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MONUSCO, 20 Years in Democratic Republic of Congo. What Are the Priorities For Its New Mandate?

Analysis

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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 Congo
DDR	Disarmament, demobilisation and reintegration
FARDC	Armed Forces of Democratic Republic of 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 Congo
MONUSCO	United Nations Organisation Stabilisation Mission in the Democratic Republic of 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

MAP OF MONUSCO'S PRESENCE IN DRC



Source: Report of the United Nations Secretary-General on MONUSCO, 27 September 2019, S/2019/776

EXECUTIVE SUMMARY

As the mandate of United Nations Organisation Stabilisation Mission in the Democratic Republic of Congo (MONUSCO or 'the Mission') is due to expire on 20 December 2019, the International Federation for Human Rights (FIDH) and its member organisations in Democratic Republic of Congo (DRC), Ligue des électeurs (LE), Groupe Lotus (GL), and Association africaine des droits de l'Homme (ASADHO), issue this report addressing a series of recommendations to the United Nations Security Council (UNSC) for the new MONUSCO mandate which will be voted on in December 2019.

A number of factors suggest that at this year's decision on renewal, after 20 years on Congolese territory, the departure of the Mission from DRC is at stake. Many continue to question its added value in DRC, in particular given its cost, with an annual budget close to one billion USD. Indeed, budgetary pressures exerted in particular by Security Council Member States have recently led to significant reductions in staffing levels and in the presence of the Mission in Congo.

The new political context in DRC since the election of Félix Tshisekedi, an opposition leader, as Head of State in December 2018 after the 18-year regime of Joseph Kabila, DRC's former President, also seems to support MONUSCO's departure. There are signs that political tensions have been easing since January 2019, following several years of general crisis in the country.

However, the expectations of the Congolese population remain high and their needs are huge, in particular in terms of opening up democratic space. Efforts recently initiated in this regard should be encouraged, especially concerning the participation of independent civil society, free media and constructive political opposition in the country's political life. The independence of certain national bodies is widely questioned by the Congolese people who are calling for greater independence and efficiency in the areas of security and justice but also elections and human rights protection. The continued activity of armed groups in the east of the country, as well as serious tensions and inter-communal conflicts taking place throughout the territory, present a constant threat to the security of the civilian population, many of whom are displaced, both within and outside DRC's borders. The nature, extent and duration of the conflicts in DRC demand a response which is local but also comprehensive, rapid and coordinated between various stakeholders, in particular regional, military and civilian actors. The persistently high level of human rights violations, their nature and the impunity enjoyed by perpetrators of such violations, some of which constitute crimes under international law, show the serious and long-standing weaknesses of the Congolese justice system. The political, security and human rights situation in DRC has given rise to significant needs in the area of fighting impunity for the most serious crimes, community reconciliation and establishment of the truth.

In the course of its 20 years in the country, MONUSCO has established mechanisms and tools aimed at putting an end to the crises and conflicts which have racked the country since the 1990s, which should be reinforced given the fragile and uncertain context in DRC. Its support, whether logistical, financial and/or technical is still necessary and in some cases requires strengthening in order to support the Congolese authorities towards achieving a State based on the rule of law, which respects human rights and to end the insecurity of the civilian populations.

Yet, MONUSCO is to be wound up, according to the last Security Council resolution adopted in March 2019, which granted the Mission an interim nine-month mandate to decide on its departure. Our organisations stress that this departure needs to be well-planned, gradual and based on objective criteria linked to the evolution of the situation in DRC.

METHODOLOGY

This report is published in the framework of the international advocacy actions of FIDH and its member organisations in DRC at the United Nations Security Council. This advocacy aims to share information and analysis from our organisations with the Council and to ensure that greater and more consistent consideration is given to the protection and promotion of human rights in situations of conflict and crisis, in particular in DRC.

This report is based on research and literature reviews carried out by our organisations, the details of which are shown in the footnotes to the report, as well as individual interviews conducted by email, telephone or in person, with representatives of Congolese civil society, experts, journalists and other relevant actors within and outside the United Nations system.

This report is not intended to cover all the themes and issues related to MONUSCO or to the United Nations system in DRC as a whole, rather it seeks to contribute to the discussions on the renewal of MONUSCO's mandate and the relevance of maintaining a presence in DRC, after 20 years in the country.

INTRODUCTION

On 20 December 2019, the United Nations Security Council will meet to decide on the mandate of the United Nations Organisation Stabilisation Mission in the Democratic Republic of Congo (MONUSCO), after more than 20 years in Democratic Republic of Congo (DRC).

The end of this year is of particular consequence since the Security Council already made a decision in March 2019, in Resolution 2463, to give MONUSCO an interim mandate of nine months, instead of twelve, on an exceptional basis, in view of the new political context in DRC, following the most recent elections in December 2018, and in order to conduct a strategic review of the Mission.¹ The Security Council decided on the following priorities for MONUSCO: 1) Protection of civilians; and 2) Stabilising and strengthening State institutions and security and governance reforms.

Every year for the past 20 years, MONUSCO's mandate has been on the Security Council's agenda and its mandate has significantly evolved during this time, as has the general situation in DRC. From a mission for the supervision of a ceasefire agreement in 1999,² it became a multi-faceted mission when the United Nations Organisation Mission in the Democratic Republic of Congo (MONUC) became MONUSCO in 2010,³ with activities including supporting the political and electoral process,⁴ supporting the process of Disarmament, Demobilisation and Reintegration (DDR), or the protection of civilians in view of the activities of armed groups in the east of the country.⁵ In the area of human rights more specifically, there were significant developments since MONUC's creation in 1999. While the office of the United Nations High Commissioner for Human Rights in DRC was established in 1996,⁶ MONUC created a Human Rights Division in 2000.⁷ These two offices merged in 2008 to create the United Nations Joint Human Rights Office (UNJHRO) which integrated the traditional tasks of the Office of the High Commissioner⁸ as well as tasks related to peacekeeping.⁹

1. See United Nations Security Council (UNSC), Resolution 2463 of 29 March 2019, S/RES/2463, in which the Security Council calls on the Secretary-General to conduct and provide the Security Council, no later than 20 October 2019, with an independent strategic review of MONUSCO "assessing the continued challenges to peace and security in the DRC and articulating a phased, progressive and comprehensive exit strategy". See [https://undocs.org/en/S/RES/2463\(2019\)](https://undocs.org/en/S/RES/2463(2019))

2. Established in November 1999 by UNSC Resolution 1279 (S/RES/1279), MONUC's principal mission was the supervision of the Lusaka Ceasefire Agreement, concluded in July 1999 to put an end to the first conflict in Congo between the following warring parties: DRC, Uganda, Rwanda, Namibia, Angola, Zimbabwe and rebel groups from the *Mouvement de libération du Congo* [Movement for the Liberation of Congo – MLC] and the *Rassemblement congolais pour la Démocratie* [Congolese Rally for Democracy – RCD]. See [https://undocs.org/en/S/RES/1279\(1999\)](https://undocs.org/en/S/RES/1279(1999))

3. UNSC Resolution 1925 of 28 May 2010, S/RES/1925, [https://undocs.org/en/S/RES/1925\(2010\)](https://undocs.org/en/S/RES/1925(2010))

4. As in 2003, when MONUC provided support to the political transition with the establishment of a government of national unity, then in 2006 with support given for the organisation of the first presidential and parliamentary elections, and in 2011 and 2018 with logistical and technical support provided to the organisation of elections.

5. With the creation, by Security Council Resolution 2098 of 28 March 2013, S/RES/2098, of the Intervention Brigade to neutralise armed groups in the east of DRC, thereby giving MONUSCO an offensive mandate. See [https://www.undocs.org/en/s/res/2098\(2013\)](https://www.undocs.org/en/s/res/2098(2013))

6. See OHCHR webpage for background on the OHCHR's office in DRC, <https://www.ohchr.org/EN/Countries/AfricaRegion/Pages/CDSummary.aspx>

7. See MONUSCO, webpage on human rights, <https://monusco.unmissions.org/en/human-rights>

8. Support to the independent expert on DRC and other mandate holders in the framework of the special procedures of the UN Human Rights Council, support to UN treaty monitoring bodies, and strengthening the capacity of the authorities in the area of human rights protection. See UNJHRO webpage, <https://monusco.unmissions.org/en/human-rights>

9. These include human rights protection, in particular of children and women, the fight against impunity and the conduct of investigations as well as the publication of investigation reports. See UNJHRO webpage, <https://monusco.unmissions.org/en/human-rights>

Twenty years of the Mission's presence in DRC have been characterised by the successive Kabila authoritarian regimes. Laurent-Désiré Kabila came to power by a coup in 1997, before being assassinated in January 2001. His son, Joseph Kabila, immediately took power and was then elected on two occasions, in 2006 and 2011, before being forced to withdraw from politics at the most recent presidential election in December 2018. The election of Félix-Antoine Tshisekedi, leader of the opposition platform *Cap pour le changement* (CACH), as Head of the Congolese State thus marks a political change and a transition of power, after almost 20 years under successive Kabila regimes. Since the confirmation of his election by the Constitutional Court on 20 January 2019,¹⁰ there have been encouraging signs of opening up of democratic space and of a calmer political and social climate. However, they remain insufficient to conclude that this represents a successful transition to lasting peace in DRC.

In this report, the International Federation for Human Rights (FIDH) and its member organisations in DRC, the *Ligue des Électeurs* (LE), the *Groupe Lotus* (GL) and the *Association africaine des droits de l'Homme* (ASADHO), highlight to the UNSC, as they do every year, their recommendations on the human rights priorities which should form part of MONUSCO's mandate.

Aware of the needs to reconfigure the Mission but also conscious of the fragility of the current situation in DRC and the importance of properly planning and preparing a transition towards withdrawal from the country, FIDH and its member organisations consider it essential, in accordance with the Roadmap submitted in March 2019 to newly elected President Félix Tshisekedi,¹¹ that MONUSCO should continue to support democratic opening and good governance, civilian protection and justice and the fight against impunity in DRC.

10. See, for example, RFI, "RDC: les juges confirment, Tshisekedi a gagné la présidentielle", 20 January 2019, <http://www.rfi.fr/afrique/20190120-rdc-cour-constitutionnelle-elections-resultats-requete-fayulu> (in French).

11. See FIDH and its member organisations' Roadmap (Ligue des Électeurs, Groupe Lotus, ASADHO), *DRC: Five human rights priorities addressed to President Félix Tshisekedi*, Report, 21 March 2019, <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/five-human-rights-priorities-addressed-to-president-felix-tshisekedi>

I. OVERVIEW OF THE POLITICAL, SECURITY AND HUMAN RIGHTS CONTEXT IN DRC

A. An uncertain context of emergence from political crisis and lifting of restrictions on democratic space

The current political context in DRC is rather unique, as the country experiences its first political transition since its independence in 1960 and the election of the first President of Congo, Joseph Kasa-Vubu. The presidential election in December 2018 gave rise to political change when power was handed over to Félix-Antoine Tshisekedi in January 2019,¹² after 18 years of the regime under Joseph Kabila, former President of DRC. Since January 2019, there have been positive signs of a calmer political climate and opening of democratic space, with the release of several political prisoners, in particular the opposition leader Franck Diongo and the human rights defender and lawyer Firmin Yangambi, in March 2019,¹³ and the return of several political opponents in exile, like Moise Katumbi who returned in May 2019,¹⁴ or having been acquitted following trial at the International Criminal Court, like Jean-Pierre Bemba who returned in June 2019.¹⁵ A coalition government including members of Felix Tshisekedi's coalition, CACH, and of the *Front commun pour le Congo* (FCC), the party of the former President, Joseph Kabila, was also appointed at the end of August 2019.¹⁶

Since Félix Tshisekedi's election, and between January and June 2019, UNJHRO noted a reduction in the number of violations of civil and political rights and fundamental freedoms, with 461 violations committed, compared to 499 in the same period in 2018. However, this number remains high and State actors, in particular members of the Armed Forces of DRC (FARDC), officers of the Congolese National Police (PNC) and officials from the National Intelligence Agency (ANR) remain the main

12. On 20 January 2019, the Congolese Constitutional Court confirmed the election of Félix Tshisekedi to the presidency of DRC.

13. 700 political prisoners were granted conditional release and were released from detention centres. Franck Diongo and Firmin Yangambi were also pardoned by Presidential Order in March 2019. 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 human rights NGO *Paix sur terre*, had been sentenced following appeal to 20 years' imprisonment for attempted organisation of an insurrectional movement and possession of weapons of war, and Franck Diongo, President of the *Mouvement lumumbiste progressiste* (MLP), had been sentenced to five years' imprisonment for aggravated false imprisonment and assault and battery against officers of the Republican Guard.

14. See RFI, "Moise 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). Moise Katumbi had been in exile for three years when he returned to DRC in May 2019. Having left the country to receive medical treatment abroad, a number of legal proceedings were initiated against him in DRC and he had been forbidden from obtaining a passport. Having attempted unsuccessfully to return in August 2018 to submit his candidacy for the presidential elections, he had joined the opposition coalition from abroad.

15. See, 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 DRC in August 2018 following his acquittal on appeal by the International Criminal Court (ICC) in June 2018, after he was sentenced at first instance to 18 years' imprisonment for war crimes and crimes against humanity committed by his militia in Central African Republic between 2002 and 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 election was rejected by the Independent National Electoral Commission (CENI), in view of his conviction by the ICC for corruptly influencing witnesses, Jean-Pierre Bemba had left DRC again to join the opposition coalition abroad, before returning in June 2019.

16. 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).

perpetrators of such violations (414 violations).¹⁷ Furthermore, more recently, violations linked to restrictions on democratic space continued to be committed in September 2019, with 61 violations recorded by the UNJHRO throughout the territory.¹⁸

This transition phase began in January 2019 and was preceded by a violent pre-electoral period, marked by increasing inter-communal tensions in several parts of the country and by a generalised shrinking of democratic space, with the commission of violations of fundamental rights and civil liberties, since the first signs that elections were to be postponed in 2015. Indeed, it should be recalled that general elections (presidential, parliamentary, provincial and local), which were initially planned for the end of 2016, at the expiry of the second and final mandate of the former President Joseph Kabila, were pushed back on many occasions by those in power at the time. It was in this context that a political power-sharing agreement was reached on 31 December 2016, between Joseph Kabila's presidential majority and a coalition of political opposition parties, in order to organise the transition period and elections.¹⁹ Presidential attempts to remain in power beyond the two-year constitutional mandate, in particular by postponing the organisation of elections, attempting to modify the Constitution to allow a third term and adopting measures to restrict civic space, launched a period of political, security and human rights crisis throughout the country.²⁰

It should not be forgotten that the conduct of the presidential election in December 2018 raised objections from the Congolese population and the international community. Numerous irregularities²¹ and restrictions on the right to vote were reported, in particular by the two main opposition candidates, Félix Tshisekedi and Martin Fayulu, leader of the Lamuka coalition. Furthermore, the result of the election designating Félix Tshisekedi as the winner was strongly contested by Martin Fayulu, who declared himself president of DRC on 20 January 2019.²² Following the announcement of the result in mid-January 2019, clashes also broke out in Kisangani,²³ in Tshopo province, and in Kikwit,²⁴ in Kwilu province, during rallies organised by the Lamuka coalition to protest against the result of the presidential election.

Between 2015 and 2019, FIDH and its member organisations documented cases of arbitrary arrest and detention, acts of intimidation and harassment, including through the court system, torture and extrajudicial executions committed by the country's defence and security forces, targeting political activists and human rights defenders, media professionals and peaceful protesters.²⁵ The security

17. See UNJHRO, "Aperçu de la situation des droits de l'Homme en RDC au premier semestre 2019", https://monusco.unmissions.org/sites/default/files/unjthro_-_analysis_of_the_human_rights_situation_in_drc_2019_6_month_fr_final_0.pdf (in French).

18. See UNJHRO, "Note sur les principales tendances des violations des droits de l'Homme au mois de septembre 2019", https://monusco.unmissions.org/sites/default/files/bcnudh_-_communiqu%C3%A9_de_presse_-_note_mensuelle_septembre_2019.pdf (in French).

19. The so-called Saint Sylvester Agreement.

20. The situation of human rights and democratic space on the eve of the 2018 elections was denounced by FIDH and its member organisations on several occasions. See, in particular, FIDH, "RDC : face au risque d'embrasement, le Conseil de sécurité doit redonner les moyens de juguler les violences et appuyer la transition démocratique", Press Statement, 27 mars 2018, <https://www.fidh.org/fr/plaidoyer-international/nations-unies/conseil-de-securite/rdc-face-au-risque-d-embrasement-le-conseil-de-securite-doit-redonner> (in French) and FIDH, *Create conditions for credible elections*, 12 October 2018, <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/create-conditions-for-credible-elections>

21. See, for example, *Le Monde*, "Élections en RDC : dépouillement en cours, l'opposition déplore des irrégularités", 30 December 2018, https://www.lemonde.fr/afrique/article/2018/12/30/scrutin-historique-et-a-hauts-risques-en-rdc_5403581_3212.html (in French).

22. 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).

23. See for example, *La Libre Belgique*, "RDC : des manifestations pro-Fayulu à Kisangani", 10 January 2019, <https://www.lalibre.be/international/rdc-des-manifestations-pro-fayulu-a-kisangani-5c3702867b50a60724912937> (in French).

24. See for example, RFI, "RDC : Kikwit encore en proie aux violences, Lamuka appelle au calme", 11 January 2019, <http://www.rfi.fr/afrique/20190111-rdc-kikwit-encore-proie-violences-lamuka-appelle-calme> (in French).

25. As highlighted in the Roadmap addressed by FIDH and its member organisations to President Félix Tshisekedi after his election: *DRC: Five human rights priorities addressed to President Félix Tshisekedi*, 21 March 2019, *op. cit.*, <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/five-human-rights-priorities-addressed-to-president-felix-tshisekedi>

forces, including the army, cracked down on protesters, on some occasions using lethal force and it is estimated that more than 300 people were killed during demonstrations since the start of the crisis in 2015.²⁶ Violations of the freedom of the press were widespread under the former regime. Internet and SMS text messaging were blocked between 31 December 2018 and 19 January 2019, for example, to prevent the dissemination of independent information. The signals from *Radio France Internationale* (RFI) and a television channel, Canal Congo Télévision, belonging to Jean-Pierre Bemba, supporting the candidacy of the opposition leader Martin Fayulu, were also blocked until 21 January 2019²⁷.

B. A worrying security context, marked by continuing violations of human rights and inter-communal tensions and conflicts throughout the country

A slight decrease in the number of violations committed in the provinces affected by the conflict²⁸ during the first half of 2019 was also noted by the UNJHRO, which reported 2,457 violations.²⁹ State officials were responsible for nearly half of these violations, while the other half were allegedly committed by combatants from armed groups. The majority of these violations documented during the first half of 2019 were committed in the eastern provinces, in particular North Kivu (1,215), South Kivu (240), Maniema (167), Tanganyika (166) and Ituri (161), with the exception of Kasai in the west (269). Recently, in relation to September 2019, UNJHRO still noted a high number of violations committed in the provinces affected by the conflict (437), in particular in North Kivu, South Kivu, Kasai and Tanganyika.³⁰ Concerning the number of victims of conflict-related sexual violence, UNJHRO reported a significant increase between January and June 2019 (407 adult victims), of whom the majority were allegedly victims of armed groups.³¹ This trend was also confirmed in September 2019, in relation to which UNJHRO documented 34 adult victims of sexual violence.³²

The security situation in the eastern provinces has remained of concern since January 2019, with armed groups continuing to represent a threat to the peace and security of the civilian populations. In Beni, North Kivu, recent attacks by the armed group Allied Democratic Forces (ADF) against civilian populations resulted in at least 77 deaths in November 2019.³³ In South Kivu, the situation is equally alarming in Minembwe, in Fizi territory, where the activities of armed groups, in particular foreign groups and community militias, also continue to threaten civilian populations and have led to mass population displacements.³⁴ In October 2019, UNJHRO noted a deterioration in the security situation

26. See FIDH, *Priorités pour le nouveau mandat de la MONUSCO : protéger les civils et agir en vue de la tenue d'élections crédibles et pacifiques*, Report, 27 March 2018, https://www.fidh.org/IMG/pdf/fidh_les_priorites_du_mandat_monusco_mars2018.pdf (in French).

27. Information from the Report of the UN High Commissioner for Human Rights on the human rights situation in DRC before, during and after the elections of December 2018, March 2019.

28. According to UNJHRO and MONUSCO, the provinces affected by the conflicts are: the three Kasai provinces, Tanganyika, Ituri, North Kivu, South Kivu, Haut-Uele and Maniema.

29. See UNJHRO, "Aperçu de la situation des droits de l'Homme en RDC au premier semestre 2019", *op. cit.*, https://monusco.unmissions.org/sites/default/files/unjhro_-_analysis_of_the_human_rights_situation_in_drc_2019_6_month_fr_final_0.pdf (in French).

30. See UNJHRO, "Note sur les principales tendances des violations des droits de l'Homme au mois de septembre 2019", *op. cit.*, https://monusco.unmissions.org/sites/default/files/bcnudh_-_communiqu_e_de_presse_-_note_mensuelle_septembre_2019.pdf (in French).

31. See UNJHRO, "Aperçu de la situation des droits de l'Homme en RDC au premier semestre 2019", *op. cit.*, https://monusco.unmissions.org/sites/default/files/unjhro_-_analysis_of_the_human_rights_situation_in_drc_2019_6_month_fr_final_0.pdf (in French).

32. See UNJHRO, "Note sur les principales tendances des violations des droits de l'Homme au mois de septembre 2019", *op. cit.*, https://monusco.unmissions.org/sites/default/files/bcnudh_-_communiqu_e_de_presse_-_note_mensuelle_septembre_2019.pdf (in French).

33. See *Le Monde*, "RDC : après un nouveau massacre de civils, la population s'en prend à un camp de l'ONU", 25 November 2019, https://www.lemonde.fr/afrique/article/2019/11/25/republique-democratique-du-congo-nouveau-massacre-de-civils-dans-l-est_6020422_3212.html (in French).

34. See, for example, RFI, "RDC : Minembwe assiégée, les raisons des violences sur les hauts plateaux", 25 October 2019, <http://www.rfi.fr/afrique/20191025-rdc-raisons-violences-minembwe-kivu> (in French).

in Minembwe with an upsurge in attacks by armed groups against civilian populations. In total, since March 2019, 73 villages in the area are reported to have been burnt down and numerous cases of extra-judicial executions are alleged to have been committed by members of armed groups operating in these areas.³⁵ In Ituri, in particular in the Djugu and Mahagi territories, and throughout North Kivu, deterioration in the situation was observed at the end of September 2019, with an increase in activities of armed groups and attacks against civilians.³⁶

Inter-communal clashes which took place in various provinces in DRC, in particular in Tanganyika,³⁷ Kasai and Mai-Ndombe³⁸ prior to January 2019 rendered the security situation very fragile in these provinces where tensions remained very high at the end of September 2019.³⁹

In Kasai and Central Kasai provinces the security situation has significantly deteriorated since 2016, as a result of clashes between the FARDC and elements of the *Kamuina Nsapu*⁴⁰ militia. In an investigation report published at the end of 2017, FIDH and its member organisations reported crimes against humanity perpetrated principally by the FARDC and their affiliates from the Bana Mura militia,⁴¹ against the civilian populations in Kamonia territory in Kasai province.⁴² Currently the security and humanitarian situation remains very precarious in these provinces, marked by “prominent” ethnic tensions and the mass return of Congolese refugees particularly from Angola.⁴³ Clashes take place between members of the Pende, Tetela, and Chokwe communities on one side, and members of Luba groups affiliated to the Kamuina Nsapu militia on the other.⁴⁴ Kasai province, where 269 human rights violations were recorded between January and June 2019 and 66 violations were committed in September 2019 alone according to UNJHRO figures,⁴⁵ remains the second most conflict-affected province of DRC, after North Kivu province. Furthermore, although certain members of the *Kamuina*

35. See, for example, Radio Okapi, “Sud-Kivu : le UNJHRO met en garde les auteurs de haine et de violence dans la crise de Minembwe”, 31 October 2019, <https://www.radiookapi.net/2019/10/31/actualite/justice/sud-kivu-le-bcnudh-met-en-garde-les-auteurs-des-discours-de-haine-et-de> (in French).

36. See UNSC, Report of the Secretary-General on the United Nations Organisation Stabilisation Mission in the Democratic Republic of Congo, 27 September 2019, S/2019/776, <https://undocs.org/en/S/2019/776>

37. Longstanding tensions between the Twa and Luba communities in Tanganyika have escalated into confrontations on several occasions, involving proxy militias. The activities of the Mai Mai groups in this province also remain a source of insecurity for the civilian population. See UNSC, Report of the Secretary-General on the United Nations Organisation Stabilisation Mission in the Democratic Republic of Congo, 17 July 2019, S/2019/575, <https://undocs.org/en/S/2019/575>

38. The crisis in the Kasai provinces started with the assassination of the traditional leader *Kamuina Nsapu* in August 2016, when there had already been delays in the organisation of elections. The Kasai provinces are a stronghold of the political party *Union pour la démocratie et le progrès social* (UDPS) which was in opposition before the election of Félix Tshisekedi. The Mai-Ndombe province, in the former Bandundu province, was also overall supportive of the opposition prior to the 2018 elections, and in particular of the party of Martin Fayulu, who came from Bandundu. The events of December 2018 in Yumbi were the direct consequence of a land dispute related to the death of the Banunu leader, while preparations for elections were underway.

39. See UNSC, Report of the Secretary-General on the United Nations Organisation Stabilisation Mission in the Democratic Republic of Congo, 27 September 2019, S/2019/776, <https://undocs.org/en/S/2019/776>

40. The term “*Kamuina Nsapu*” comes from the name of the traditional leader Kamuina Nsapu Jean-Pierre Mpandi, assassinated on 12 August 2016 by the Congolese armed forces. Some of his supporters, of Luba origin, came together to form a militia called “*Kamuina Nsapu*”. With makeshift weapons, often consisting simply of pieces of wood and knives, the *Kamuina Nsapu* militias rise up and attack representatives, structures and symbols of the central power. See FIDH, *Slaughter in Kasai: Crimes against humanity perpetrated to create chaos*, Report 20 December 2017, <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/slaughter-in-kasai-crimes-against-humanity-perpetrated-to-create>

41. In reaction to attacks by the *Kamuina Nsapu* militia, other militia members, of Tchokwe, Pende and Tetela origin, provide support to the defence and security forces of DRC to counterattack and are called the “*Bana Mura*”.

42. See FIDH, *Slaughter in Kasai: Crimes against humanity perpetrated to create chaos*, Report, 20 December 2017, *op. cit.*, <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/slaughter-in-kasai-crimes-against-humanity-perpetrated-to-create>

43. See United Nations Human Rights Council, Report of the Team of International Experts on the Situation in Kasai, June 2019, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/132/03/PDF/G1913203.pdf?OpenElement>

44. See UNSC, Report of the Secretary-General on the United Nations Organisation Stabilisation Mission in the Democratic Republic of Congo, 27 September 2019, S/2019/776.

45. See UNJHRO, “Aperçu de la situation des droits de l’Homme en RDC au premier semestre 2019”, *op. cit.*, https://monusco.unmissions.org/sites/default/files/unjhro_-_analysis_of_the_human_rights_situation_in_drc_2019_6_month_fr_final_0.pdf (in French) and UNJHRO, “Note sur les principales tendances des violations des droits de l’Homme au mois de septembre 2019”, *op. cit.*, https://monusco.unmissions.org/sites/default/files/bcnudh_-_communiqu%C3%A9_de_presse_-_note_mensuelle_septembre_2019.pdf (in French).

Nsapu gave up their weapons voluntarily following the election of Félix Tshisekedi, who comes from the region,⁴⁶ nevertheless many have remained mobilised, in the absence of an adequate Disarmament, Demobilisation and Reintegration (DDR) process.

Our member organisations have also investigated the violence which took place between 16 and 18 December 2018 in Yumbi territory, in the Mai-Ndombe province and the testimonies gathered suggest that these attacks are likely to have been premeditated and supported by certain local authorities.⁴⁷ According to United Nations estimates, at least 535 people are reported to have been killed, 111 injured, 967 homes destroyed, burnt or pillaged and more than 16,000 persons are thought to have fled in particular to neighbouring Republic of Congo.⁴⁸ The National Human Rights Commission (CNDH) also carried out investigation missions on the human rights situation following the events of December 2018 in Yumbi territory and found that certain political authorities and the defence and security forces bore responsibility for the crimes committed.⁴⁹ Finally, the Minister for Human Rights, Ms. Marie-Ange Mushobekwa, also recognised, in front of the United Nations Human Rights Council in March 2019, the responsibility of the local political and administrative authorities for the massacre.⁵⁰

46. See for example, RFI, "RDC : des centaines de miliciens Kamuina Nsapu viennent déposer leurs armes", 29 January 2019, <http://www.rfi.fr/afrique/20190129-rdc-centaines-miliciens-kamuina-nsapu-deposer-armes> (in French).

47. See FIDH, "Tense electoral period in Yumbi risks another outbreak of violence: survivors bear witness", Press Statement, 23 March 2019, <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/tense-electoral-period-in-yumbi-risks-another-outbreak-of-violence>

48. See UNJHRO, *Rapport de mission d'enquête spéciale sur les violences intercommunautaires des 16 et 17 décembre 2018 dans le territoire de Yumbi*, March 2019, https://www.ohchr.org/Documents/Countries/CD/Report_on_Yumbi_March2019.pdf (in French).

49. See CNDH, *Rapport d'enquête sur la situation des droits de l'Homme consécutive aux événements de décembre 2018 dans le territoire de Yumbi*, May 2019, http://www.cndhrdc.cd/glis_c/a_cndh/SKE_a_cndh_5349190706YUMBI.pdf (in French).

50. See, for example, *Jeune Afrique*, "Massacres de Yumbi : la RDC reconnaît la responsabilité d'acteurs politico-administratifs", 20 March 2019, <https://www.jeuneafrique.com/751846/societe/massacres-de-yumbi-la-rdc-reconnait-la-responsabilite-d-acteurs-politico-administratifs/> (in French).



Supporters of new elected President of the Democratic Republic of Congo Félix Tshisekedi hold his portrait and cheer during his Presidential Inauguration on January 24, 2018 in Kinshasa. © John Wessels / AFP

II. OVERVIEW OF THE CONTEXT OF RENEWAL OF MONUSCO'S MANDATE

A. A nine-month interim mandate

In March 2019, the Security Council assigned to MONUSCO the priority tasks of supporting the protection of civilians, on the one hand, and supporting the stabilisation and strengthening of State institutions and key governance and security reforms, on the other.⁵¹ These priority support tasks are not new and already formed part of the previous UNSC resolutions mandating the Mission.⁵² They draw on several components of MONUSCO, both civil and military, which provide support to the relevant authorities and the Congolese population in particular in the political, security and human rights sectors.⁵³ The Political Affairs Division of MONUSCO and the Special Representative of the United Nations Secretary-General in DRC act mainly through political and technical support by providing good offices⁵⁴ to the Congolese authorities and all other actors in political life on the basis of political and security analyses. In the area of civilian protection, MONUSCO's Intervention Brigade is authorised to intervene militarily in the conflict-affected provinces in the east of the country to neutralise armed groups alongside the Congolese armed forces.⁵⁵ The Civil Affairs Section plays an important role in the protection of civilians, through its liaison activities and by strengthening community involvement at the local level. The role of the Justice/Rule of Law Office and UNJHRO includes providing support on strengthening the capacity of judicial bodies. Furthermore, UNJHRO through its work on monitoring the human rights situation across the entire Congolese territory, conducts investigations and extensive advocacy on the fight against impunity.⁵⁶

MONUSCO's mandate was renewed on an exceptional basis in March 2019 for a nine-month period until 20 December 2019, to allow time for the new authorities emerging from the most recent elections to demonstrate themselves and for an independent expert to give recommendations on the strategic review of the Mission with a view to withdrawal from the country.⁵⁷ The UNSC called on the United Nations Secretary-General to "conduct and provide the Security Council, no later than 20 October 2019, with an independent strategic review of MONUSCO assessing the continued challenges to

51. See UNSC Resolution 2463 of 29 March 2019, S/RES/2463, [https://undocs.org/en/S/RES/2463\(2019\)](https://undocs.org/en/S/RES/2463(2019))

52. See previous UNSC resolutions on the situation in DRC, <https://monusco.unmissions.org/en/resolutions-security-council>

53. For more information on the mandate of each of the civil and military components of MONUSCO, see MONUSCO, Activities, <https://monusco.unmissions.org/en/activities>

54. Good offices are a diplomatic tool available to the Mission and in particular to the Special Representative of the United Nations Secretary-General by the UNSC to intervene with the national authorities with a view to promoting resolution of a situation.

55. MONUSCO's Intervention Brigade was created in March 2013, by UNSC Resolution 2098, to neutralise and combat armed groups in the east of DRC. This resolution gave MONUSCO an offensive mandate in the east of DRC since the Intervention Brigade's authorisation to engage in combat is not limited to cases of self-defence. The Intervention Brigade is currently authorised to intervene in the Beni area of North Kivu against the ADF armed group.

56. On specific issues related to children affected by the conflict and sexual violence in period of conflict, the Child Protection Section and the Sexual Violence Unit work in collaboration with UNJHRO, in particular on the fight against impunity.

57. Discussions on renewal of MONUSCO's mandate began on 13 November 2019 at the UN, after the presentation of the report of the strategic review of the Mission by an independent expert to the UNSC. See "Transcription de la conférence de presse ONE UN en RDC, le 13 novembre 2019, à Kinshasa", MONUSCO Activities, https://monusco.unmissions.org/sites/default/files/transcription_de_la_conference_de_presse_des_nations_unies_en_rdc_du_13_novembre_2019_final_0.pdf (in French).

peace and security in DRC and articulating a phased, progressive and comprehensive exit strategy".⁵⁸ On two previous occasions, in 2009 and 2017, a strategic review had been requested by the UNSC with the objective of reconfiguring the Mission with a view to withdrawal from the country,⁵⁹ at a time when its presence was strongly contested, in particular by the former President, Joseph Kabila.⁶⁰ Today, on the eve of renewal of its mandate after 20 years in DRC, the context of the Mission is different, in the sense that pressure for its departure from DRC seems to be coming to a greater extent from within the United Nations, the new authorities having been generally supportive of MONUSCO's presence on the territory of their State.⁶¹

B. Towards MONUSCO's reconfiguration

Twenty years of presence and evolution of its mandate in DRC have represented a substantial cost for the United Nations,⁶² representing the main criticism of MONUSCO coming from Member States and in particular within the UNSC, where political pressure is increasingly strong to reduce the budget and consider an exit strategy. It is in this context that significant budget cuts were recently decided in June 2019 to go with the mandate adopted in March 2019.⁶³ In total, since July 2019, approximately 800 posts have been abolished in MONUSCO, seven field offices and one antenna office have been closed in Kisangani (Tshopo province), Lubumbashi (Haut-Katanga province), Mbandaka (Equateur province), Mbuji-Mayi (Kasai-Oriental province), Matadi (Kongo Central province), Dungu (Haut-Uele province), Bandundu-City (Kwilu province) and Kamina (Haut-Lomani province). MONUSCO is now therefore only present in six provinces, namely North Kivu, South Kivu, Ituri, Tanganyika, Kasai and Kinshasa. The military contingent has also been subject to budget cuts, with the closure of several static military bases throughout the country.⁶⁴

Another aspect of the context of this new reconfiguration is that the reputation of the Mission among civilian populations has been tarnished by several cases of sexual abuse and exploitation committed by its civilian and military personnel.⁶⁵ Although preventive and disciplinary measures were taken by the UN, in particular under the UN's zero tolerance policy on sexual abuse and exploitation,⁶⁶ criminal proceedings are rarely initiated by contributing States who have sole competence to prosecute acts committed by their nationals.⁶⁷

58. See UNSC Resolution 2463 of 29 March 2019, S/RES/2463, [https://undocs.org/en/S/RES/2463\(2019\)](https://undocs.org/en/S/RES/2463(2019))

59. See UNSC Resolution 1906 of 23 December 2009, S/RES/1906, in relation to MONUC, [https://undocs.org/S/RES/1906\(2009\)](https://undocs.org/S/RES/1906(2009)) and Resolution 2348 of 31 March 2017, S/RES/2348 in relation to MONUSCO, [https://undocs.org/en/S/RES/2348\(2017\)](https://undocs.org/en/S/RES/2348(2017))

60. See, in particular, Radio Okapi, "RD Congo/Joseph Kabila: 'Nous avons de très bonnes relations avec la MONUC'", 29 November 2009, <https://reliefweb.int/report/democratic-republic-congo/rd-congojoseph-kabila-%C2%AB-nous-avons-de-tr%C3%A8s-bonnes-relations-avec-la> (in French) and *Jeune Afrique*, "RDC : À la tribune de l'ONU, Kabila réclame le "début effectif" d'un retrait des Casques bleus", 26 September 2018, <https://www.jeuneafrique.com/634925/politique/rdc-a-la-tribune-de-lonu-kabila-reclame-le-debut-effectif-dun-retrait-des-casques-bleus/> (in French).

61. See, for example, UN Info, "RDC : à l'ONU, Félix Tshisekedi affirme que son pays a encore besoin de la MONUSCO", 26 September 2019, <https://news.un.org/fr/story/2019/09/1052652> (in French).

62. For example, in relation to the financial year 2017-2018, MONUSCO's budget was 1,141,848,100 USD, see <https://peacekeeping.un.org/en/mission/monusco>

63. MONUSCO's budget is voted in June by the Fifth Committee of UN General Assembly responsible for administrative and budgetary matters.

64. See "Transcription de la conférence de presse de la Représentante spéciale du SG des Nations Unies en RDC, Leila Zerrougui, le 3 octobre 2019 à Kinshasa", MONUSCO Activities, <https://monusco.unmissions.org/transcription-de-la-conf%C3%A9rence-de-presse-de-la-repr%C3%A9sentante-sp%C3%A9ciale-du-sg-des-nations-unies-en-rdc> (in French).

65. See, for example, BBC News Afrique, "RDC : cas d'abus sexuels à la MONUSCO", BBC News Afrique, 28 April 2017, <https://www.bbc.com/afrique/region-39741831> (in French).

66. See, for example, Resolution adopted by the UN General Assembly on the *Comprehensive review of a strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations*, 30 June 2005, A/RES/59/300.

67. In France, in 2008, the Paris *Cour d'assises* (Trial Court) found Didier Bourguet, former MONUC official, guilty of rape and sexual assault on three minors in Congo and sentenced him to nine years in prison and eight years of compulsory treatment. FIDH and its member organisations advocated strongly for this trial to take place and mobilised for the representation of victims as civil parties. See <https://www.fidh.org/fr/regions/afrique/rdc/Un-casque-bleu-condamne-par-la> (in French).

In the face of the security challenges for the civilian population, in particular in North Kivu, where the presence and the activities of armed groups continue to represent a serious threat to the inhabitants of this area, MONUSCO is regularly the subject of, sometimes fierce, criticism over its limited capacity to protect civilians. Recently, at the end of November 2019 in Beni in the “Grand Nord” region of North Kivu, the population which has been living under the constant threat of the ADF for many years, protested against insecurity in front of the State and MONUSCO buildings. These protests degenerated and MONUSCO quickly became the target of the anger of the inhabitants of Beni, who pillaged and set fire to a Mission base, calling for its departure.⁶⁸

The renewal of MONUSCO’s mandate takes place in a context in which the security of its personnel and that of its volunteers are challenged. Indeed, increasing numbers of deliberate attacks against its personnel have been recorded in the past few years.⁶⁹ The assassination of Zaida Catalan and Michael Sharp, two experts from the UN Group of experts on DRC, and their four escorts in March 2017 in Kasai,⁷⁰ while they were conducting an investigation mission in the province, seriously called into question the capacity of the UN in Congo to ensure the security of its members and volunteers. Furthermore, in addition to the threats made by armed groups to the physical security of MONUSCO’s military personnel, the Mission’s civilian personnel, in particular members of UNJHRO, have also received threats, in the course of their human rights protection work.

The stakes are even higher in relation to this renewal given the general context of reform to the UN peacekeeping operations system. The shortcomings of MONUSCO, but also the good practices put in place since the creation of MONUC and which have been transposed in other operations have contributed to considerations within the UN. This recently led to the UN Secretary-General’s “Action for peacekeeping” (A4P) initiative in 2018,⁷¹ which aims to respond to the challenges of the main peacekeeping missions and to improve their performance.

Given the uncertain political context in DRC, the security and human rights environment which remains of concern, and the tense UN context in which the new MONUSCO mandate will be adopted at the end of December 2019, priorities for MONUSCO’s actions are required, in particular in the event of withdrawal from the country.

68. See, for example, *Le Monde*, “RDC : après un nouveau massacre de civils, la population s’en prend à un camp de l’ONU”, 25 November 2019, *op. cit.*, https://www.lemonde.fr/afrique/article/2019/11/25/republique-democratique-du-congo-nouveau-massacre-de-civils-dans-l-est_6020422_3212.html (in French).

69. Deliberate attacks against UN peacekeepers in DRC by armed groups, during which several people have lost their lives or been seriously wounded, represent a major challenge for the Mission. Attacks against the Mission took place in Semiliki, in North Kivu in December 2017, where 14 Tanzanian soldiers were killed by combatants from the ADF armed group, and in November 2018 in the Mayangose forest in North Kivu, where seven soldiers were killed, and 10 others injured in an offensive against ADF combatants. See Report of the UN Secretary-General on the United Nations Organisation Stabilisation Mission in the Democratic Republic of Congo, January 2019, S/2019/6, <https://undocs.org/en/S/2019/6>

70. See, for example, RFI, “‘Congo Files’ : comment protéger les experts”, 1st December 2018, and *Bunkonde, l’exécution de deux experts de l’ONU*, RFI web documentary, <http://webdoc.rfi.fr/rdc-kasai-violences-crimes-kamuina-nsapu/chap-04/index.html>

71. See webpage of the UN Action for Peacekeeping, <https://peacekeeping.un.org/en/action-for-peacekeeping-a4p> and the Declaration of Shared Commitments on UN Peacekeeping Operations, <https://peacekeeping.un.org/sites/default/files/a4p-declaration-en.pdf>. This initiative, although it concerns several areas, seems to be principally motivated by difficulties in ensuring the security and safety of troops in the field, which were highlighted in the UN “Santos Cruz” report, December 2017, https://peacekeeping.un.org/sites/default/files/improving_security_of_united_nations_peacekeepers_report.pdf

III. PRIORITIES FOR THE NEW MONUSCO MANDATE ACCORDING TO FIDH AND ITS MEMBER ORGANISATIONS IN DRC

In accordance with the priorities addressed to President Tshisekedi in March 2019 for a State which respects human rights, and in the event of departure from DRC, FIDH and its member organisations consider that the priorities of the next MONUSCO mandate should be the following: consolidating the opening of democratic space; building a system of good governance; protection of civilians; and strengthening the justice system and fighting impunity.

A. On democratic space and governance

It is fundamental that the political transition phase which started in January in DRC receives effective support from MONUSCO, in order to ensure the consolidation of an open, inclusive and participative democratic space and the introduction of a system of good governance, essential to rebuilding trust between the authorities and the civilian population and to sustainable peace in DRC.

1. Consolidate efforts already undertaken to open up democratic space

Given the improved relations between the Mission and the Congolese authorities since the election of Félix Tshisekedi and a context which is favourable to democratic openness,⁷² it is vital that MONUSCO regains ground and influence in relation to Congolese political actors, by fully playing its role in facilitating political dialogue between all actors in political life in DRC, in particular through good offices and technical support.

MONUSCO should be able to make sure that the measures on opening democratic space which have been taken by the new authorities are continued, in compliance with the fundamental rights of members of the opposition, human rights defenders, journalists, members of faith-based organisations and civil society generally, in particular freedom of opinion and expression, freedom of peaceful assembly and association, freedom of the press, freedom of conscience and the right to participate in political life. Following the release and presidential pardon of the opposition leader Franck Diongo and the human rights defender and lawyer Firmin Yangambi in March 2019, other measures like this should be encouraged. Measures aimed at opening democratic space which MONUSCO could encourage are important to rebuild trust between the various actors in Congolese political life, shaken by years of repression against the background of political crisis, and to allow free and constructive participation for all in the political process. Thus, MONUSCO should pursue its efforts in favour of opening civic space, in which a constructive opposition and strong and independent civil society have their full place and participate in the country's reforms and development strategies.

72. See, Section I, Context in DRC, pp. 12–17.

UNJHRO's work on strengthening the presence and technical capacities of civil society is essential. Through the years, UNJHRO, by its longstanding presence across the whole territory, has developed relationships and cooperated with numerous human rights organisations in DRC at the local, provincial and national level, in particular through exchange of information on the human rights situation, which is useful to Congolese actors in their human rights protection work. UNJHRO, sometimes in collaboration with other UN partners in DRC, has organised professional training and workshops for human rights actors, to enable them to meet to exchange on human rights.⁷³ UNJHRO's support has also enabled implementation of protection measures for certain defenders threatened in the course of their activities, where the situation so required. It is therefore essential that the construction of strong and independent civil society continues to receive UNJHRO's support. With the prospect of withdrawal from the country, it is important that civil society, and in particular those working in the area of human rights and civil liberties, can receive the support, in particular, of UNJHRO and the Civil Affairs Section of the Mission, in finding and developing new partnerships with local, national, regional and international actors in the human rights sector in DRC.

2. Encourage institutional reforms

The institutional crisis which marked the whole of the 2018 pre-election period highlighted the need for reform of several institutions, including in the area of security, human right and elections.⁷⁴ Some Congolese institutions, suffering from governance problems, due in particular to the prevailing widespread corruption, but also to a lack of independence in relation to political authority, as well as a lack of professionalism and efficiency, have lost the confidence of and been called into question by the Congolese people.

In the security sector, the provision of technical support to reform of the Congolese army and police should be a priority for MONUSCO, with a view to increasing the professionalism and accountability of these institutions. There are numerous examples of cases of serious human rights violations, including against children, perpetrated by members of FARDC or officers of the PNC in the performance of their duties, both in the pre-election context by the disproportionate use of force against peaceful protesters, and in the context of armed conflicts during military operations against armed groups.⁷⁵ Relevant professional training, such as on crowd control management or respect for human rights by defence and security forces and services in the performance of their duties, should therefore form part of the support offered by MONUSCO to the Congolese authorities.

The implementation of the UN's Human Rights Due Diligence Policy (HRDDP) should also be one of MONUSCO's priorities, in particular since this would promote the emergence of a more professional and accountable security sector.⁷⁶ Indeed, this policy which applies to all situations in which the UN, and therefore MONUSCO, provides support to non-UN security and defence forces, allows advocacy in favour of taking judicial and disciplinary measures against alleged perpetrators of human rights violations, in particular with the objective of their exclusion from the defence and security forces and services. It is therefore important that this Policy should continue to be applied within the UN

73. See, for example, MONUSCO News, "Le BCNUDH forme des activistes en droits de l'Homme", 6 March 2018, <https://monusco.unmissions.org/le-bcnudh-forme-des-activistes-en-droits-de-l%E2%80%99homme> (in French).

74. The need for reform of the judicial system will be discussed below, in the section on justice and the fight against impunity (pp. 28–32).

75. See above, Section I., Context in DRC, pp. 12–17.

76. Adopted in July 2011, the UN Human Rights Due Diligence Policy requires all UN entities to comply with the Organisation's purposes and principles, as set out in the Charter as well as its obligations under international law to respect, promote and encourage respect for international humanitarian, human rights and refugee law. Each time MONUSCO provides support to non-UN defence and security forces and services, a human rights risk assessment is carried out and mitigating measures are offered, where necessary.

system in DRC and that it contributes to the reform of the security sector in terms of the “screening” of members.

In relation to the national human rights institution in DRC, UNJHRO should support adjustments in order to increase its performance, visibility and inclusiveness, as underlined by FIDH and its member organisations in the Roadmap addressed to President Tshisekedi in March 2019.⁷⁷ The CNDH suffers from, inter alia, a lack of material and financial means and of the human resources necessary to carry out its work properly, especially at the provincial level. Guaranteeing its independence and neutrality, in particular in terms of its composition, in relation to political authority, also continues to represent a significant challenge to reform of this institution. UNJHRO, in particular through its Training, Institution Building and Awareness (TIBA) unit, works to strengthen the capacities of the CNDH and should be in

a position to encourage an evaluation process to assess the actions and impacts of the CNDH since its creation, in order to identify ways to improve its operation.

The National Independent Electoral Commission (CENI), as the guarantor of the organisation of credible, transparent, free and fair elections, is a key element of institutional reforms in DRC to advance the rule of law and promote a peaceful political climate, and MONUSCO should be able to support it to achieve this. In the past, CENI has been widely criticised by the Congolese population for its lack of independence, credibility and transparency, which facilitated electoral fraud. Its lack of independence, a consequence of its composition in particular, is one of the main criticisms. Its Chairperson, Corneille Nangaa, is seen as close to the former President Joseph Kabila, and many members of the CENI members come from political parties. The most recent electoral process was heavily criticised by sections of the Congolese population and the international community, in terms of both its conduct and the results which emerged, for being part of a strategy aimed at maintaining Joseph Kabila's hold on power in one way or another.⁷⁸ In this regard, ASADHO, FIDH's member organisation, as well as the *Institut de recherche en droits humains* (IRDH) and JUSTICIA Asbl, have recently shared their concerns in the context of negotiations which are thought to be taking place on a draft proposal for reform of the CENI led by the pro-Joseph Kabila political platform FCC.⁷⁹ It is reported that the aim of these negotiations is to limit CENI membership exclusively to political actors, which, according to these organisations, would contradict the principle of independence of the institution, as guaranteed under the Congolese Constitution. These organisations consider that CENI members must come from civil society and be selected by an independent body within the framework of an open call for applications. Therefore, it is essential that MONUSCO can use its good offices and technical expertise with relevant authorities to advocate for an inclusive process guaranteeing the independence and credibility of the CENI.

Reform of the CENI is all the more relevant given that, according to the electoral calendar, local elections are due to take place in DRC. Taking into account the dysfunctions and tensions observed during the last electoral process in 2018, FIDH and its member organisations consider it essential that these elections are organised by an independent institution in a peaceful climate. As FIDH's member

77. See, on this issue, FIDH Roadmap, *DRC: Five human rights priorities addressed to President Félix Tshisekedi*, Report, 21 March 2019, *op. cit.*, <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/five-human-rights-priorities-addressed-to-president-felix-tshisekedi>

78. The multiple postponements of elections in 2016, the use of voting machines despite opposition, and the postponement of elections in the areas of Beni, Butembo, in North Kivu, and Yumbi, in Mai-Ndombe province, led to numerous objections against the CENI-led process. In addition, the results of the presidential and legislative elections were also challenged, as having been manipulated by Joseph Kabila's regime to maintain his hold on power.

79. See ASADHO, IRDH and JUSTICIA Asbl, “Processus électoral : le Front commun pour le Congo envisage de remplacer Corneille Nangaa par le Professeur Adolphe Lumanu à la tête de la CENI”, Joint Press Release, 18 October 2019 (in French). See also *La Prospérité*, “CENI : Adolphe Lumanu pressenti”, <https://laprosperiteonline.net/2019/10/20/ceni-adolphe-lumanu-presentsenti/> (in French).

organisation, LE, underlined in an interview with RFI in June 2019, the conduct of local, municipal and communal elections is a sign of “genuine grassroots democracy”.⁸⁰ ASADHO, another FIDH member organisation, warns in particular of the risk of local inter communal tensions in electoral districts created by the 2015 Law on territorial boundaries.⁸¹ MONUSCO should thus be able to work with authorities in charge of conducting transparent, credible and fair elections, by using its good offices and providing technical and logistical support to ensure the smooth conduct of local elections.

In addition, the human rights monitoring work carried out by UNJHRO before, during and after local elections is vital to ensure the respect of fundamental rights and civil liberties by law-enforcement and security forces in this context. During the last elections held in 2018, but also before, UNJHRO deployed monitoring teams in the field, in particular during demonstrations, to observe the situation and issue live reports on events. This presence of human rights officers in the field can deter the commission of violations, and allows cases of human rights violations to be documented, thereby contributing to fighting impunity in these cases. Therefore, it is essential for UNJHRO, which has seen its presence in DRC significantly reduced by the recent budget cuts, in particular in the western part of the country where it is now only present in Kinshasa and the Kasai,⁸² to be able to pursue its human rights monitoring work with the prospect of local elections in DRC.

B. On security and civilian protection

While the protection of civilians in areas of prevailing insecurity is the primary responsibility of the Congolese authorities, it is essential that the provision of support in this area remains one of the Mission’s priorities, in view of the security situation and the absence of the State in certain areas. As mentioned above in this report,⁸³ the security of civilian populations in DRC continues to be seriously threatened by the ongoing activities of armed groups in certain parts of the country, in the east such as in North Kivu (Beni) and in South Kivu (Minembwe), as well as by the existence of intercommunal tensions in some areas, such as in Tanganyika and Kasai. Continuing human rights violations perpetrated by national defence and security forces and services also represent a threat to civilian populations.⁸⁴

1. Prioritise a non-military community-based and local approach to civilian protection

It is essential that a community-based, local approach to civilian protection, to be preferred to a military approach, should be reinforced, such as in Tanganyika and the Kasai, where community-based reconciliation mechanisms could calm existing tensions and prevent conflicts.

This approach would enable the situation at the local level to be better understood in order to increase risk-anticipation and mitigation concerning the security of civilian populations. It is vital for MONUSCO, which already has its own mechanisms to protect civilians, to involve the various local stakeholders, including representatives of existing communities, members of civil society, political and administrative authorities and representatives of defence and security forces and services. The

80. See, for example, RFI, “RDC : La Ligue des Électeurs insiste sur l’importance des élections locales”, 21 June 2019, <http://www.rfi.fr/afrique/20190621-rdc-societe-civile-elections-municipales-provinciales-locales> (in French).

81. See Organic law No. 15/006 of 25 March 2015 on the establishment of boundaries of provinces and the City of Kinshasa, https://www.droitcongolais.info/files/1.10.24.-Loi-du-25-mars-2015_Provinces-et-Ville-de-Kinshasa_limites.pdf (in French).

82. UNJHRO is present in Kananga, in the province of Kasai-Central and in Tshikapa, in Kasai Province.

83. See above, Section I. Context in DRC, pp. 12–17.

84. See UNJHRO, “Note sur les principales tendances des violations des droits de l’Homme entre janvier et juin 2019”, *op. cit.*, https://monusco.unmissions.org/sites/default/files/bcnuhdh_-_communiqu%C3%A9_de_presse_-_tendances_au_premier_semestre_2019.pdf (in French).

dialogue and early-warning networks set up by MONUSCO with communities and local authorities must be strengthened, in particular through the intermediary of the Mission's Community Liaison Assistants (CLAs) and the work carried out by the Civil Affairs Section⁸⁵ in accordance with the concept of "protection through projection" applied by MONUSCO. This approach, introduced by MONUSCO in 2018, is primarily based on community liaison and alert mechanisms, which, following information received from local communities, activate the deployment of military and/or civilian contingents to a specific area in order to counter threats to the security of civilian populations as far as possible.⁸⁶ UNJHRO, through its work on human rights monitoring, also contributes to civilian protection through alerts on cases of imminent threats targeting civilian populations received from its numerous local networks located throughout the Congolese territory, allowing preventative action to be taken. Given MONUSCO's reduced presence on Congolese territory following the recent closure of military bases, antenna offices and field offices, it is crucial for the work already initiated by the Civil Affairs Section and UNJHRO in particular, on local and community liaison and restoration of State authority and confidence-building measures, to constitute a priority in MONUSCO's next mandate.

Furthermore, a non-military approach must be taken into account within the framework of the DDR process, in particular its reintegration component, in relation to MONUSCO's support to the authorities on civilian protection. Civilian reintegration in Congolese society, rather than military reintegration, should be prioritised given the failings observed in this area and the threats posed to the security of civilian populations.⁸⁷ MONUSCO should therefore be able to provide adequate support in this regard, in particular in the Kasai with members of the *Kamuina Nsapu* and *Bana Mura* militias, and in Ituri with combatants from *Front de résistance patriotique de l'Ituri* (FRPI) where a DDR process is already underway. Regarding the protection of children more specifically, there is a need to durably strengthen programmes on reintegration of children who have been demobilised from armed groups, while providing adequate resources to such programmes.

2. Strengthen civil and military coordination

Coordination between MONUSCO's civil and military components in cases of military intervention must be strengthened to ensure more effective civilian protection. Joint work between MONUSCO's civil and military components in the field is important, in particular to define non-military solutions to crises, which are sometimes more effective than military solutions, especially in cases of community-related conflicts. In this respect, MONUSCO should be in a position to pursue its "comprehensive approach to civilian protection".⁸⁸ This approach requires, in particular, that MONUSCO should be able to deploy joint protection teams, which include civil and military elements, to conduct comprehensive assessments of situations in specific areas and the threats faced by civilians and to be able to provide an appropriate and rapid response, as necessary. In the event that military operations are conducted by MONUSCO's Intervention Brigade in the eastern part of the country, MONUSCO's civil units, in particular UNJHRO, should be involved in the coordination and planning of such operations, in order to minimise risks incurred by civilian populations.

85. MONUSCO's Civil Affairs Section serves as an interface between the Mission and local authorities in the area of civilian protection. Community Liaison Assistants (CLAs) enable the Mission to communicate with communities and local authorities and to gain better understanding of local conflict dynamics.

86. See, for example, Radio Okapi, "RDC : la force de la MONUSCO met en place le mode opératoire 'protection par projection'", 6 June 2018, <https://www.radiookapi.net/2018/06/06/actualite/securite/rdc-la-force-de-la-monusco-met-en-place-le-mode-operatoire-protection> (in French).

87. Some combatants from rebel movements and armed groups have been integrated into the Congolese Army at various periods in the country's history, in particular through the concept of "integrated brigades" in the regular national army. These brigades have not always been a success, as numerous former combatants have taken up arms again in other armed groups, after having defected from the regular army, thereby continuing to threaten the security of civilian populations.

88. See UNSC Resolution 2409 of 27 March 2018, S/RES/2409, which introduced this approach to civilian protection, [https://undocs.org/en/S/RES/2409\(2018\)](https://undocs.org/en/S/RES/2409(2018))

3. Provide a rapid response to protection needs

It is also essential that MONUSCO, with its new mandate to be voted in December, should be able to provide a rapid response to civilian protection needs, taking into consideration its current configuration, marked by a reduced presence on Congolese territory. Intervention battalions of the military contingent have been set up and joint protection teams have already been sent to areas where MONUSCO had no static bases and protection needs had been identified.⁸⁹ The UNSC should therefore increase the resources necessary to allow MONUSCO to deploy rapidly throughout the territory in order to protect civilians where needed, in particular in areas where MONUSCO is no longer present on a permanent basis. Furthermore, the significant needs in terms of civilian protection in Beni, North Kivu, where the ADF continues to attack civilians on a regular basis,⁹⁰ must be rapidly addressed, in cooperation with the Congolese Army.⁹¹

4. Adopt a regional approach to civilian protection

Dynamics in the conflicts which have been ongoing in DRC since the 1990s, in particular with the presence of foreign armed groups on Congolese territory,⁹² as well as humanitarian spill-overs beyond DRC's borders have a regional dimension and should not be addressed, in terms of civilian protection, through an entirely national approach, but in cooperation with existing regional institutions. This is notably the case in Minembwe, South Kivu, where community militia supported by Rwandan and Burundian armed groups gravely threaten civilian populations, in particular those of Banyamulenge origin.⁹³ MONUSCO needs to be able to strengthen its cooperation on civilian protection in particular with the Office of the UN Special Envoy for the Great Lakes,⁹⁴ but also with the African Union (AU), the Southern African Development Community (SADC) and the International Conference on the Great Lakes Region (ICGLR), in particular with the prospect of withdrawal from the country.

5. Pursue efforts to reform the UN peacekeeping system

Finally, it is important that discussions underway at the United Nations on peacekeeping, in particular in the framework of the Action for Peacekeeping initiative,⁹⁵ should be pursued. Recommendations to increase the effectiveness of civilian protection which may result, should be applied to MONUSCO, as appropriate.

89. At the end of 2018, two rapid intervention battalions were deployed in Kalemie, in Tanganyika province (Indonesian battalion), and in the Kasai (Moroccan battalion), in order to address protection needs arising from intercommunal tensions in these provinces.

90. See above Section I. Context in DRC, pp. 12–17, and Section II. Context of the renewal of MONUSCO's mandate, pp. 18–20.

91. It should be underlined that the military operations which were recently conducted by the FARDC against the ADF in North Kivu were unilateral, meaning they were not supported by MONUSCO. See MONUSCO News, "François Grignon : on ne peut pas participer aux opérations des FARDC s'ils ne nous invitent pas", 25 November 2019, <https://monusco.unmissions.org/fran%C3%A7ois-grignon-ne-peut-pas-participer-aux-op%C3%A9rations-des-fardc-sils-ne-nous-invitent-pas%C2%BB> (in French).

92. Such as the Democratic Forces for the Liberation of Rwanda (FDLR) and the ADF in North Kivu, the *Front national de libération* (du Burundi) (FNL) in South Kivu and the Lord's Resistance Army (LRA) in Haut-Uele, for example.

93. See, for example, RFI, "RDC : Minembwe assiégée, les raisons des violences sur les hauts plateaux", 25 October 2019, <http://www.rfi.fr/afrique/20191025-rdc-raisons-violences-minembwe-kivu> (in French).

94. The UN Special Envoy for the Great Lakes was first appointed in February 2013 by the UN Secretary-General, to monitor the implementation of the Peace, Security and Cooperation Framework Agreement for the Democratic Republic of Congo and the region (Addis Ababa Framework Agreement). The Agreement was signed on 24 February 2013 by several countries in the region: Angola, Republic of Congo, South Africa, Tanzania, Uganda, Central Africa, Burundi, Rwanda, South Sudan, Zambia and Democratic Republic of Congo. Sudan and Kenya also became signatory countries in 2014. The UN Secretary-General, as well as the representatives of the AU, the Southern African Development Community (SADC) and the International Conference on the Great Lakes Region (ICGLR) are also parties to the Framework Agreement. This Agreement was concluded after M23 took Goma in November 2012 and expresses the common will of these States to resolve the causes of the conflict in the eastern part of DRC.

95. See above, Section II. Context of the renewal of MONUSCO's mandate, pp. 18–20.



Blue helmet members of the United Nations Organisation Stabilisation Mission in the Democratic Republic of Congo MONUSCO patrol a street on October 23, 2014 in Beni. Several violent protests have erupted since October 21 in the east of DRC to demand the departure of MONUSCO, accused of failing to prevent recent massacres in the Beni territory. © Alain Wandimoyi / AFP

C. On justice and the fight against impunity

FIDH and its member organisations consider it to be essential that MONUSCO's new mandate should contribute to involving the new authorities in fighting impunity for the most serious crimes in DRC, and in particular fighting impunity for sexual violence; to take action to set up transitional justice processes for certain crimes given their nature and scope; as well as to develop an independent and efficient judicial system.

1. Fight impunity for the most serious crimes

As mentioned above in this report,⁹⁶ human rights violations, some of which amount to crimes against humanity under international law, are regularly committed by State agents and members of armed groups in DRC. Although, in some cases, judicial measures have been taken by the relevant national authorities, most cases of serious crimes remain unpunished. Few judicial investigations have been opened in

96. See above, Section I. Context in DRC, pp. 12–17.

cases of intercommunal violence in the context of the electoral and political crisis perpetrated in the Kasai since 2016, for example. While investigations have been launched in the case of intercommunal violence perpetrated in Yumbi in December 2018 before the elections, these investigations seem to have been stalled from the outset.⁹⁷ The almost systematic absence of reparation measures for victims, in particular of sexual violence, contributes to the culture of impunity in DRC, as highlighted by FIDH and its member organisations in a report published in December 2013.⁹⁸

The fight against impunity, in particular in the most serious cases, is essential for a peaceful society, and for the restoration of confidence and State authority. It is therefore important that the fight against impunity in the most serious cases committed in the eastern part of DRC during armed conflicts and in the Kasai and Yumbi in the pre-electoral context, constitutes one of MONUSCO's priorities.

MONUSCO, in particular through UNJHRO, provides considerable support in the area of the fight against impunity. As a result of its presence throughout Congolese territory, until recently,⁹⁹ UNJHRO has had the capacity to document cases of human rights violations on a national scale, through its monitoring and investigation work. This work has resulted in the publication of numerous reports advocating for the fight against impunity in the most serious cases, in particular in cases of sexual violence.¹⁰⁰ In addition, the exchange of information collected, through such documentation efforts conducted with the Congolese judicial authorities, is crucial to support the opening of investigations in serious cases. The Report of the Mapping Exercise documenting the most serious human rights violations committed within the territory of DRC between 1993 and 2003, constitutes a major outcome of this work to document human rights violations in DRC, both for the establishment of the "memory" of past events, but also for the fight against impunity of perpetrators of serious crimes.¹⁰¹

Given the recent reduction in MONUSCO's presence on Congolese territory, the UNSC should ensure that UNJHRO can pursue its documentation efforts throughout the territory. This means that UNJHRO should have the capacity to deploy rapidly in areas where it is no longer present, in particular to conduct investigation missions, while their security should be guaranteed by MONUSCO's military contingent, as necessary.¹⁰²

The implementation of the UN Human Rights Due Diligence Policy, as recalled above,¹⁰³ is an important tool for MONUSCO in the fight against impunity, which should remain a priority of its mandate. Indeed, by enabling the identification of perpetrators of serious human rights violations within defence

97. See FIDH, "Tense electoral period in Yumbi risks another outbreak of violence: survivors bear witness", Press Release, 29 March 2019, <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/tense-electoral-period-in-yumbi-risks-another-outbreak-of-violence>

98. See FIDH, *DRC: Denial of justice for the victims of sexual crimes*, Report, 4 December 2013, <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/14338-drc-denial-of-justice-for-the-victims-of-sexual-crimes>

99. Before the closure of several field offices and antenna offices in July 2019, UNJHRO had 12 field offices (Bukavu, Bunia, Goma, Kalemie, Kananga, Kindu, Kinshasa, Kisangani, Lubumbashi, Matadi, Mbuji-Mayi, Uvira and Mbandaka), and eight field sub-offices (Aru, Mahagi, Beni, Butembo, Gbadolite, Bandundu, Dungu and Gemena), and its headquarters were located in Kinshasa.

100. See, for example, UNJHRO, *Report of the investigation missions of the UNJHRO into the mass rapes and other human rights violations committed in the villages of Bushani and Kalambahiro, in Masisi territory, North Kivu, on 31 December 2010 and 1 January 2011*, July 2011, <https://monusco.unmissions.org/sites/default/files/2011-07%20UNJHRO%20Report%20on%20HUMAN%20RIGHTS%20VIOLATIONS%20in%20Bushani%20%26%20Kalambahiro%20English.pdf>. See also UNJHRO, *Progress and obstacles in the fight against impunity for sexual violence in DRC*, Report, May 2014, <https://monusco.unmissions.org/sites/default/files/UNJHRO%20-%20Report%20on%20Fight%20against%20Impunity%20Sexual%20Violence%20-%20April%202014%20-%20ORIGINAL%20VERSION.pdf>

101. See OHCHR, *Mapping Exercise documenting the most serious violations of human rights and international humanitarian law committed within the territory of the Democratic Republic of the Congo between March 1993 and June 2003*, Report, August 2010, https://www.ohchr.org/Documents/Countries/CD/DRC_MAPPING_REPORT_FINAL_EN.pdf

102. It is important to ensure that the budget reductions to be decided, do not significantly impact the performance of MONUSCO's human rights work, in particular the conduct of missions facilitated by MONUSCO's logistical and security resources.

103. See above, section III. A.2 Encourage institutional reforms, pp. 22–24.

and security forces and services and by bringing them to the attention of the relevant Congolese authorities, this policy allows legal actions to be initiated. Therefore, it is essential that MONUSCO's support to the Congolese defence and security forces and services, the details of which will soon be decided by the UNSC, is provided in accordance with this Policy.

2. Build the capacities of the judicial system to increase its efficiency and independence

It is also imperative that the necessary technical, logistical and financial means be made available to MONUSCO to pursue its efforts in building the capacities of the national judicial system and increasing its efficiency and independence in order to fight impunity effectively. In its Roadmap addressed to the newly elected president, Félix Tshisekedi, in March 2019, FIDH and its member organisations underlined that: "The creation of an efficient, accessible, fair and independent judicial system should be a priority for the new authorities of DRC, and would contribute to fighting impunity, discouraging people from committing abuses and crimes and re-establishing the rule of law".¹⁰⁴ In this respect, and MONUSCO's Justice/Rule of Law Section, have provided support to judicial authorities at various stages of the judicial process. With regard to judicial investigations, MONUSCO has provided technical, logistical and financial support for the deployment of joint team investigation missions, which included UNJHRO members and Congolese magistrates.¹⁰⁵ MONUSCO's technical, logistical and financial support also enabled mobile court hearings to be organised in areas where the State does not have sufficient presence, such as in North Kivu and Kasai-Central for example.¹⁰⁶

With respect to crimes perpetrated in Kasai Province, measures have already been taken in the fight against impunity for these crimes by the Congolese authorities through the definition of a list of 16 priority cases to be dealt with and the opening of investigations in several of these cases.¹⁰⁷ Taking into account the judicial system's lack of technical, financial and human resources in this province in particular, it is crucial for MONUSCO to pursue the support provided to Congolese magistrates in terms of judicial investigations and prosecutions in these cases, in particular through the deployment of joint investigation missions.

In order to be effective, it is essential that expertise and techniques suited to the context of the most serious crimes, in particular crimes of sexual violence and crimes against minors, is available to the Congolese justice system. In the most recent resolution on technical assistance and capacity-building in the field of human rights in DRC, adopted by the Human Rights Council in September 2019, it was recommended that forensic expertise should be made available to the Congolese authorities for the crimes perpetrated in Kasai.¹⁰⁸ MONUSCO's mandate, as soon to be discussed at the UNSC, should therefore build these capacities by providing experts, deploying joint missions and organising professional training in this field.

104. See FIDH Roadmap, *DRC: Five human rights priorities addressed to President Félix Tshisekedi*, Report, 21 March 2019, <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/five-human-rights-priorities-addressed-to-president-felix-tshisekedi>

105. As in numerous villages in the Lubero and Masisi territories in North Kivu in 2017 and 2018 to collect information on the human rights situation, see in particular UNJHRO, *Détérioration de la situation des droits de l'Homme dans le Masisi et le Lubero (Nord-Kivu) et défis relatifs à la protection des civils entre janvier 2017 et octobre 2018*, December 2018, https://www.ohchr.org/Documents/Countries/CD/Rapport_Masisi_Lubero_19Dec2018.pdf (in French).

106. See MONUSCO News, "Le BCNUDH appuie l'organisation d'audiences foraines à Beni", 9 November 2018, <https://monusco.unmissions.org/le-bcnudh-appuie-l%E2%80%99organisation-d%E2%80%99audiences-foraines-%C3%A0-beni> (in French) and MONUSCO News, "La MONUSCO soutient des audiences foraines à Tshimbulu", 18 July 2019, <https://reliefweb.int/report/democratic-republic-congo/la-monusco-soutient-des-audiences-foraines-tshimbulu> (in French).

107. See UN Human Rights Council, Report of the Team of International Experts on the situation in Kasai, June 2019, *op. cit.*, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/132/03/PDF/G1913203.pdf?OpenElement>

108. See UN Human Rights Council, Resolution A/HRC/42/L.29/Rev.1, 24 September 2019, <https://undocs.org/A/HRC/42/L.29/Rev.1>

In order to fight impunity for the most serious crimes, FIDH and its member organisations consider that all perpetrators of such crimes, irrespective of their ranks, titles or functions, should be brought to justice. However, all too often in DRC, such as in Kasai for example, alleged perpetrators of these crimes who hold high-ranking key positions within the country's governmental or operational bodies are rarely individually prosecuted by the Congolese justice system. In some cases, these same perpetrators, as a result of the influence they exercise on the justice system, can stall judicial proceedings initiated against persons prosecuted for acts committed under their command or authority. It is therefore fundamental that reforms are initiated in the Congolese judicial system to increase its independence from the country's political actors and defence and security forces. MONUSCO should provide its good offices and its technical expertise to the relevant Congolese authorities in order to strengthen the independence of the judicial system.

3. Encourage the establishment of effective truth and justice mechanisms

Given the scope and widespread and systematic nature of the crimes perpetrated in DRC, the current deficiencies in the Congolese judicial system and the Congolese people's needs for truth and justice, it is essential that discussions on the setting-up of effective justice mechanisms and complementary mechanisms to establish the truth are pursued with the support of MONUSCO. It should be recalled that the International Criminal Court (ICC) still has an open investigation on the international crimes perpetrated in DRC since July 2002.¹⁰⁹ Mixed chambers, specialised in the prosecution of perpetrators of crimes under international law, within Congolese courts and a truth commission, could constitute important tools to ensure victims' access to truth, justice and reparation, as well as to achieve national unity and social cohesion, which MONUSCO should be able to encourage, in its efforts in the fight against impunity but also on community reconciliation and the establishment of the truth. As mentioned in the Roadmap addressed to President Tshisekedi in March 2019, FIDH and its member organisations support the establishment of Mixed specialised chambers and a Truth Commission in DRC¹¹⁰ for the most important cases, such as in Kasai for example.¹¹¹ In its report to the Human Rights Council in June 2019, the team of international experts on the situation in Kasai recommended the creation of a transitional justice mechanism to establish the truth and the root causes of the conflict and to recommend measures of redress for victims.¹¹² Although this recommendation was made by a group of experts mandated by the Human Rights Council and independent from MONUSCO, it is important that the Mission should develop parallel efforts building upon this recommendation for a more comprehensive and coherent UN action towards more justice in DRC. In 2019, UNJHRO launched a project in this regard in Kasai, in collaboration with other partners, seeking the reconciliation of communities and social cohesion through initiatives in the area of truth-establishment.¹¹³ It is thus important for MONUSCO to be able to support the implementation of such a project in Kasai, and other similar initiatives, as required.

109. Our member organisations called on the Office of the ICC Prosecutor, during a meeting in February 2018, to continue to closely monitor the unstable situation in DRC, in particular in Kasai Province, and to consider opening a specific investigation, while respecting the principle of complementarity. See FIDH, "ICC should remain ready to act if crimes under its jurisdiction are committed in the DRC", Joint Press Release, 26 February 2018, <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/icc-should-remain-ready-to-act-if-crimes-under-its-jurisdiction-are>

110. See FIDH and its member organisations in DRC, *RDC: Recommandations pour une Cour spécialisée mixte indépendante et efficace*, Position Paper, August 2011, <https://www.fidh.org/fr/regions/afrique/rdc/RDC-Les-senateurs-torpillent-le> (in French).

111. See FIDH Roadmap, *DRC: Five human rights priorities addressed to President Félix Tshisekedi*, Report, 21 March 2019, <https://www.fidh.org/en/region/Africa/democratic-republic-of-congo/five-human-rights-priorities-addressed-to-president-felix-tshisekedi>

112. See UN Human Rights Council, Report of the Team of International Experts on the Situation in Kasai, June 2019, *op. cit.*, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/132/03/PDF/G1913203.pdf?OpenElement>

113. The project is called the Peace, Justice, Reconciliation and Reconstruction (PAJURR) project in Kasai-Central. See Une justice transitionnelle est-elle nécessaire au Kasai Central?, MONUSCO Activities, 16 August 2019, <https://monusco.unmissions.org/une-justice-transitionnelle-est-t-elle-n%C3%A9cessaire-au-kasa%C3%AF-central> (in French).

4. Encourage cooperation with international and regional mechanisms in the fight against impunity

MONUSCO should pursue cooperation with mechanisms at the international and regional level in order to strengthen the fight against impunity in DRC, in particular with international mechanisms such as the ICC, in accordance with the principle of complementarity with national courts.

The Office of the UN Special Envoy for the Great Lakes, for example, together with other partners, deployed efforts to establish a system of judicial cooperation between countries in the Great Lakes region with a view to facilitating legal proceedings against perpetrators of crimes with a regional dimension.¹¹⁴ It is therefore important, taking into account the conflict dynamics in DRC, as outlined in this report,¹¹⁵ that MONUSCO should be able to cooperate with this Office in particular, to facilitate the establishment of such mechanisms in order to ensure that the fight against impunity in DRC to be effective and coordinated.

In addition, the sanction mechanisms adopted by the UN Security Council,¹¹⁶ the Council of the European Union¹¹⁷ and the United States,¹¹⁸ in particular, remain efficient diplomatic mechanisms in the fight against the impunity for serious crimes perpetrated by members of armed groups and senior officials in the political apparatus and the defence and security forces and services. These sanctions adopted against combatants from armed groups and Congolese senior officials on the basis of human rights violations, attacks on democracy and the rule of law or acts of corruption for which they are alleged to bear responsibility, consist of asset freezing, visa bans and arms embargos. It is therefore important that MONUSCO should be able to cooperate with these international bodies in order to support the sanction mechanisms they adopt, with a view to increasing the success of the fight against impunity at the Congolese State level.

D. Organisational priorities in the event of MONUSCO's departure

As mentioned above,¹¹⁹ it is highly likely that MONUSCO's departure will be considered in its future mandate, having regard to increasing budget pressures exerted by UNSC Member States and the new political context in DRC considered to be more favourable to the Mission's departure.

Should the UNSC decide in December that the Mission should depart, FIDH and its member organisations in DRC consider it to be crucial to ensure that such departure is not rushed and is based on objective indicators concerning the general situation in DRC, in order not to jeopardise the ongoing transition in the country.

The results of the strategic review of the Mission, conducted upon the UNSC's recommendation in March 2019, could be decisive in the definition of MONUSCO's next mandate.¹²⁰ FIDH and its member organisations stress the importance of ensuring a transitional period before the final withdrawal from

114. For more information on this mechanism, see the website of the Office of the Special Envoy for the Great Lakes, <https://ungreatlakes.unmissions.org/judicial-cooperation-human-rights>

115. See above Section I. Context in DRC, pp. 12–17.

116. See UNSC Resolution 2424 of 29 June 2018, S/RES/2424, [https://undocs.org/en/S/RES/2424%20\(2018\)](https://undocs.org/en/S/RES/2424%20(2018))

117. See Council of the EU, "Democratic Republic of the Congo: Council extends sanctions for one year", Press Release, 10 December 2018, <https://www.consilium.europa.eu/en/press/press-releases/2018/12/10/drc-council-extends-sanctions-for-one-year/#>

118. See ENCA, "US imposes sanctions on top DRC officials", 22 June 2018, <https://www.enca.com/africa/us-imposes-sanctions-on-top-dr-congo-officials>

119. See above, Section II. Context of the renewal of MONUSCO's mandate, pp. 18–20.

120. For the results of MONUSCO's strategic review, see S/2019/842 of 25 October 2019, <https://undocs.org/en/S/2019/842>

the country, in which to organise departure from DRC. It is also important to ensure that such departure, if decided and organised, should be explained to the Congolese population, in particular in order to avoid misunderstandings, mistrust and potential attacks on MONUSCO.

It is essential to ensure that the priorities mentioned in this report¹²¹ are implemented for a minimum period of one year, in MONUSCO's current configuration in terms of financial, material and human resources. The implementation of these tasks requires the Mission's full support, in particular in terms of logistics¹²² and security,¹²³ that MONUSCO has provided until now.

In addition, it is important to ensure that these tasks are pursued, in its absence and/or in the future, through a transfer to relevant stakeholders in DRC, in particular Congolese partners, the UN country team and regional bodies. This is particularly the case in relation to tasks currently carried out in collaboration with other partners.¹²⁴ In order to facilitate such transfer, it is essential for MONUSCO to pursue existing collaboration or develop its collaboration with the relevant new partners within the framework of the performance of these tasks during this transitional phase.

Concerning some of the Mission's tasks which cannot be transferred to other partners, in particular those which are specific to MONUSCO,¹²⁵ discussions on maintaining a residual presence of the Mission in another form should be started during this transitional phase.¹²⁶

Concerning the specific case of UNJHRO, having regard to the dual nature of its activities (those arising from OHCHR's mandate and those arising from the United Nations Department of Peace Operations), it is also important to start to consider the future of the tasks falling under the scope of OHCHR's mandate and, in particular, maintaining OHCHR presence in DRC, as was the case before the merger in 2008.¹²⁷

121. See above Section III. Priorities for MONUSCO's new mandate according to FIDH and its member organisations in DRC, pp. 21–32.

122. This is the case in particular concerning MONUSCO's planes which enable the various components of the Mission, but also other UN and international stakeholders, to travel across a territory as large and difficult to access as DRC.

123. This is the case in particular concerning MONUSCO's armed escorts which make the implementation of some of the Mission's civil tasks possible, such as investigation missions for example, in situations where insecurity prevails.

124. This is the case in particular concerning the PAJURR project which UNJHRO implements in collaboration with other partners in Kasai.

125. This is the case in particular concerning some of the Mission's political and electoral tasks.

126. This was the case in particular in Haiti, where the United Nations Mission for Justice Support in Haiti (MINUJUSTH) replaced the United Nations Stabilisation Mission in Haiti (MINUSTAH).

127. See above Section II. Context of the renewal of MONUSCO's mandate, pp. 18–20.

IV. RECOMMENDATIONS

Having regard to the new Congolese political context and encouraging signs in terms of peace and security in DRC,

Having regard, however, to the significant challenges that remain in relation to the situation in DRC, in particular in terms of restoring the trust of the Congolese populations in Congolese authorities, civilian protection, the fight against impunity, and inter communal reconciliation,

Having regard also to the challenges faced by MONUSCO and the UN peacekeeping system as a whole, in particular budget pressures and their impact on presence in DRC and the availability of effective tools to restore peace and security in DRC and the region,

The UN Security Council should take the following steps:

- Renew MONUSCO's mandate **for a minimum of one year**;
- Renew MONUSCO's mandate **without any new budget measures undermining its implementation**.

MONUSCO's next mandate should therefore ensure the following:

1. On democratic space and governance

- Consolidate efforts made by DRC towards an open, inclusive and participatory democratic space, an independent civil society and a constructive opposition, in particular by:
 - Encouraging dialogue and political participation between and by all stakeholders in the Congolese political sphere, including journalists and other members of the media and human rights defenders, by means of good offices and the provision of technical support in this area;
 - Encouraging the development of independent civil society through the capacity-building work of UNJHRO and Civil Affairs, and through the search for new sustainable partnerships with stakeholders and training activists, in particular in the field of protection.
- Encourage institutional reforms and the establishment of democratic institutions to guarantee the rule of law and good governance, in particular by:
 - Providing support to the professionalisation and accountability of the security sector (prioritising the Army and the Police) including through training on respecting human rights and the implementation of the UN Human Rights Due Diligence Policy concerning the "screening" of elements which hinder reform of the security sector, as perpetrators of human rights violations;
 - Providing support to the independence of CENI and ensuring that its members do not come from political parties, through the work carried out by the Political Affairs Division in particular;
 - Strengthening the independence and efficiency of the CNDH, to ensure that it can fully perform its human rights protection mandate, through UNJHRO's capacity-building work.

- Encourage the organisation of transparent, credible and fair local elections, in particular by:
 - Providing technical and logistical support to ensure the smooth conduct of the elections;
 - Strengthening UNJHRO's monitoring of the human rights situation before, during and after the conduct of the elections.

2. On civilian protection

- Continue to support the Congolese authorities' efforts concerning civilian protection through effective means adapted to the situation, in particular by:
 - Encouraging the establishment of community-based mechanisms on conflict prevention, in particular in Kasai and Tanganyika, such as community dialogue, early alert networks, Community Liaison Assistants (CLAs);
 - Strengthening MONUSCO's civil and military coordination on actions related to civilian protection, through the deployment of joint protection teams in particular;
 - Encouraging the use of non-military solutions for conflict-resolution, in particular regarding the reinsertion component of the DDR process.
- Provide a rapid response throughout the Congolese territory to protection needs, in particular in areas where MONUSCO is no longer present, such as in the western and central parts of the country, with sufficient logistical and technical means;
- Encourage cooperation with existing regional institutions in the field of civilian protection, in particular concerning the exchange of information to ensure better understanding of local conflict dynamics, in particular with the Office of the UN Special Envoy for the Great Lakes, but also with the AU, SADC and ICGLR;
- Encourage discussions on reform of UN peacekeeping through the Action for Peacekeeping initiative, ensuring that recommendations seeking to increase the efficiency of civilian protection which may result from this are applied to MONUSCO.

3. On justice and the fight against impunity

- Encourage efforts on justice and establishment of the truth for victims of serious human rights violations, in particular by:
 - Encouraging the establishment of mixed chambers specialised in the prosecution of international crimes within Congolese courts;
 - Encouraging the establishment of a truth commission, in Kasai as a priority, as recommended in June 2019 by the Team of International Experts on Kasai mandated by the Human Rights Council.
- Promote the fight against the impunity for the most serious cases, especially crimes of sexual violence, in particular by:
 - Ensuring that UNJHRO can safely pursue its work on documentation of cases of human rights violations throughout the Congolese territory, in particular in areas where MONUSCO is not present;
 - Encouraging the implementation of the UN Human Rights Due Diligence Policy as an essential tool in the fight against impunity;
 - Encouraging judicial cooperation on the fight against impunity with existing international and regional mechanisms.

- Work towards the development of an independent and efficient national judicial system as a whole, in particular by:
 - Encouraging provision to the Congolese justice system of expertise adapted to the context and crimes, in particular on sexual violence and forensics as recommended by the Human Rights Council in its most recent resolution in September 2019;
 - Providing technical support to relevant Congolese authorities, by means of experts and training on crimes involving children and women.

4. In the event of withdrawal from the country

- Ensure that in the event of a decision on withdrawal from the country, an exit strategy based on objective criteria related to the context prevailing in DRC is drawn up;
- Ensure that this exit strategy includes a transitional period during which the recommendations formulated above can be implemented and that the end of MONUSCO's mandate in DRC can be adequately planned;
- Ensure, in particular, that UNJHRO retains its maximum capacities to carry out its mandate properly throughout the transitional period, in particular to perform tasks destined to be wound up or which will be rendered more difficult following MONUSCO's departure;
- Ensure that this exit strategy provides for the transfer of MONUSCO's key missions to relevant stakeholders present in DRC in order to guarantee continuity;
- Ensure that tasks which are specific to MONUSCO and which, by their very nature, cannot be transferred, are subject to in-depth consideration on the timing and impact of their interruption;
- Ensure that the decision to withdraw MONUSCO and the modalities of such withdrawal are communicated in good time and in an adequate manner to the Congolese population.



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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.

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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.

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GROUPE LOTUS (GL)

The Lotus Group 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.

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fidh

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Supporting civil society - Training and exchange

Mobilising the international community - Advocacy before intergovernmental bodies

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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 118 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 organisations in 118 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 organisations, FIDH is not linked to any party or religion and is independent of all governments.

www.fidh.org