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ASADHO – Association africaine des droits de l'Homme
LE – Ligue des Électeurs
GL – Groupe Lotus

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The new mandate of MONUSCO should help to consolidate the gains of peace and stability to meet the new challenges in the Democratic Republic of Congo

On March 26, 2015, the UN Security Council will be called to renew the mandate of the UN Stabilization Mission in the DRC and its intervention brigade. The Security Council noted in 2014 the need for a clearly defined exit strategy and decided that future configurations of the Mission and its mandate would depend on the evolution of the situation on the ground and progress towards achieving the objectives in the Framework Agreement for Peace and Security in the region. In this respect, our organizations wish not only to express their recommendations in support of the mandate of MONUSCO in light of the developments in Congo over the past year, but also in view of the important forthcoming elections in 2016.

I- Context

The victory of the Congolese army, supported by MONUSCO's intervention brigade, against the rebel armed group M23, gave hope for a real return to peace throughout the eastern part of the Democratic Republic of Congo (DRC), long plagued by the abuses of some forty armed groups, both domestic and foreign.

Tracking down other armed groups by the coalition (Congolese army and MONUSCO's intervention brigade), first accelerated against the ADF-NALU, the coalition is now meant to crack down on the FDLR.

Military operations against the ADF-NALU revealed unimaginable contradictions: while the ADF-NALU were in complete disarray and their bases destroyed, populations in Beni territory have paid a heavy price through attacks against them, which killed more than 300 civilians. Although calm has returned in Beni, protection of the civilian population remains a major challenge.

The current Congolese military operations against the FDLR do not enjoy the support of the MONUSCO's intervention Brigade because of the Congolese authorities' refusal to remove military officers, presumably involved in violations of human rights and international humanitarian law. Though MONUSCO is requesting to hold negotiations on this particular issue, the Congolese government has made it clear that it favored conducting those operations on its own.

The campaign for disarmament and demobilization of local and national armed groups seems to give promising results, even if the supervisory measures remain weak. Popular protests on 19, 20 and 21 January 2015 in several cities of the country against the attempts at electoral manipulation and extension of President Kabila's term beyond 2016 have exposed the repressive abilities of the Congolese security and armed forces (according to the organizations of the Congolese civil society nearly 40 civilians died); it also exposed the Government's clear political will to use disproportionate force to repress peaceful demonstrations or to maintain public order.

Attacks against human rights defenders, civil society actors, independent journalists, and political opponents continue to multiply and herald an unfavorable political and security climate to human rights and the organization of free and democratic elections in the DRC.

The territorial division implemented on February 28, 2015 by President Kabila, brought the number of provinces from 11 to 26, although instituted by the Constitution of 18 February 2006, raises debates and doubts about the appropriateness of this decision in a context of election preparation; it also raises concerns about the risks of manipulation of new governors.

In this decaying security and political context, the relationship between the DRC government and much of the international community are characterized by mistrust and lack of communication.

II. The priorities of the new mandate of MONUSCO

After several years of activities, in a strategic country within the volatile Great Lakes region, MONUSCO is facing a number of issues and challenges, particularly in the development of its exit strategy, so as to prevent the undermining and discrediting of the international community's efforts. In this context, our organizations therefore encourage the UN Security Council to review the mandate of MONUSCO under the following priorities:

a) The protection of civilians and persons under imminent threats

Findings:

- Lack of strategy regarding the protection of populations in territories liberated from occupation by armed groups (Beni case);
- Distrust between the Congolese army and the MONUSCO forces of the intervention brigade, since attacks against the FDLR;
- MONUSCO weakness with regard to the actual protection of civilians, including human rights defenders against repression by the police and the army; the mission is also struggling to protect humanitarian workers against abuses by armed groups, as our organizations observed during the recent popular demonstrations of January 2015.

Recommendations:

Our organizations urge the Security Council:

- To keep explicitly in the MONUSCO's mandate of the protection of civilians and persons under imminent threat such as: human rights defenders, humanitarian workers, and independent journalists;
- To reinstall the Mission's forces in the western part of the country in order to deal with the threats and challenges related to the electoral context and democratic transition;
- To distinguish in the mandate, between military operations under the joint action of Congolese forces and MONUSCO, and actions by the Congolese forces only;

b) Provision of logistical, technical and security support in view of elections

Findings:

- The electoral calendar published by the Independent National Electoral Commission (INEC) seems in many respects, very difficult to keep given the lack of political will, lack of time, and lack of logistical and financial resources;
- The lack of consensus among political and social actors about the electoral calendar;
- The electoral file managed by INEC contains at least 9 million fake voters out of the 32 million registered, which represents a risk of electoral fraud, embezzlement and safety related to the issuance of passports on the basis of the voter card;
- Difficulties to mobilize financial support for the electoral process;
- Deficit of a legal framework for the organization of elections;
- Need for technical support to the INEC;
- Need for security support to the electoral process and the actors involved.

Recommendations:

Our organizations urge the Security Council to give mandate to MONUSCO:

- To provide and make available the means and materials necessary for the organization of elections, such as for example aircraft and trucks for transportation of materials in various polling stations;

- To request the control of the electoral file to ensure reliability in order to reduce potential threats to international security;
- To propose experts in order to strengthen the technical capacity of the INEC and support the work and efforts of independent civil society in the supervision of the electoral process, including the campaign "My vote should count";
- To empower and strengthen the mission's electoral division and deploy it in different provinces of the DRC in order to provide technical assistance to the INEC;
- To call for the establishment of a "basket fund" of donors for the elections in the DRC;
- To contribute to the security of the electoral process and the actors involved through joint action of MONUSCO and the Congolese security forces;
- To play a moderating role between political stakeholders and the INEC to reach consensus on electoral matters.

c) Participate in and oversee the disarmament, demobilization, reintegration and repatriation (DDRR) of former combatants

Findings:

- Ambiguity in the position of the Congolese government vis-à-vis the armed groups;
- No general, coherent, and strategic DDRR process developed by the government of the DRC;
- Doubtful credibility of some the national players in charge of conducting this process in the DRC;
- Insufficient support and collaboration in this process from certain states in the region;
- Insufficient logistical and financial resources to carry out this process.

Recommendations:

Our organizations urge the Security Council to give mandate to the MONUSCO:

- To assist the Congolese government in the development and implementation of a DDRR program in the DRC;
- To secure and guarantee the credibility of the voluntary disarmament of armed groups;

- To participate in military operations against armed groups in compliance with international humanitarian law and human rights law;
- To strengthen sub-regional cooperation on the process and implement common monitoring and evaluation strategies;
- To mobilize financial resources for the construction of transit sites and training centers;
- To ensure implementation of screening and vetting mechanisms for former combatants that enlist in the national army and ensure they benefit from training provided by international partners.

d) To support and strengthen the process of Security Sector Reform in the DRC

Findings:

- Congolese police, although regularly trained, suffers from under-equipment to cover the whole country;
- Despite great external support, recent military victories in the east of the country and the institution of defense zones within the last reform, the Congolese army is facing difficulties in the coordination of its various units: in training, getting modern equipment, improving the social conditions of its members, ensuring the protection of civilians, all in a professional manner; it also lacks integrity and neutrality;
- Intelligence services have gone beyond the control of administrative and judicial authorities, and among them are presumably those responsible for gross human rights violations.

Recommendations:

- To participate in capacity building and modernization of the police and the army;
- To conduct joint operations with the Congolese army as part of neutralizing armed groups that are still active, as well as ensuring protection and security of the civilian population in strict compliance with international human rights and humanitarian law;
- To harmonize and channel the various interventions of international partners in this sector;
- To develop with the Congolese government and all international partners indicators for

monitoring and evaluating progress in this sector;

- To condition the participation of Congolese forces in joint operations with MONUSCO with the respect to human rights and international humanitarian law;
- In view of improving the conditions of detention, to encourage the DRC authorities to allow MONUSCO's visits to detention centers.

e) To contribute to the respect of human rights and the rule of law through sustainable strategies to fight against impunity in the DRC

Findings:

- Human rights violations tend to be more numerous now in these parts controlled by the Congolese government, than in the parts subjected to armed conflict, and political tensions in the electoral context may increase them;
 - The human rights defenders, independent journalists and political actors (opponents and dissidents) are the target of those in power and the security forces; repression is very likely to increase in the pre-electoral context: for instance, the case of human rights defender Christopher Ngoyi Mutamba, Chairman of the Coordination "Synergy Congo culture and development" (CSCB) has been held since January 21, 2015 and prosecuted because of his active participation in several peaceful actions to denounce the electoral reform and the arrest in Kinshasa on March 15, 2015 of Senegalese Burkinabe and Congolese members of the Coalition #MonVoteDoitCompter who had gathered in the Congolese capital for the launch of a citizens' platform for youth mobilization for elections .
- Despite some progress in the prosecution of sexual violence and certain international crimes, serious human rights violations remain largely unpunished and the Congo's judicial system is riddled with the lack of resources and the regular interference of the Executive power.

Recommendations:

Our organizations urge the Security Council to give mandate to the MONUSCO:

- To strengthen the mandate to protect human rights defenders, journalists and other threatened categories of civilians, and ensure greater effectiveness of the UN clusters all over the territory;
- To monitor and document human rights violations committed in the pre-electoral context; and ensure respect for civil liberties throughout the pre-election process;
- To recall the necessity to put an end to the cycle of impunity for those responsible for serious human rights violations in the DRC;
- To strengthen the capacity of the Congolese judicial community with regard to compliance with the rules of due process and human rights;
- To advise and assist the Congolese government in improving the means of access to justice and conditions of detention of persons deprived of liberty;
- To promote cooperation between the Congolese justice and international mechanisms in the fight against impunity for international crimes.

f) Monitor of and compliance with the Addis Ababa agreements

Findings:

- The DRC has implemented partially the resolutions pertaining to Addis Ababa Agreement, pleading economic constraints while many observers have noted the low level of political commitment;
- Several states in the region have not translated into action the commitments made under this agreement including the cessation of support to armed groups and prosecution of perpetrators of international crimes;
- The monitoring and evaluation mechanism by the Heads of State of the region lacks political and diplomatic pressure on defaulting States;
- Insufficient resources (political, diplomatic and financial) of the African Union and the international community to monitor the implementation and evaluation of this agreement.

Recommendations:

Our organizations urge the Security Council to give mandate to the MONUSCO:

- To accompany and reinforce the DRC and the States of the region in the implementation

and evaluation of the Addis Ababa Agreement;

- To make sure it plays a role in facilitating inclusive political dialogue and good offices between political and social forces in the DRC as recommended by the agreement;
- To encourage the participation of Congolese civil society in the monitoring and assessing the agreement for greater ownership by the Congolese population.

g) Rethinking the political and strategic reconfiguration of MONUSCO

Findings:

- The concentration of the units and forces of MONUSCO in eastern DRC has left some strategic regions empty such as Matadi, Bandundu, Mbandaka and Kindu, which still face great issues and challenges;
- Even in the East, MONUSCO forces were mainly deployed in North Kivu, to the detriment of South Kivu and Orientale Province;
- The context of the current political and security issues require careful monitoring of the city of Kinshasa and other cities and regions of central and western DRC.

Recommendations:

Our organizations urge the Security Council to give mandate to the MONUSCO:

- Without neglecting the East where armed groups are still active, to maintain a strategic presence supported by forces in most cities in the central and Western parts of the country, to follow closely the development of the situation;
- The deployment of units and strengths in the East must consider the hazards, risks, and security and political threats according to both the presence of armed groups and their potential points of support, present or future;
- To strengthen MONUSCO's forces with other sub-regional and regional forces to meet the security challenges and policies in the pre- and post-electoral context;
- To improve and strengthen internal and external communication strategies to contribute to a better understanding of the mandate of MONUSCO, and its true ownership by the Congolese people and local communities.

h) Establish benchmarks on human rights protection and good governance within the MONUSCO's exit strategy

The UN should develop measurable indicators aiming at the implementation of objectives defined through political dialogue with the DRC and in consultation with the civil society organizations. These indicators could be, *inter alia*:

On protection of human rights defenders and political opponents

- Release of human rights defenders from prison and decrease in the number of arrests;
- Release of political opponents and journalists from prison decrease in the number of arrests;
- The adoption of a legislation on human rights defenders with a view to develop alert and protection mechanisms within the Ministry of Justice.

On violence against women:

- DRC's ratification and implementation of international and regional women's rights protection instruments, including the Optional Protocol to the CEDAW, the African Charter on the Rights and Welfare of the Child;
- Full implementation of the two 2006 laws on sexual violence;

On the fight against impunity:

- Incorporation of the International Criminal Court's Statute into domestic law;
- Abolition of the death penalty, including for international crimes;
- Women's access to justice;
- Greater capacity of civilian jurisdictions, including protection of legal personnel, witnesses and victims, and free legal aid for victims;
- The establishment of mixed special chambers within the Congolese courts for the investigation and prosecution of perpetrators of crimes under international law;
- Establishment of a comprehensive policy of “reparation” by the State;
- Payment of compensation to victims, as well as access to justice and reparation proceedings for victims of crimes of sexual violence.

