC), to life imprisonment for crimes committed between 2010 and 2014 is a victory for victims of sexual crimes in the DRC.¹²⁹ Meanwhile, the arrest in France in December 2019 of Roger Lumbala, former leader of the armed rebel movement *Rassemblement congolais pour la Démocratie-National* (RCD-N), followed by the opening of a judicial investigation in January 2021 for crimes against humanity committed between 2002 and 2003 on the territory of the former Orientale province, is an important step in the implementation of the recommendations of the Mapping Exercise Report.¹³⁰

In addition, Germain Katanga and Thomas Lubanga, former Ituri warlords, convicted by the ICC in 2014 for war crimes, were released in March 2020 in Kinshasa where they had finished serving their prison sentences following their transfer to the country in 2015 under an *ad hoc* agreement between the ICC and the Congolese authorities for the enforcement of their sentences.¹³¹ During the violence in Ituri in 2020, Germain Katanga was sent by the Congolese authorities to the province to meet with militia from the group *Coopérative pour le développement du Congo* (CODECO) and to accelerate the process of their surrender.¹³² Our organisations also note that no law has been adopted on the implementation of the ICC Rome Statute and that the principle of complementarity is still not implemented by the DRC. **We therefore call on the DRC to act promptly in this regard, and in particular to incorporate the crimes under the ICC Rome Statute into Congolese criminal legislation. Our organisations also underline the importance for the DRC to cooperate with the ICC Trust Fund for Victims** in the implementation of reparations in the Lubanga and Katanga cases, as well with regard to future measures to be taken by the Fund on reparations in the Ntaganda case.

125. See <http://webtv.un.org/meetings-events/human-rights-council/watch/enhanced-id-on-democratic-republic-of-the-congo-44th-meeting-46th-regular-session-human-rights-council/6242622163001/?term=#player> and <https://zoom-eco.net/a-la-une/rdc-le-bcnudh-appuie-lelaboration-dun-plan-integre-de-mise-en-oeuvre-des-recommandations-des-nations-unies/> (in French).

126. See <https://www.fidh.org/en/issues/international-justice/international-criminal-court-icc/ntaganda-found-guilty-a-day-of-joy-for-ituri-victims-a-day-of-hope>.

127. See <https://www.icc-cpi.int/news/ntaganda-case-icc-appeals-chamber-confirms-conviction-and-sentencing-decisions>.

128. See https://www.icc-cpi.int/CourtRecords/CR2021_01889.PDF. See also FIDH press release: <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/drc-nearly-twenty-years-after-the-crimes-in-question-were-committed>.

129. See <https://www.rfi.fr/fr/afrique/20201124-rdc-le-chef-de-milice-sheka-condamn%C3%A9-%C3%A0-la-perp%C3%A9tuit%C3%A9-par-une-cour-militaire> (in French).

130. See <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/drc-human-rights-defenders-celebrate-indictment-of-roger-lumbala-in>.

131. See <https://www.voafrique.com/a/un-2-%C3%A8me-ex-chef-de-guerre-condamn%C3%A9-par-la-cpi-lib%C3%A9-%C3%A0-kinshasa/5332222.html> (in French) and <https://www.icc-cpi.int/news/thomas-lubanga-dyilo-and-germain-katanga-transferred-drc-serve-their-sentences-imprisonment>.

132. See <https://www.rfi.fr/fr/afrique/20200705-rdc-chefs-milices-envoy%C3%A9s-kinshasa-calmer-la-violence-en-ituri> (in French).

At the level of the African Union (AU), Tshisekedi was chair for 2021. The UN Security Council welcomed this role, saying that it “could provide an additional opportunity to promote the engagement of regional organisations”.¹³³ Indeed, it was at that time, in December 2020, prior to Félix Tshisekedi taking up the chair of the AU, that the DRC ratified the Protocol to the Charter establishing the African Court on Human and Peoples’ Rights. The President of the Court said that this was a step forward, but that the DRC still had to make a declaration (under Article 34(6) of the Protocol) to allow NGOs and individuals direct access to the Court.¹³⁴ To the knowledge of our organisations, the DRC has still not ratified the African Charter on Democracy, Elections and Governance¹³⁵ or the African Charter on the Rights and Welfare of the Child.¹³⁶ To our knowledge, the DRC has not yet ratified the Optional Protocol to the UN Convention on the Elimination of All Forms of Discrimination against Women.¹³⁷ Our organisations therefore call on the Congolese authorities to implement the recommendations of the March 2019 Roadmap on the ratification of these texts.

Regarding the prevention of torture, a national committee for the prevention of torture was established in November 2019 by ministerial order, which is seen as a positive development by the UN High Commissioner for Human Rights.¹³⁸ Advocacy on this issue was debated in the Human Rights Committee of the National Assembly during the September 2021 parliamentary session, focused on the integration of a mechanism to combat torture into the legal framework of the CNDH. Our organisations welcome this step and point out that it still needs to be brought into conformity with Article 3 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which the Congolese State is a party.

With regard to the abolition of the death penalty, although the death penalty can be imposed as a sentence, it has not been enforced and has been commuted to life imprisonment since 2003. There is thus a *de facto* moratorium on executions, but not in law, and the DRC has still not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.¹³⁹ Our organisations are concerned about the number of death sentences handed down in the past two years. In 2020, Amnesty International reported at least 20 death sentences.¹⁴⁰ In December 2020, several people were sentenced to death for murder in Kongo-Central.¹⁴¹ In March 2021, two whistle-blowers, former employees of the Afriland First Bank in Congo, were sentenced *in absentia* to death for stealing documents and violating bank secrecy while exposing irregularities at the bank in connection with businessman Dan Gertler.¹⁴² Our organisations consider that, given the crimes committed, this sentence seems disproportionate and abusive. In March 2022, in the trial for the murder of the two UN experts in Kasai, 49 people were sentenced to death. There have been several campaigns aimed at *de jure* abolition of the death penalty in the DRC, including by FIDH’s member organisation ASADHO in 2016.¹⁴³ In 2019, a national MP from the party *Union pour la démocratie et*

133. See <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/376/57/PDF/N2037657.pdf?OpenElement>.

134. See <https://www.african-court.org/wpafc/democratic-republic-of-congo-ratifies-the-protocol-on-the-establishment-of-the-african-court-on-human-and-peoples-rights/>.

135. See <https://au.int/sites/default/files/treaties/36384-sl-AFRICAN%20CHARTER%20ON%20DEMOCRACY%2C%20ELECTIONS%20AND%20GOVERNANCE.PDF>.

136. See <https://au.int/sites/default/files/treaties/36804-sl-AFRICAN%20CHARTER%20ON%20THE%20RIGHTS%20AND%20WELFARE%20OF%20THE%20CHILD.pdf>.

137. See <https://indicators.ohchr.org/>.

138. See <https://undocs.org/en/A/HRC/45/49>.

139. See <https://worldcoalition.org/pays/congo/>.

140. See <https://www.peinedemort.org/zonegeo/COD/Republique-democratique-du-Congo> (in French).

141. See <https://www.peinedemort.org/document/11109/RDC-14-personnes-condamnees-a-mort-pour-le-meurtre-de-jumeaux-rappeurs-brules-vifs> (in French).

142. See https://www.lemonde.fr/afrique/article/2021/03/05/en-rdc-la-condamnation-a-mort-de-deux-lanceurs-d-alerte-suscite-l-indignation_6072049_3212.html (in French).

143. In 2016, an application was made to the Constitutional Court by ASADHO but was rejected. See https://www.mediacongo.net/article-actualite-15831_peine_de_mort_l_asadho_introduit_une_requete_en_inconstitutionnalite_a_la_cour.

le progrès social (UDPS) introduced a bill on abolition of the death penalty but it would appear that no action has yet been taken on this proposal.¹⁴⁴ At the 46th ordinary session of the UN Human Rights Council, from 22 February to 23 March 2021, the DRC indicated that on the instructions of the President of the Republic, in the days following the session, the Congolese government would undertake discussions with all stakeholders on the abolition of the death penalty.¹⁴⁵ **Our organisations call on the Congolese authorities to examine the proposed law without further delay during the March 2022 parliamentary session in the DRC. Furthermore, we reiterate our recommendations made in March 2019 to adopt a moratorium on executions as a step towards the abolition of the death penalty in law, to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty and to support the efforts of the African Commission on Human and Peoples' Rights in favour of the adoption of a Protocol to the African Charter on Human and Peoples' Rights on the Abolition of the Death Penalty.**

In the area of diplomacy, relations with the European Union (EU) have improved. An annual dialogue was held in the DRC in 2020, after more than ten years of interruption, between representatives of the EU and the DRC government, in accordance with the Cotonou Agreement.¹⁴⁶ President Tshisekedi also visited Brussels in 2019 where he met the President of the European Commission, Jean-Claude Juncker. This warming of relations between the EU and the DRC came after the reopening of "Schengen House" (*Maison Schengen* for visas to the Schengen area) in Kinshasa, which had been closed since the beginning of 2018,¹⁴⁷ and the issuing of a visa to the EU ambassador in the DRC, following his expulsion by the previous regime prior to the elections in December 2018.¹⁴⁸

Since 29 March 2022, the DRC has been a member of the East African Community (EAC) following a membership process initiated by President Tshisekedi upon his election in 2019.¹⁴⁹ This membership, alongside Kenya, Tanzania, Uganda, Burundi, Rwanda and South Sudan, could create new political and economic alliances for the DRC. In August 2021, Tshisekedi also became vice-chair of the Southern African Development Community (SADC), of which the DRC is a member, for the term 2021-2022.¹⁵⁰ **Our organisations will closely monitor developments that will have an impact on the human rights situation in the country and the region, emphasising that economic and political developments must not be at the expense of the Congolese people, who should be able to benefit from this new alliance.**

At the regional level, there were signs of initiatives to strengthen cooperation, particularly in the area of security. President Tshisekedi has already visited neighbouring Republic of Congo several times to meet his counterpart in Brazzaville and discuss the question of insecurity, among other matters.¹⁵¹ President Tshisekedi also visited Burundi in 2019 to meet the late President Pierre Nkurunziza and in 2021 to discuss security issues¹⁵² and sign a protocol for the development of a railway.¹⁵³ He also

[constitutionnelle.html](#) (in French).

144. See <https://fr.allafrica.com/stories/201908230147.html>.

145. See <http://webtv.un.org/meetings-events/human-rights-council/watch/enhanced-id-on-democratic-republic-of-the-congo-44th-meeting-46th-regular-session-human-rights-council/6242622163001/?term=#player>.

146. See <https://www.rfi.fr/fr/afrique/20201007-rdc-lors-sommet-l-ue-toutes-les-pr%C3%A9occupations-ont-%C3%A9t%C3%A9-mises-la-table> (in French).

147. See <https://www.rfi.fr/fr/afrique/20180203-rdc-fermeture-maison-schengen-union-europeenne-belgique-visas> (in French).

148. See <https://www.voafrique.com/a/l-ue-juge-totalement-injustif%C3%A9-l-expulsion-de-son-ambassadeur-en-rdc/4718898.html> (in French).

149. See <https://www.eac.int/press-releases/2402-the-democratic-republic-of-the-congo-joins-eac-as-its-7th-member>.

150. See <https://www.actualite.cd/2021/08/17/sadc-la-rdc-accede-la-premiere-vice-presidence-de-lorganisation> (in French).

151. See <https://www.rfi.fr/fr/afrique/20210111-rdc-f%C3%A9lix-tshisekedi-boucle-une-nouvelle-visite-au-congo-brazzaville> (in French).

152. See <https://www.rfi.fr/fr/afrique/20190615-visite-eclair-felix-tshisekedi-voisin-burundais> (in French).

153. See <https://www.rfi.fr/fr/afrique/20210714-accords-et-entente-entre-la-rdc-et-le-burundi> (in French).

travelled to Uganda in 2019 to meet President Yoweri Museveni.¹⁵⁴ Félix Tshisekedi also convened a mini-summit between the DRC, Rwanda, Uganda and Angola in October 2020 to address security issues in the region.¹⁵⁵

These regional rapprochements are not always met with unanimous approval, particularly within civil society, and in the area of security, notably with regard to the project to create an integrated headquarters for the countries of the Great Lakes region to fight against armed groups. The participation of Rwandan armed forces, whose presence in the east of the DRC has been repeatedly denounced,¹⁵⁶ as well as the resurgence in the east of the armed March 23 Movement (*Mouvement du 23 mars*),¹⁵⁷ to which Rwanda is accused by several sources of providing support, is of great concern to civil society in the east of the DRC, given the troubled past between the two countries.¹⁵⁸ The economic rapprochement between Rwanda and the DRC, particularly on mining, the promotion and protection of investments and taxation,¹⁵⁹ is the subject of much criticism from Congolese civil society, who denounce the lack of reparations for the crimes committed on Congolese territory, as identified in the Mapping Exercise Report. The comments made by the President of Rwanda, Paul Kagame, in June 2021 during his official visit to France, describing the report as “controversial”, shocked the Congolese population, particularly in the east of the country, who are demanding an apology.¹⁶⁰ Our organisations call for this rapprochement around economic issues not to be at the expense of the prosecution of the crimes allegedly committed by Rwanda in the DRC.

In addition, in December 2021, the Ugandan army and the Congolese authorities signed a defence agreement to pursue the ADF armed group, of Ugandan origin, described as a terrorist group by the USA,¹⁶¹ which is active in the Beni region, in particular near the Ugandan border.¹⁶² This agreement resulted in the deployment of Ugandan troops to eastern DRC to fight ADF alongside the DRC army. This strengthening of regional military cooperation follows a number of terrorist attacks in Kampala at the end of 2021, for which the Ugandan authorities consider ADF to be responsible.¹⁶³ While regional cooperation is essential to contain the threat of armed groups at the regional level, but also to prevent the destabilisation of the DRC, the local populations fear the reopening of wounds caused by the Ugandan army's occupation from 1998 to 2003, when it committed numerous violations,¹⁶⁴ and the start of a new cycle of violence against the civilian population, in a security context that is already very tense in the east of the country.¹⁶⁵

154. See <https://www.rfi.fr/fr/afrique/20191110-felix-tshisekedi-recu-grande-pompe-yoweri-museveni-entebbe> (in French).

155. See <https://www.rfi.fr/fr/afrique/20201008-l-ins%C3%A9curit%C3%A9-centre-mini-sommet-entre-la-rdc-le-rwanda-l-ouganda-et-l-angola-0> (in French).

156. See <https://afrique.lalibre.be/57154/larmee-rwandaise-etait-presente-en-rdc-dans-le-courant-de-2020/> (in French).

157. See https://www.francetvinfo.fr/monde/afrique/republique-democratique-du-congo/rdc-le-retour-de-la-rebellion-du-m23-preoccupe-les-autorites-congolaises-et-l-onu_5053843.html (in French).

158. See <https://www.rfi.fr/fr/afrique/20191212-rdc-rwanda-polemique-photo-kagame-tshisekedi> (in French).

159. See <https://www.jeuneafrique.com/1194739/economie/kinshasa-et-kigali-signent-des-accords-commerciaux-notamment-sur-l-exploitation-de-lor/> (in French).

160. See <https://www.rfi.fr/fr/afrique/20210602-rdc-la-soci%C3%A9t%C3%A9-civile-du-sud-kivu-se-mobilise-suite-%C3%A0-des-propos-pol%C3%A9miques-de-paul-kagame> (in French).

161. See <https://www.state.gov/state-department-terrorist-designations-of-isis-affiliates-and-leaders-in-the-democratic-republic-of-the-congo-and-mozambique/>.

162. See https://www.mediacongo.net/article-actualite-97458_rdc_ouganda_un_accord_general_de_defense_signe_pour_encadrer_les_operations_militaires_conjointes.html (in French).

163. See <https://www.letemps.ch/monde/letat-islamique-tisse-toile-coeur-lafrique> (in French).

164. The International Court of Justice (ICJ) ruled against Uganda in 2005 for interfering in the affairs of the DRC during its occupation between 1998 and 2003 and ordered reparations for the damage caused, which are still awaited by Kinshasa. See <https://www.icj-cij.org/en/case/116>.

165. See <https://www.rfi.fr/fr/afrique/20211212-rdc-dans-le-nord-kivu-l-arriv%C3%A9e-de-l-arm%C3%A9e-ougandaise-inqui%C3%A8te-les-habitants> (in French).

CONCLUSION

Notwithstanding the COVID-19 pandemic and recognising the scale and diversity of the challenges facing the Congolese authorities, our organisations observe a mixed record in terms of human rights developments in the DRC since President Tshisekedi took office. His arrival at the Head of State in January 2019 raised many hopes, which were further reinforced by some signs of progress that marked the first months of his term. However, more than three years after his accession to power, our organisations are disappointed by the lack of progress in certain areas. Thus, our organisations note that the majority of the recommendations made by our organisations to President Tshisekedi in 2019 (see annex below) remain valid.

Some progress has been made since March 2019, particularly in the fight against impunity in certain cases, and our organisations urge the Congolese authorities to prioritise efforts to focus on the **fight against impunity of those most responsible for the most serious crimes**. In the Chebeya case in particular, our organisations call for all those most responsible cited during the reopening of the trial to appear before the courts, and support the request submitted by lawyers for the civil parties for the removal of John Numbi, so that he can stand trial. In the context of the case of the murder of the UN experts in Kasai, our organisations call for investigations to continue against all those responsible. Finally, our organisations underline that those most responsible for past crimes, as listed in the Mapping Exercise Report, some of whom are still in office, must also be held accountable for their actions, in order to break the cycle of impunity and violence in the DRC.

Our organisations also note that efforts have been made in the area of **transitional justice**, but that much remains to be done in terms of the operationalisation of a genuine national mechanism. Our organisations welcome the efforts of the DRC, with the support of its UN partners in particular, in implementing transitional justice initiatives at the provincial level, through the continuation of public consultations, and at the national level, through the establishment of a joint commission and a roadmap. Our organisations are aware of the interest expressed by various international partners in providing support to the Congolese authorities in this area and emphasise the need for coordination between these partners and the DRC government in the implementation of these initiatives. We call for the operationalisation of the reparation fund for victims of sexual violence and serious crimes.

With regard to the **political representation of women**, our organisations note an improvement since the beginning of Tshisekedi's term of office, although it is insufficient. We therefore call on the Congolese authorities, with the support of their partners, to step up efforts aimed at raising awareness among the Congolese population on political participation and representation of women, particularly in the context of the forthcoming elections. To this end, the provisions of the gender parity law of 2015 must be incorporated into the electoral law, in the framework of the revision advocated by our organisations.

Progress has also been noted in the area of **international and regional cooperation**. Our organisations emphasise the need for the Congolese authorities to take into account the protection of the civilian population in the framework of military cooperation with the Ugandan army and to develop non-military means to put an end to insecurity in this region.

However, little progress and even setbacks have been recorded in some areas by our organisations who deplore the **increase in abuses of civil and political rights and insecurity**, notably in the east of the country where the resurgence of human rights violations is particularly worrying, despite the introduction of the state of siege in May 2021. Our organisations are concerned about the continued application of this supposedly temporary measure and its consequences for the democratic space in these provinces. We call on the Congolese authorities to put an immediate end to the violations of human rights and fundamental freedoms committed in the context of the state of siege and to open up democratic space in the DRC, by allowing the various actors to participate in public and political life in a peaceful manner. Our organisations call for an alternative to the state of siege, involving the return of a civilian administration in the provinces concerned, to be considered by the Congolese authorities.

In the context of the March 2022 parliamentary session in the DRC, our organisations urge the Congolese authorities to debate the **law on the protection of human rights defenders**, as well as the **renewal of the members of the CNDH**, in order to ensure that the mandate of the current members is not tacitly renewed.

Our organisations are concerned about the lack of progress on structural reforms in the DRC and stress the importance of the recruitment and training of new prosecutors and judges by the Congolese authorities with the support of its partners. Our organisations also remind the Congolese authorities of the importance of holding **elections** within the constitutional time limits and of debating reform of the **electoral law** in a consultative manner during the March 2022 parliamentary session. Such measures would demonstrate the willingness of the Congolese authorities to embark on the path of rebuilding the Congolese population's trust in some of its institutions, which is essential for the establishment of an environment conducive to the holding of credible elections.

Recommendations by our organisations to the Congolese authorities in March 2019

<https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/five-human-rights-priorities-addressed-to-president-felix-tshisekedi> (released March 2019)

Priority 1:

Fighting impunity, promoting truth and strengthening justice to ensure national reconciliation and lasting peace

- Adopt a holistic transitional justice policy, which could for example involve the creation of specialised mixed chambers to prosecute international crimes, integrated into the Congolese judicial system, and a Truth and Reconciliation Commission. This policy and its various judicial and non-judicial mechanisms should aim to analyse and shed light on the crimes and methods used in the perpetration of past violence (including where the Congolese authorities bear responsibility); provide justice to victims; promote reparations and institutional reforms; and facilitate national reconciliation.
- As part of this process, conduct independent, impartial, transparent and effective investigations into the serious violations of human rights and international humanitarian law committed in the context of the electoral process and in conflict-affected areas, prioritising the prosecution of those allegedly bearing the greatest responsibility.
- Implement a vetting process to ensure that “Public officials and employees who are personally responsible for gross violations of human rights, in particular those involved in military, security, police, intelligence and judicial sectors, shall not continue to serve in State institutions”¹⁶⁶ and that such officials do not benefit from amnesty measures or positions within the new institutions of the country.
- Adopt a national reparations plan for the victims of serious human rights violations, including a specific programme for victims of sexual violence, centred on victims’ short-term and long-term needs, in accordance with the DRC’s international obligations and the recommendations of the UN Mapping Exercise Report and the Committee for the Elimination of all Forms of Discrimination Against Women (CEDAW).
- Pending the operationalisation of these mechanisms, set up interim mediation and medical, psychological and social support mechanisms for the victims and communities affected by recent conflicts, especially in the Kasai, Ituri, North and South Kivu provinces and Yumbi territory, to enable the immediate needs of victims to be met and to alleviate tensions and avoid a resurgence of conflict.

¹⁶⁶ See Updated Set of principles for the protection and promotion of human rights through action to combat impunity (E/CN.4/2005/102/Add.1), Principle 36.

- Undertake the necessary reforms to guarantee the effectiveness, impartiality and independence of the judicial system at all levels, including within the highest judicial institutions such as the Constitutional Court and the Court of Cassation.
- In particular, take the necessary measures to guarantee that the poorest victims are exempted from paying legal fees.
- Modify domestic laws so that alleged perpetrators of human rights violations and international crimes, including members of the Congolese army, are tried before civil jurisdictions and provide the necessary training to judicial officials, in accordance with the recommendations of the UN Human Rights Committee.

Priority 2:

Ensuring respect for fundamental rights and promoting political dialogue

- Ensure the protection of the physical and psychological integrity of all human rights defenders under all circumstances.
- Immediately and unconditionally release all prisoners of conscience, including political opponents and human rights defenders arbitrarily arrested and detained, and ensure that charges against them are dropped.
- Identify and close all secret detention facilities, including the ANR cells, in line with Félix Tshisekedi's commitments.
- Fully guarantee the exercise of civil and political rights throughout the country, including the right to freedom of expression, association and peaceful assembly, as well as the right to information.
- End all threats, intimidation and harassment, including by way of legal action, against members of the political opposition, human rights defenders, activists in citizens' movements and journalists.
- Allow arbitrarily closed or suspended independent media organisations to broadcast information freely and guarantee fair access to public media to all political parties and civil society actors.
- Provide clear and public messages to defence and security forces regarding the obligation to use force in a proportionate manner when managing demonstrations.
- Take the necessary measures to calm the political climate and ensure a permanent and ongoing dialogue between the various political parties, in order to guarantee national cohesion.

Priority 3:

Building an equal society by promoting women's rights and gender equality

- Respect all the DRC's national, regional and international obligations to protect and promote women's rights, including under the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, and guarantee equality in law and in practice for all Congolese citizens.
- Ensure the implementation of the provisions of Article 14 of the Constitution providing for the application of gender parity within institutions.
- Fully implement the provisions of the Guidelines of the African Commission on Human and Peoples' Rights on Combating Sexual Violence and its Consequences in Africa (2017), in particular with regard to the prevention of sexual violence and its consequences and the protection and support of victims of sexual violence, including the decriminalisation of abortion in cases of rape, the investigation and prosecution of sexual violence offences, and the right to reparation.
- Implement the recommendations of the UN Human Rights Committee (2017) resulting from the review of the fourth periodic report submitted by the DRC, and take all necessary measures to ensure that:
 - a) all cases of sexual violence are investigated and the perpetrators are prosecuted, regardless of their position and affiliation, and, if found guilty, punished;
 - b) victims are provided with medical, psychological and social support, including by making the reparations fund for victims of sexual violence operational as soon as possible;
 - c) steps are taken to facilitate victims' access to legal services;
 - d) legislation is adopted that duly protects women from domestic violence, inter alia by criminalizing domestic violence and marital rape.
- Implement the provisions of the Family Code (Act No. 16/008 of 15 July 2016), in particular Article 352 prohibiting child marriage.
- Ensure the effective implementation throughout the country of Act No. 06/018 of 20 July 2006 on sexual violence, including by adopting a specific law on the enforcement of judgments on sexual violence, providing for all administrative and legal costs to be waived for victims.
- Ensure women's and girls' access to sexual and reproductive rights, including access to quality sex education for all, legal and safe abortion, and contraception, including emergency contraception.
- Ensure women's participation in social, cultural and political life, including in the country's new institutions, in particular by ensuring the full implementation of Act No. 15/013 of 1 August 2015 on the implementation of women's rights and gender equality.

Priority 4:

Implementing major reforms to establish the Rule of Law and democracy

- Exclude from State institutions individuals who are impeding SSR.
- Take all necessary measures to enact effective reform, including by requesting technical and financial assistance from international partners and by collaborating with members of civil society.
- Provide training to all security personnel on “human rights, including the rights of women and girls; sexual equality and gender equality; the different forms of sexual violence and their prevention and detection; the consequences of sexual violence; the rights and needs of victims of sexual violence”, in accordance with the ACHPR Guidelines on combating sexual violence and its consequences in Africa.
- Reform CENI to ensure its independence, neutrality and credibility, including by providing for its members to be chosen from among independent experts, notably from civil society, and by changing the method for appointing its members.
- Guarantee gender equality in its composition.
- Ensure that CENI has the human, material and financial resources required to fully accomplish its mandate.
- Take all necessary measures to ensure that the CNDH is compliant with the Paris Principles. In particular, carry out an evaluation of its actions, with the involvement of human rights organisations, in order to identify ways to improve its functioning so that it can fully carry out its mandate to protect and promote human rights, in a context of complete independence, neutrality and transparency.
- Amend the draft law on human rights defenders to bring it into line with regional and international standards for the protection of human rights defenders, including under the UN Declaration on Human Rights Defenders, and ACHPR Resolution 69. To this end, conduct broad and inclusive consultations with Congolese human rights defenders and take into consideration their proposals for amendments to the draft law.
- In particular, provide for the most inclusive definition of human rights defenders and remove any legal and/or administrative restrictions that would impede their legitimate and peaceful work, in accordance with the UN Declaration on Human Rights Defenders.
- In consultation with human rights organisations, establish special mechanisms and dedicated resources to protect human rights defenders, taking into consideration that this category of persons is specifically targeted for harassment and repression.
- Abandon the draft law on non-profit and public utility organisations and ensure that any reform of the current legislative framework is in line with international and regional human rights standards, in particular the ACHPR Guidelines on Freedom of Association and Assembly in Africa, and the recommendations made to the Congolese State by various UN entities.

Priority 5:

Strengthening cooperation with the international community and human rights mechanisms

- Cooperate fully with the ACHPR, including by allowing a documentation mission to be conducted in the DRC in order to determine the nature and scope of violations of the rights enshrined in the Charter and the main actors responsible, pursuant to ACHPR Resolution 393.
- Fully collaborate with all UN entities, especially with
 - a) the UNJHRO, in particular by “ensuring the security and freedom of movement of all United Nations personnel over the entirety of its territory and by fully cooperating with observation and verification missions undertaken by personnel of the Joint Office”; and
 - b) the team of two international human rights experts mandated by Resolution 38/20 of 6 July 2018 of the Human Rights Council tasked in particular with the follow-up, evaluation, support and reporting for the DRC’s implementation of the recommendations made by the former Team of international experts in its report, especially regarding the fight against impunity and measures to promote reconciliation.
- Advocate for a strengthening of the human rights component of MONUSCO’s new mandate and cooperate closely with the Mission’s representatives.
- Cooperate fully with the ICC in the investigations opened since June 2004 on the DRC, adopt a law implementing the Statute of the ICC and implement the principle of complementarity enshrined in the Statute.
- Cooperate fully with the EU and engage in discussions aimed at defining common priorities in the field of human rights, justice and the Rule of Law, including and supporting civil society and human rights defenders.
- Cooperate fully with humanitarian organisations and guarantee them free access to all areas affected by the violence to assess the needs of the population and provide emergency assistance as soon as possible.
- Ratify and implement the African Charter on Democracy, Elections and Governance and implement its provisions.
- Ratify and implement the African Charter on the Rights and Welfare of the Child.
- Deposit the instrument confirming the declaration under Article 34(6) of the Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of the African Court on Human and Peoples’ Rights, allowing individuals and NGOs to bring cases before the Court.
- Implement all the provisions of the ACHPR Guidelines on combatting sexual violence and its consequences in Africa (2017).

- Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and implement the recommendations adopted by CEDAW in July 2013.
- Implement a national mechanism to prevent torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Article 3 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, to which the State of the Congo is a party.
- Adopt a moratorium on executions, as a step toward the abolition of the death penalty in law; ratify the second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty and support the efforts of the ACHPR on the adoption of a Protocol to the African Charter on the abolition of the death penalty.



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ASADHO

ASSOCIATION AFRICAINE DE DÉFENSE DES DROITS DE L'HOMME (ASADHO)

The ASADHO was created in 1991. The objectives it pursues are:

- to defend, promote and safeguard of human rights as well as individual and collective freedoms;
- to promote respect for the law and the independence of the justice system in order to consolidate the Rule of Law, which is the basis of a democratic society;
- contribute to raise awareness on human rights.

ASADHO

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Kinshasa / Gombe, Local 1, 1^{er} niveau
République démocratique du Congo
Tel: (00243) 99 703 29 84
Web site: www.asadho-rdc.org
Blog: blog.asadho-rdc.org



LIGUE DES ÉLECTEURS (LE)

The purpose of the League of Voters, created in 1990, is to support democratic development, particularly through the defense of human rights and the promotion of the culture of elections.

The League carries out training activities for members of civil society associations in their capacity as leaders of the democratic movement; activities to raise popular awareness of human rights; and international electoral assessment and observation missions.

Ligue des Électeurs (LE)

Avenue Nyangwe 275,
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GROUPE LOTUS (GL)

The *Groupe Lotus* is a non-governmental organisation based in Kisangani.

It reports human rights violations, raises public awareness and investigates the practices of authorities in order to compel governments to respect the rule of law.

It supports those who suffer from discrimination and oppression due to their membership in a social, national or religious group or to their political opinion.

It informs, teaches and promotes human rights values and democratic principles in order to advance them in the DRC.

Groupe LOTUS (GL)

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Keep your eyes open

fidh

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Establishing the facts - Investigative and trial observation missions

Supporting civil society - Training and exchange

Mobilizing the international community - Advocacy before intergovernmental bodies

Informing and reporting - Mobilizing public opinion

For FIDH, transforming societies relies on the work of local actors.

The Worldwide Movement for Human Rights acts at national, regional and international levels in support of its member and partner organisations to address human rights abuses and consolidate democratic processes. Its work is directed at States and those in power, such as armed opposition groups and multinational corporations.

Its primary beneficiaries are national human rights organisations who are members of the Movement, and through them, the victims of human rights violations. FIDH also cooperates with other local partner organisations and actors of change.

fidh

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FIDH is an
**international human rights
NGO**
federating **192** organisations
from **117** countries

fidh

ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

A broad mandate

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

A universal movement

FIDH was established in 1922, and today unites 192 member organizations in 117 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

An independent organisation

Like its member organizations, FIDH is not linked to any party or religion and is independent of all governments.

www.fidh.org