

*For a stronger commitment  
to peace and democracy  
in the Great Lakes Region*

# Memorandum

EU – Legislature 2014-2019



<sup>1</sup> Burundian armed group that officially abandoned armed struggle in 2009, but some elements of which are still present in the DRC.

<sup>2</sup> International Tin Research Institute.

**ADF** Allied Democratic Forces (Armed Ugandan group active in the DRC)  
**AETA** Action for Transparent and Peaceful Elections (DRC)  
**ANR** National Intelligence Agency (DRC)  
**APRODH** Association for the Protection of Human Rights and Detained Persons (Burundi)  
**AU** African Union  
**BE** Belgium  
**BINUB** United Nations Integrated Office in Burundi  
**BNUB** United Nations Office in Burundi  
**CAR** Central African Republic  
**CEPGL** Economic Community of the Great Lakes Countries  
**CENCO** National Conference of Bishops of Congo (DRC)  
**CENI** Independent National Electoral Commission (Burundi and DRC)  
**CFSP** Common Foreign and Security Policy (EU)  
**CNDD-FDD** National Council for the Defence of Democracy-Front for the Defence of Democracy  
**CNTB** National Commission on Land and other Assets (Burundi)  
**CSDP** Common Security and Defence Policy (EU)  
**CSR** Corporate Social Responsibility  
**CVR** Truth and Reconciliation Commission (Burundi)  
**DDR** Disarmament, Demobilisation, Reintegration  
**DDRRR** Disarmament, Demobilisation, Repatriation, Reintegration and Resettlement  
**DGI** Directorate General of Taxation (DRC)  
**DGM** Directorate General of Mines (DRC)  
**DGPR** Democratic Green Party of Rwanda  
**DGRAD** Directorate General of Administrative, Judicial, Lands and Participation Revenue  
**DRC** Democratic Republic of Congo (DRC)  
**EC** European Commission  
**EDF** European Development Fund  
**EEAS** European External Action Service  
**EITI** Extractive Industries Transparency Initiative  
**EP** European Parliament  
**EPAs** Economic Partnership Agreements  
**EU** European Union  
**EUPOL** European Union Congo Police Mission  
**EurAc** European Network for Central Africa  
**EUSEC** European Union Security Sector Reform Mission in the DRC  
**FARDC** Armed Forces of the Democratic Republic of Congo  
**FDLR** Democratic Liberation Forces of Rwanda (Rwandan armed group active DRC)  
**FDU-Inkingi** Unified Democratic Forces-Inkingi (Rwanda)  
**FNL**<sup>1</sup> National Liberation Front  
**FRODEBU** Front for Democracy in Burundi  
**HRW** Human Rights Watch  
**ICC** International Criminal Court  
**ICGLR** International Conference on the Great Lakes Region  
**ITSCI** ITRI<sup>2</sup> Tin Supply Chain Initiative  
**JADF** Joint Action Development Forum (Rwanda)  
**LIPRODHOR** Rwandan League for the Promotion and Defence of Human Rights (Rwanda)  
**LRA** Lord's Resistance Army (Ugandan armed group active in the DRC)  
**M23** March 23rd Movement (Armed group active in the DRC, defeated militarily in November 2013)  
**MDGs** Millennium Development Goals  
**MONUC** United Nations Organisation Mission in the DRC  
**MONUSCO** United Nations Stabilization Mission in the DRC  
**MS** Member States  
**MSD** Movement for Solidarity and Democracy (Burundi)  
**NGO** Non-Governmental Organisation  
**NL** The Netherlands  
**NR** Natural Resources  
**OECD** Organisation for Economic Cooperation and Development  
**PL** Liberal Party (Rwanda)  
**PNC** National Congolese Police (DRC)  
**PS-Imberakuri** Social Party Imberakuri (Rwanda)  
**PSD** Social Democratic Party (Rwanda)  
**RDF** Rwandese Defence Forces  
**RPF** Rwandan Patriotic Front  
**SADC** Southern Africa Development Community  
**SNR** National Intelligence Service (Rwanda and Burundi)  
**RSS** Reform Security Sector  
**UN** United Nations  
**UNAMIR** United Nations Assistance Mission for Rwanda  
**UNDP** United Nations Development Programme  
**UNGoE** United Nations Group of Experts on the DRC  
**UNC** Union for the Congolese Nation (DRC)  
**UPRONA** Union for National Progress (Burundi)

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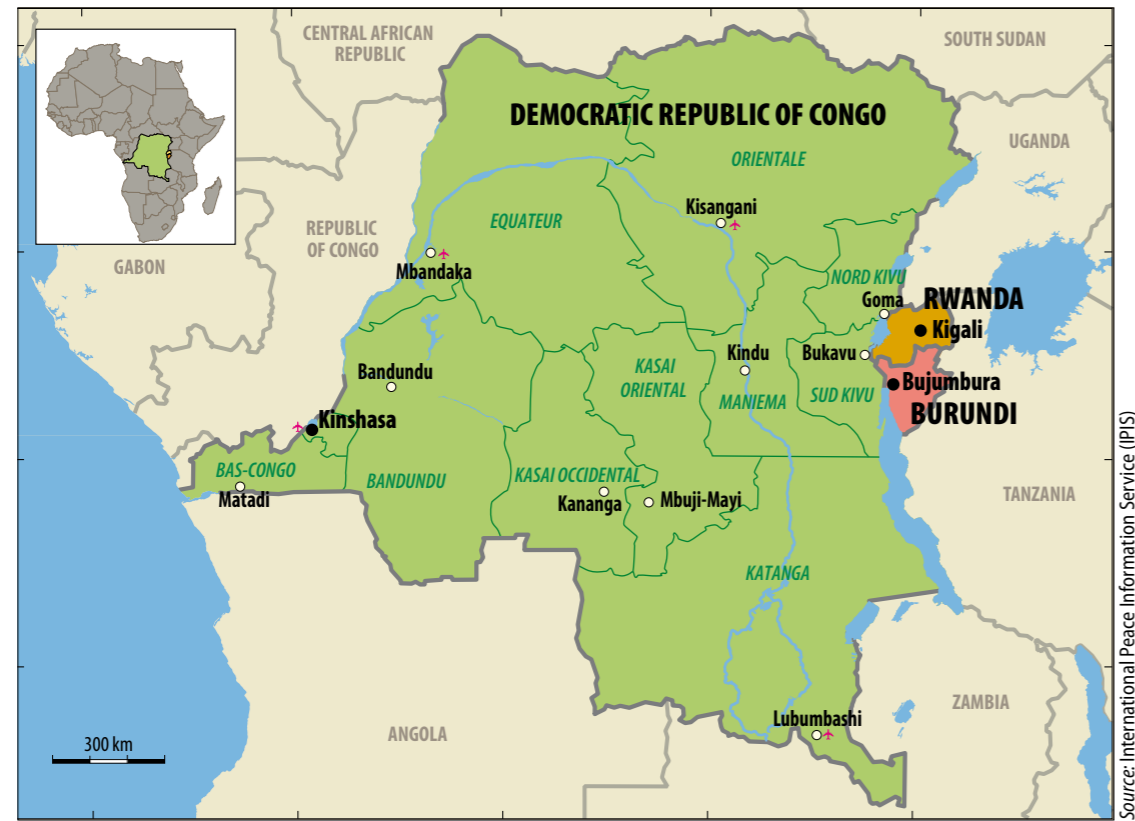
# Memorandum

## EU – Legislature 2014-2019

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## MAP OF THE GREAT LAKES REGION



### TABLE OF CONTENTS

<b>The essential role of the EU</b>	<b>3</b>	<b>Part II: national contexts</b>	<b>12</b>
<b>Part I: regional challenges</b>	<b>4</b>	<b>Burundi</b>	<b>13</b>
<b>Peace and Security</b>	<b>5</b>	Democratic space in danger	13
Need for a regional approach	5	Deterioration in the pre-electoral context	14
Demobilisation of armed groups	5	Transitional justice	15
Reform of the Security Sector	6	<b>Democratic Republic of Congo (DRC)</b>	<b>16</b>
<b>Rule of law and democratisation</b>	<b>8</b>	Crisis of legitimacy among political institutions	16
<b>Sustainable management of natural resources</b>	<b>9</b>	Challenges for the 2014-2016 electoral cycle	16
Resources for development?	9	Reduced democratic space	17
«Conflict minerals»	10	Decentralisation stationary	17
		<b>Rwanda</b>	<b>18</b>
		Towards a new hardening of the regime?	18
		Political freedoms and freedoms of expression	19
		Has civil society been annihilated?	19
		True reconciliation?	20

In the Pdf version, texts in this colour are interactive.



## The essential role of the EU

The processes of peace, democratisation and development in Africa are confronted by numerous obstacles. The political and security tensions, in particular in the Great Lakes region (Burundi, DRC, Rwanda), represent a threat for stability, security and the development of the whole African continent. This is why **the EU must strengthen its commitment in the region financially and, above all, politically and democratically.**

Whether in Burundi, the DRC or Rwanda, there is a trend towards changes to Constitutions and a hardening of political repression intended to keep the current regimes in power. The authoritarian change of direction represents a major challenge for the EU's commitment towards supporting democracy and defending human rights. Given its substantial investment in the development of the region<sup>3</sup>, **the EU cannot push aside this commitment.** This is crucial for the effectiveness of aid brought by the EU to Central Africa.

The same is true with regard to the EU **interest in the region's multiple natural resources** (mines, hydrocarbons, forests etc.). While there are numerous commercial and investment opportunities for European

businesses, peace and democracy are necessary conditions for **sustainable development** and the establishment of a **shared prosperity** between Central Africa and Europe. At this point, it should be remembered that, according to the Lisbon Treaty (Art. 208-1), the EU and its Member States have an obligation to ensure **coherence between their economic policies and the objectives of their development policy.**

The EU's support for security, stability and democracy in the Great Lakes region therefore represents an **interest not only for the local population, but also for the EU itself.** In addition, this support constitutes the true **added value** of European cooperation, compared to the approach of other international partners engaged in the region (China, India, South Africa etc.).

This memorandum presents an analysis of the regional challenges (**Part I**) and specific challenges for each of the three countries (**Part II**), which the EU must take into consideration in order to effectively and sustainably support peace and democracy in Central Africa. This analysis is supplemented by **recommendations** addressed to the various competent European political decision-makers<sup>4</sup>.

<sup>3</sup> The 11<sup>th</sup> EDF (2014-2020), provides for €432million for Burundi, €620 million for the DRC and €460 million for Rwanda.

<sup>4</sup> The European Parliament (EP), European Commission (EC), European External Action Service (EEAS), Member States (MS) and United Nations (UN).

### A FEW FIGURES CONCERNING THE COUNTRIES

	<b>Burundi</b>	<b>DRC</b>	<b>Rwanda</b>
Population (BM, 2013)	10,16 million	67,5 million	11,78 million
density	315 inhab/km <sup>2</sup>	27 inhab/km <sup>2</sup>	430 inhab/km <sup>2</sup>
rate of growth	+4,5%	+3%	+2,9%
GDP (BM, 2013)	\$2.72 billion (USD)	\$30.63 billion (USD)	\$7.45 billion (USD)
Growth of GDP (BM, 2013)	+4,0%	+8,5%	+4,6%
HDI (PNUD, 2014)	0,389 (180 <sup>th</sup> /187)	0,338 (186 <sup>th</sup> /187)	0,506 (151 <sup>th</sup> /187)
Poverty rate (BM)	66,9% (2006)	71,3% (2005)	44,9% (2011)

# Part I: Regional challenges

Since the end of the Cold War, Central Africa has experienced recurrent internal and regional conflicts: the genocide in Rwanda in 1994, the civil war in Burundi (1993-2000), the wars of 1996-1997 and 1998-2002 in the Democratic Republic of Congo. These armed conflicts have contributed to an instability characterised by humanitarian crises and generalised poverty<sup>5</sup>. Conflicts of identity, the fragility of the processes of forming a State and the high levels of interdependence in security matters affect each country separately, while impacting on the stability and development of the Great Lakes region. It is therefore essential to consider the region as a whole and take into account the complex interaction of regional and global interests.

In view of the crises of the 1990s which led to the death and displacement of millions of people, the International Community, including the EU, has invested in the building of peace and the prevention of conflicts in the Great Lakes region. This investment has contributed to dialogue between those in power and rebel groups, to the signing of Peace Agreements<sup>6</sup> and the sending of United Nations Assistance Missions to Rwanda (UNAMIR), to the DRC (MONUC, later known as MONUSCO) and Burundi (BINUB, later known as BNUB).

Several regional mechanisms today play an important role for the re-establishment of confidence and dialogue between the countries in the region: AU, ICGLR, SADC

and CEPGL. Nevertheless, the level of suspicion and political tensions both internally and among countries remain alive, constituting obstacles for the restoration of both stability and peace.

The insufficient recognition of regional dynamics by international donors has had negative consequences for multiple humanitarian, security and development interventions. The impact of these international interventions has been mitigated: programmes characterised by precarious efficiency and sustainability have been set up in the countries concerned, particularly due to their lack of coordination. This finding is valid for development aid programmes, support for electoral processes and support for Reform of the Security Sector (in the DRC and Burundi) in which the EU and its Member States are engaged.

The signing in Addis-Ababa on 24 February 2013 of the **Framework Agreement on Peace, Security and Cooperation for the DRC and the region** (hereinafter the “Framework Agreement”) constitutes a major opportunity for stability and development of the region. After having adopted a new Strategic Framework for the Great Lakes Region<sup>7</sup>, it is crucial that **the EU does not reduce its efforts and strengthens its financial, technical, political and diplomatic support to the three countries in Central Africa and to the various regional mechanisms.**

## RECOMMENDATIONS

### Peace and Security

EEAS–EC–MS–UN: encourage dialogue and cooperation between States in the Region, by supporting politically and financially the processes of political dialogue and fair economic cooperation worked out within international and regional proceedings;  
EEAS–EC–MS–UN: contribute to a more efficient coordination between the various international, regional and national efforts dedicated to the establishment of lasting peace in the region.

### Rule of law and democratisation

EP–EEAS–EC–MS–UN: place the respect for political freedoms and the democratic space at the heart of their dialogue and cooperation with the Governments and Parliaments of the region;  
EP–EEAS–EC–MS–UN: maintain the EU’s attention and vigilance and, more broadly, that of the International Community on the holding of free, transparent and peaceful elections in the region.

### Management of natural resources

EEAS–EC–MS: respect the sovereignty of countries in the region with regard to the management of natural resources, in such a way as to enable the countries producing natural resources to regulate their use and mobilise them as a financial lever for their development;  
EP–EEAS–EC–MS–UN: encourage a sustainable and transparent use of natural resources, particularly by establishing in Europe mandatory requirements and mechanisms aimed at protecting the rights of local populations and fighting against the trade in resources exploited illegally.

## Peace and Security

**Peace and security are the premises for any sustainable human development. Armed conflicts in the DRC, Burundi and Rwanda have had harmful consequences nationally and in neighbouring countries during the last few decades. Multiple factors contribute to the dynamics of conflicts: the fragility of States, weak governance, poverty, violations of human rights, land disputes, ethnic tensions and illegal exploitation of natural resources.**

The numerous **armed groups** active in the region, and predominantly in the East of the DRC<sup>8</sup>, are motivated by economic, political, social and security interests. They control significant shares of the Congolese territory and there they commit crimes against the population. The involvement of Rwanda, Uganda<sup>9</sup>, and to a lesser extent Burundi, contributes to insecurity in the DRC. Neighbouring countries criticise the Congolese Government for not doing enough to control its territory and reform its security sector (army, police, intelligence services, justice).

### Need for a regional approach

The **distrust** among countries of the Great Lakes region is an obstacle for the establishment of lasting peace. The multiple identity divides, exacerbated by extreme violence, have led to a generalised climate of violence and trauma for entire communities. In Rwanda, the work on memory, reconciliation and reparation following the genocide in 1994 and the RPF’s crimes remains unfinished. In the DRC, the massive influx of Rwandan refugees in 1994 and the presence of armed Congolese and foreign groups have exacerbated the community conflicts surrounding access to resources (land, minerals etc.).

This situation lingers, despite **recent developments** occurring since 2013: signing of the Framework Agreement (February 2013), the nomination of Mary Robinson (March 2013-June 2014) and then Saïd Djinnit (July 2014) as the UN Special Envoy for the Great Lakes region, extradition of the war criminal Bosco Ntaganda to the ICC (March 2013), deployment of an intervention brigade of 3000 men under the UN’s

mandate (June 2013), military defeat of the M23 (November 2013), intention announced in April 2014 by the Democratic Forces for the Liberation of Rwanda (FDLR) to abandon armed conflict after 30 May 2014<sup>10</sup> under certain conditions<sup>11</sup>.

The **signing of the Framework Agreement** is a new opportunity to resolve conflicts in the region. It creates an environment favourable towards strengthened support for the International Community, particularly the EU and its Member States, in the Security Sector. In fact, the Framework Agreement requires the DRC to establish a national mechanism charged with implementing its commitments, as well as to develop a regional mechanism (AU, ICGLR, SADC) to monitor compliance with the commitments made by all the signatory countries. Unfortunately, while the Framework Agreement puts the emphasis on the **democratisation and reconciliation processes** in the DRC for resolving problems of instability in the East of the country, it forgets to mention the importance of the same processes in DRC’s neighbouring countries.

### Demobilisation of armed groups

The definitive dissolution of dozens of active armed groups in the region requires the implementation of DDR programmes nationally and DDRRR programmes regionally. In 2010, the UN Security Council gave a mandate to MONUSCO<sup>12</sup> to put in place **DDR programmes for Congolese armed groups and DDRRR programmes for foreign armed groups** active in the DRC. This stage, while crucial for the region’s stability, still remains unfinished.

**Collaboration between countries** (Rwanda, Uganda, Burundi, CAR, DRC, South Sudan) necessary for an effective DDRRR, is far from being achieved. **Rwanda**, for example, does not seem very keen on supporting the demobilisation of ex-M23 combatants located on its territory, or opening up a dialogue with FDLR rebels who want to return peacefully to their country<sup>13</sup>. Concerning the “voluntary” surrender of FDLR fighters, serious questions remain about their stationing in the DRC while awaiting their hypothetical return to Rwanda.

<sup>8</sup> In the Provinces of North and South Kivu, the Orientale Province and North of Katanga.

<sup>9</sup> See in particular the latest report of the UN Group of Experts on the DRC of 23 January 2014 (S/2014/42).

<sup>10</sup> On 30 May 2014, some 183 FDLR combatants surrendered their arms in North and South Kivu. After that, the FDLR fighters were then grouped together in a MONUSCO transit camp in Kanyabayonga (North Kivu), but refused to be transferred outside of Kivu to a transit camp in Kisangani (Orientale Province) set up for this purpose. See “*Tout est prêt pour la relocation des FDLR à Kisangani, selon la MONUSCO*”, RFI, 10 September 2014.

<sup>11</sup> Including the opening of political dialogue with the authorities in Kigali.

<sup>12</sup> S/RES/1925 (2010).

<sup>13</sup> “*RDC: les FDLR sollicitent l’appui de la SADC pour un dialogue franc avec Kigali*”, Radio Okapi, 9 June 2014.

<sup>14</sup> In particular, this Plan provides for the demobilisation of 11,142 combatants, including 8,542 adult nationals and 2600 elements of foreign armed groups. It provides little information about the guarantees given to ex-combatants to be able to return to their homes in the event that they cannot be integrated into the FARDC.

<sup>15</sup> The EUSEC and EUPOL missions respectively support the reform of the FARDC and the PNC. They have collected the fragile yet significant results in the fields of strategic advice, training and management of human resources and the payment of salaries.

<sup>16</sup> Speech on the state of the Nation of 24 October 2013.

<sup>17</sup> Concerning the reform of the police, see *“Réforme de la police : il reste beaucoup à faire, selon le général Bisengimana”*, RFI, 11 September 2014.

<sup>18</sup> Reform of the justice sector is one of the main challenges in the reconstruction of the rule of law in the DRC. President Kabila and his Government have committed themselves to fighting against impunity, particularly in the case of serious attacks on human rights perpetrated against civilians. In March 2014, the Congolese Parliament started to examine two draft laws: (1) the preliminary draft of the law relating to the creation of mixed specialised Chambers, in charge of judging those responsible for such attacks; (2) draft law aimed at incorporating the ICC Statute into Congolese law. Their definitive adoption should be ratified in 2014 and their implementation should be followed up closely by the EU and its Member States.

<sup>19</sup> Murders, torture, sexual violence, forced recruitment (including of children), pillaging, forced displacement etc.

<sup>20</sup> The International Security Sector Advisory Team (ISSAT), *Evaluation de la réforme du secteur de la sécurité et de la justice au Burundi – rapport final*, February 2014, p.7.

<sup>21</sup> *Ibidem*.

In the DRC, the Government disclosed in December 2013 its *“Plan DDR III”*<sup>14</sup> aimed at *“neutralising the existence of armed groups throughout the whole Congolese territory and noticeably improving the security situation in the East”*. This plan has not convinced DRC’s international partners who have judged it to be too vague. The DDR should favour the reintegration of former rebels into Congolese society and not within the FARDC. Currently there is still a lack of ambitious socio-economic programmes for reintegration able to convince combatants to opt for civil reintegration.

Finally, the DDR and the DDRRR must also be accompanied by national policies to **fight against the impunity** of people responsible for war crimes and crimes against humanity and **judicial cooperation** between countries in the region.

### Reform of the Security Sector

**Reform of the Security Sector (RSS)**, particularly in the DRC and Burundi, constitutes a major challenge for the return of peace and security. Since 2007, the EU has committed to supporting RSS in the DRC, through the EDF (support for the justice and police sectors) and the CSDP missions (EUSEC and EUPOL)<sup>15</sup>. By signing the Framework Agreement, the DRC committed to deepening the reform of the army and police. In October 2013, President Joseph Kabila presented RSS as *“the highest of priorities”*<sup>16</sup>.

The poor management and democratic control of the security sector in the DRC prevents the army, police<sup>17</sup> and the intelligence services from correctly carrying out their mission to protect the territory and population. Gaps are observable in numerous areas (recruitment, training, payment of salaries, living conditions etc.). We should also mention the malfunctioning of justice<sup>18</sup>, which maintains the feeling of impunity among elements of the security forces guilty of acts of violence against the population<sup>19</sup> or involved in the illegal trade in natural resources.

In Burundi, the country’s technical and financial partners (EU, UN, Germany, Belgium, France, Netherlands, Switzerland and USA) have invested a lot in the

establishment of new security forces as defined in protocol III of the Arusha Agreement. From 2007 to 2009, the programmes supported by donors have upheld *“the construction and rehabilitation of judicial infrastructures, the supply of vehicles and equipment, professional training, and the publication of codes and laws”*<sup>20</sup>. With the development of the 2011-2015 sectoral policy of the Ministry of justice, the support of international partners *“is focussing more on fundamental institutional reforms, while encouraging the ownership of reforms by national partners”*<sup>21</sup>.

Nevertheless, a lot remains to be done, and in several fields: the social, economic and political reintegration of demobilised former combatants (DDR); increasing the professionalism of the police forces and, to a lesser extent, the national defence forces; the strengthening of internal and external control mechanisms aimed at ensuring an effective fight against impunity and human rights violations; the independence of the justice sector from executive power.

Considering the significance and the breadth of the challenges to be tackled in order to build lasting peace in the region, **the EU and its Member States must seize the opportunities offered by the recent advances recorded in the area of security, by strengthening their support for international, regional and national efforts in this sector, as well as by working towards their better coordination.**

## RECOMMENDATIONS

### Fight against armed groups

EEAS–MS–UN : lead the countries in the region to respect the commitment made at the time of signing the Framework Agreement to “not tolerate, or provide assistance or any support to armed groups”;

EEAS–MS: increase diplomatic pressure if well-informed sources reveal that countries in the region are providing assistance or any support to armed groups; if necessary, impose sanctions against them (freezing of accounts, travel ban, suspension of military aid, and lastly reallocation of budgetary aid) and develop advocacy work for the adoption by the UN of a similar sanctions regime;

EEAS–MS: advocate with the Congolese authorities and the UN to ensure that military operations, conducted by the FARDC with the support of the MONUSCO intervention brigade to neutralise the most dangerous armed groups, are planned and conducted in such a way as to ensure protection of civilians and refuge for displaced people.

### DDR/DDRRR

EEAS–MS–UN: lead the countries in the region to respect the commitment made at the time of signing the Framework Agreement to “not harbour or in any way protect people accused of war crimes, crimes against humanity, acts of genocide or crimes of aggression, or people subject to UN sanctions”;

EEAS–MS–UN: encourage better cooperation in DRC’s neighbouring countries (Rwanda, Uganda and Burundi) in the context of the DDRRR, particularly with a view to repatriating ex-combatants to their country of origin and extradition of those accused of war crimes;

EEAS–MS–UN: dialogue with the Congolese authorities so that the DRC’s new DDR programmes (Plan DDR III) encourage sustainable socio-economic reintegration of ex-combatants, which excludes political and military integration of those who are accused of war crimes or crimes against humanity, and so that it brings them before the courts;

EEAS–EC–MS–UN: finance local initiatives working towards the socio-economic re-integration of ex-combatants in their original communities;

UN–MS–EEAS: strengthen MONUSCO’s mandate with regard to support for DDR in the DRC.

### RSS

EEAS–MS–UN: lead the DRC to respect the commitment made at the time of signing the Framework Agreement to “continue and deepen [RSS] particularly with regard to the army and police” in order to have professional, disciplined security forces (FARDC, PNC, ANR) equipped with a clear and effective chain of command, sufficient staff, adequate supervision and internal and external accountability mechanisms;

EEAS–MS–UN: support in the DRC the establishment of a monitoring committee for the RSS (police, army and justice), responsible in particular for formulating clear benchmarks and budgetary planning, made up partly by representatives of Congolese civil society;

EEAS–MS–UN: capitalising on the achievements of EUSEC and EUPOL missions, pursue and strengthen the EU’s technical and financial support for RSS in DRC after 2014, through the 11th EDF, the CSDP and bilateral programmes of Member States (training and monitoring of FARDC battalions and PNC units).

EEAS: in order to ensure the effectiveness of this support, the EU must strengthen the coordination of various European programmes in the field of the RSS, and strengthen the political dialogue which accompanies technical and financial efforts;

EEAS–EC–MS: devote more funding to RSS in Burundi, together with Member States (BE, NL) and other players (BNUB, PNUD) already present in this sector, in order to increase the independence and professionalism of police forces and justice.



Monusco patrol in North Kivu in 2013 (Photo Giampaolo Musumeci).

## Rule of law and democratisation

In countries of the Great Lakes region, the participation of various components of society in political life is faced with numerous obstacles: the divide between political elites and their populations; divisions surrounding ethnic identities which tend to determine political alliances and configurations; excessive centralisation of power; lack of independence of the judicial system from political power and attacks on the political and media freedom of expression; electoral processes marred by irregularities and in which opposition rarely has a right to participate.

In this context, civil society organisations exercise their watchdog role with great difficulty and cannot effectively defend the population's aspirations for change. In these three countries, they worry about the flaws in the preparation and organisation of elections, and particularly fear that the parties in power shall approve Constitutional changes authorising the increase in the number of authorised successive presidential terms.

If it is finally implemented, such a strategy would enable Presidents Joseph Kabila (DRC), Paul Kagame (Rwanda) and Pierre Nkurunziza (Burundi) to seek a third term, significantly reducing the probability of a change at the helm of the States. Even if the issues and worries that this scenario raises are different in each of the three countries, its realisation would increase

the risk of new violence linked to the frustration of groups of the population who for a long time have been excluded from participating in political life and exercising power.

The lack of accountability of elected representatives and the weakness of the counter-power engender dysfunctional and irresponsible systems of governance as well as recurrent crises of legitimacy. The constitution of the Rule of Law also suffers from excessive centralisation of power, generalised impunity, and a weak capacity and desire of administrations to comply with and apply the law. Given this malfunctioning, the long-term viability of institutions is far from being ensured.

A more in-depth analysis of the political and electoral context and specific recommendations per country are developed in Part II of this memorandum<sup>22</sup>. However, the intensity of the electoral calendar regionally should already be highlighted: local, provincial, presidential and legislative elections (2015-2016) in the DRC, legislative and presidential elections in Burundi (2015) and Presidential elections in Rwanda (2017).

The next three years will therefore be decisive, not only for the consolidation of the rule of law and democratisation in the region, but also for its stability generally. It is crucial that the EU and its Member States closely monitor the situation and strongly mobilise themselves for the organisation in the 3 countries of credible and peaceful electoral processes complying with international democratic standards.

### RECOMMENDATIONS<sup>23</sup>

EP–EEAS–MS: maintain a high level of vigilance within the EU, but also the UN and AU, regarding the development of various electoral processes in the region's three countries, particularly in the field of political freedoms;  
EEAS–EC–MS: undertake a strong dialogue with Governments in the region to reverse the increasingly worrying trend of shrinking the democratic space and preventing the work of independent civil society;

EP–EEAS–MS: assume a clear position against any constitutional change in the three countries, endangering the conditions for a change at the helm of the States;  
EP–EEAS–MS: make the financial support of the EU and its Member States to the organisation and the observation of electoral processes in the 3 countries dependent on the respect of the rights and freedoms of civil society, political opposition and the media during the pre-electoral and electoral periods;

EEAS–EC–MS: support the action of civil society organisations in the preparation of elections, particularly through financing of civic and electoral education programmes, strengthening women's role and training of electoral observers;  
EEAS–EC–MS: strengthen the professionalism of the independent media in the region;

EEAS–MS: implement, through EU delegations and ambassadors from Member States present in the region, the EU's guidelines on human rights defenders;  
EEAS–EC–MS: support the regional mechanisms, particularly those of the AU, intended to support the organisation and running of elections in the three countries.

## Sustainable management of natural resources

The sustainable management and development of natural resources can constitute a significant lever for reducing poverty and a weighty incentive for the strengthening of regional cooperation. The DRC is rich in natural resources (land, forests, mines, hydro-electric power and hydrocarbons). By comparison, Burundi and Rwanda are relatively lacking in natural resources and have mainly relied on export agriculture (tea, coffee) or subsistence agriculture. In order to diversify their economies, these two countries also intend to profit from high prices for raw materials and develop an industrial mining sector. This "extractivist" direction of countries in the region is encouraged by the EU, who sees in this the opportunity to diversify its sources of supply. This is to the detriment of local populations who undergo the negative impacts of exploitation and generally do not derive any benefit from it.

### Resources for development?

Managed from the perspective of sustainability, the exploitation of natural resources may truly become a lever for a better redistribution of wealth and an improvement of the population's living conditions. The DRC's positive results from the point of view of macro-economic growth are partly attributable to growing foreign investment in the non-manufacturing industry sector (oil and mines).

The liberalisation of the exploitation of natural resources launched in 2002 by the DRC was mainly profitable for businesses, which have exported the profits abroad. Certainly, the increase in mining and oil production was accompanied by an increase in fiscal revenue in the DRC<sup>24</sup> and Rwanda, but in an unequal proportion if you consider the wealth exported and the profits made by the companies. The majority of mining, oil and forestry profits leave the country without bringing about positive consequences locally.

The faults in governance of these resources are multiple. There is a lack of transparency of States and companies

around their contracts and payments, which makes political and social control difficult, if not impossible, regarding the manner in which the extraction income is received and allocated. We should also point out here the corruption and embezzlement present at all levels of power, and under-financing of administrations responsible for applying the various legal frameworks relating to extractive sectors (mining and forestry Codes in particular). We should also point to tax regimes which are too favourable towards companies, and which, in addition, do not prevent the latter from using various strategies to evade the little tax that they have to pay<sup>25</sup>.

The incapacity of producing countries, such as the DRC, to regulate their extraction sector and make them a lever for human development is largely undertaken by the commercial and investment strategies of industrialised countries. Whether it is EPA negotiations, the signing of Bilateral Investment Agreements or the implementation of the Raw Materials Initiative, the EU and its Member States are not an exception. These systems undermine the sovereignty of producing countries, since they prevent them from protecting their resources, protecting the rights of their populations and deriving the maximum revenue from their exploitation to finance their own development<sup>26</sup>.

Another major fault, which is attributable to producing countries, businesses and the countries from which the latter originate, is the lack of consideration of the negative social and environmental impacts, which are often irreversible, generated by the intensive exploitation of resources and suffered by the population locally. The damage to the environment contaminates the land, water, livestock and the population. In addition to health problems, there is also a reduction in the land available for peasant and family farming on which the majority of the population depends. However, the extractive sector offers an insufficient number of jobs to compensate the collective loss of well-being noted locally<sup>27</sup>. Protection and compliance with local community rights constitutes a fundamental challenge here.

<sup>24</sup> 15% of the Congolese State's budget is made up of Public Development Aid, 25-30% is revenue from copper and cobalt mining and about 25% is revenue from oil extraction.

<sup>25</sup> Stefaan Marysse and Claudine Tshimanga, "La renaissance spectaculaire du secteur minier en RDC : où va la rente minière ? ", in Cahiers africains/Afrika Studies no. 82 (2013), Royal Museum for Central Africa/L'Harmattan, Tervuren/Paris; Africa Progress Panel, *Equity in Extractives. Stewarding Africa's natural resources for all*, Africa Progress Report 2013, April 2013.

<sup>26</sup> Frédéric Triest, "L'approvisionnement en minerais des Européens à n'importe quel prix ?", in *La Revue Nouvelle*, no.2013/11, p.58-66.

<sup>27</sup> The industrial mining sector only provides 20,000 to 30,000 jobs in the DRC. See Stefaan Marysse and Claudine Tshimanga, "La renaissance spectaculaire du secteur minier en RDC : où va la rente minière ? ", in *Cahiers Africains/Afrika Studies* no. 82 (2013), p.28.

## “Conflict minerals”

Some countries neighbouring Congolese Kivu hope to develop an industrial mining sector, particularly Burundi (gold, nickel) and Rwanda (tin, tantalum). This strategy is controversial essentially because of the involvement of these countries in the **illegal trade in minerals mined using artisanal methods in the East of the DRC** (“3Ts”<sup>28</sup> and gold) and which feed conflicts and violence there.

The role played by the trade in these minerals is now well-known and documented: **it profits various armed groups and certain members of the Congolese army**, thus contributing to stagnation of the conflict. Since 2004, several Resolutions of the UN Security Council have denounced the phenomenon of “conflict minerals” in the DRC<sup>29</sup>.

Interests surrounding the illegal trade in Congolese minerals are not only local, but also regional: “*several Mafia-like networks have developed ramifications in countries neighbouring the DRC*”<sup>30</sup>. According to the UN Group of Experts on the DRC, 98% of gold extracted using artisanal methods (in 2013) was exported illegally from the DRC, with a value representing between 383 million and 409 million dollars<sup>31</sup>. This gold is mainly exported to Burundi, Uganda, Tanzania and South Sudan, and then sent to Dubai, one of the main global crossroads for the gold trade, or to Dar Es Salaam<sup>32</sup>. With regard to the “3Ts”, the UNGoE confirms that while smuggled minerals are also transported to Uganda and Burundi, Rwanda remains the choice destination of smugglers<sup>33</sup>, due to the significant difference between the prices obtained in the DRC and Rwanda<sup>34</sup>.

Faced with this situation, Central Africa has become the laboratory for **multiple public and private international initiatives**, in favour of **certification, traceability and supply chain due diligence**<sup>35</sup>: iTSCI, OECD Guidance<sup>36</sup>, the US Dodd-Frank Act (section 1502), six tools of the ICGLR Initiative against the Illegal Exploitation of Natural Resources. In 2012, the DRC and Rwanda adopted legislation that makes due diligence mandatory in the supply chains for all companies operating in the “3Ts” and gold

sectors. On the ground, these initiatives face **problems of feasibility, trustworthiness and security**. Despite commendable objectives, they have therefore remained ineffective in terms of the fight against the phenomenon of “conflict minerals”.

This ineffectiveness is partially explained by the fact that they were devised without a real **prior consultation with local players**. These players have therefore not been able to take ownership of the objectives that they are pursuing and perceive them as measures imposed from abroad that are not directly profitable for them<sup>37</sup>.

The defiance of certain local players with regard to these initiatives can be explained in particular by the fact that some of them have encouraged international buyers to no longer source officially in the region and subsequently, have **reduced the income of the community dependent on artisanal mining**. However, this sector directly employs nearly 2 million people and 8 million indirectly nationally<sup>38</sup>, out of an active Congolese population estimated at 30 million<sup>39</sup>.

The ineffectiveness of initiatives can also be explained by the **Congolese State’s lack of control** over mining and a trade in artisanal minerals that is still largely informal. The **capacity and means** available to the State departments responsible for making the sector secure, putting it in order and coordinating the implementation of various initiatives in the DRC are quite simply **insufficient**.

After several years of absence regarding this problem, in March 2014 the EU presented a **draft Regulation**<sup>40</sup> encouraging, on a voluntary basis, the responsible mineral sourcing of companies importing 3Ts-minerals, their ores, and gold to the EU. According to EurAc, the voluntary measures proposed by the European Commission are **too weak to bring an end to trade on the European market of minerals that have financed armed groups active in Central Africa, particularly in the DRC**.

In fact, the proposed voluntary self-certification scheme does not contain any mandatory measure for companies and is

only aimed at primary importers of raw minerals or metals into Europe, and not at those that place in Europe finished or semi-finished products containing the 3Ts and gold (cars, jewellery and electronics). **The proposed measures therefore risk only being followed by a limited number of companies concerned** by the trade in “conflict minerals”.

In addition, the measures proposed by the EU risk encountering the same concerns about effectiveness facing other international initiatives. The EU and its Member States should **invest more funds into strengthening the Congolese State’s desire and ability to control the exploitation and trade of artisanal minerals**.

In this respect, the proposals made by the European Commission and European External Action Service (EEAS) in their Joint Communication<sup>41</sup> seem too vague and incomplete to truly support responsible sourcing from the DRC<sup>42</sup>.

Given the significance of the artisanal mining sector for the economy of the eastern Provinces, its **formalisation should be supported**. The **peaceful coexistence of this sector with the expansion of industrial activities** (exploration/extraction)<sup>43</sup> is not assured, creating a risk of insecurity if the tens of thousands of miners are deprived of their main source of income without being offered any alternative.

**Cooperation programmes related to the formal exploitation of natural resources** (minerals, agricultural products, oil and gas) should be implemented in the region. By allowing various countries to derive profit from regulated and fair exploitation of resources, these programmes will contribute to **fighting against “pillaging” of the DRC’s natural resources and lead to the emergence of the conditions for a sustainable peace in the region**.

## RECOMMENDATIONS

### Governance of Natural Resources

EP–EEAS–EC–MS: reform Trade Agreements, Bilateral Investment Treaties and the Raw Material Initiative in such a way as to enable countries producing natural resources to regulate their exploitation (protection of the environment and local communities) and mobilise them as a financial lever for their development (creation of added value, taxation);  
EEAS–EC–MS: support, technically and financially, the DRC’s efforts to collect and optimise in a transparent way the tax revenue derived from the extractive sector, through the modernisation of the tax regimes of the mining, oil and forestry sectors, and the administrative departments responsible for their implementation (DGRAD, DGI);  
EEAS–EC: support public authorities and Congolese civil society in order to allow them to understand and better use future flows of data caused by the adoption of European Directives establishing the obligation of transparency of financial information (country by country and project by project) relating to extractives;

EEAS–EC–MS: encourage Burundi and Rwanda to adhere to the EITI, considering the announced development of their extractive sectors (mines and hydrocarbons);  
EP–EEAS–EC–MS: reform the European CSR policy, in such a way as to make mandatory the compliance with the OECD’s guiding principles for multi-nationals and the UN’s guiding principles relating to business and human rights. This reform should in particular allow victims of the activities of international companies to access justice, within the European jurisdiction to which the activities of the incriminated company are referred;  
EEAS–EC–MS: support the revision and implementation in the DRC of legal frameworks governing the exploitation of natural resources (land, forestry and mining Codes, law on hydrocarbons), with a view to better protecting the rights of local communities;  
EEAS–EC–MS: encourage and support in Burundi, considering the announced development of its mining sector, the establishment of a new mining Code protecting the rights of local communities impacted by mining operations (exploration and extraction).

### Conflict minerals

EP–EC–MS: adopt a European Regulation on responsible mineral supply from conflict-affected and high risk areas which make mandatory the implementation of the OECD Due Diligence Guidance, not only for importers of tin, tungsten, tantalum and gold, but also for other companies who are the first to put these metals on the European market in the form of finished products. The companies concerned by the legislation should be subject to the obligation to publicly report on the manner in which they implement due diligence in their supply chains, in accordance with the OECD’s Guidance;  
EEAS–EC–MS: strengthen the EU’s support to the ICGLR and its Member States, with a view to accelerating the implementation of the six tools of the regional Initiative against the Illegal Exploitation of Natural Resources;

EEAS–EC–MS: support the formalisation of the artisanal mining sector in the DRC through the strengthening of its legal framework (revision of the 2002 Mining Code) and administrative departments responsible for applying it (DGM, SAESCAM, Police of Mines etc.). The formalisation should acknowledge the importance of artisanal mining locally and ensure its coexistence with the industrial sector. In addition, it should ensure better protection of artisanal miners and women working in the mines, demarcate the areas reserved for this type of mining, and clarify the mechanisms for settling conflicts between owners holding (customary or formal) land rights and those holding mining rights.

<sup>28</sup> Tin, tungsten and tantalum (also called “coltan”).

<sup>29</sup> S/RES/1807 (2008), S/RES/1857 (2008), S/RES/1896(2009), S/RES/1952 (2010), S/RES/ 2021 (2011), S/RES/2078 (2012).

<sup>30</sup> Janvier Kilosho Buraye, Gabriel Kamundala Byemba et Adamon Ndingu Mukasa, “Traçabilité des produits miniers dans les zones de conflit au Sud-Kivu”, *Cahiers Africains/Afrika Studies* no. 82, p. 133.

<sup>31</sup> UN Group of Experts on the DRC, *Final report 2013*, Un Security Council, S/2014/42, 23 January 2014.

<sup>32</sup> Alan Martin and Bernard Taylor, *All that Glitters is Not Gold: Dubai, Congo and the Illicit trade of Conflict Minerals*, Partnership Africa Canada, May 2014.

<sup>33</sup> UN Group of Experts on the DRC, *Final Report 2013*, UN Security Council, S/2014/42, 23 January 2014, p.45.

<sup>34</sup> In October 2013, for example, a kilogram of tin sold for 4 dollars in the mines of South Kivu, compared to 8 dollars in the trading centres of Bukavu and 15 dollars in Kamembe in Rwanda.

<sup>35</sup> Matthysen K. and Zaragoza Montejano A., *‘Conflict Minerals’ initiatives in DR Congo: Perceptions of local mining communities*, IPIIS/EurAc, November 2013.

<sup>36</sup> <http://www.oecd.org/fr/daf/inv/mne/GuideEdition2.pdf>.

<sup>37</sup> Matthysen K. and Zaragoza Montejano A., *op.cit.*

<sup>38</sup> World Bank, *Democratic Republic of Congo. Growth with governance in the mineral sector*, Report no.43402-ZR, May 2008, p.8.

<sup>39</sup> According to Stefaan Marysse, Professor at the University of Antwerp and President of the Belgian Reference Centre for Expertise for Central Africa (CREAC), interviewed in *Exploitation minière congolaise: artisanat versus industrie*, *Glo.be*, 25 April 2014.

<sup>40</sup> 2014/0059 (COD).

<sup>41</sup> *Join (2014) 8*.

<sup>42</sup> EurAc, *European Draft Regulation on responsible mineral sourcing. What lessons can be learned from the Democratic Republic of Congo?*, October 2014.

<sup>43</sup> For example, in South Kivu the expansion of the Canadian company BANRO is placing the artisanal sector under pressure.

## Part II: national contexts

This second section is dedicated to the **construction of the rule of law and democratisation** in each of the three countries concerned by this memorandum. The proposed analysis of national contexts therefore highlights one of the three regional challenges presented in the first section. This choice is justified by the **coexistence of the electoral agendas of the three countries between now and 2017**<sup>44</sup>, by the significance that these electoral deadlines take on for their population, and by the numerous challenges that the organisation of truly democratic, credible and peaceful elections represents in each country.

**In their own way**, each of the national political contexts of Burundi, DRC and Rwanda represent a **test for the EU commitment to support democracy in Central Africa**. Compliance with this commitment should be one of the **priorities** of the EU external policy during this new European legislature. In fact, beyond the smooth progress of elections and respect for human rights, the democratisation of political life will have a direct influence on the **stability** of each of the three countries as well as the possibility of seeing the emergence of an **economic development** that the population can finally benefit from in full.



Voters consult electoral rolls, Burundi 2010 (photo EurAc).

<sup>44</sup> Local, provincial, presidential and legislative elections (2015-2016) in the DRC, legislative and presidential elections in Burundi (2015) and presidential elections in Rwanda (2017).

### Burundi

Since its independence (1962), Burundi has been marred by battles for power, ethnic violence and exclusion, and civil wars that have caused death and the displacement of thousands of people. Following the implementation of the Arusha Peace Agreement (2000)<sup>45</sup>, the country experienced a progressive return to stability and a democratic opening-up ensuring a balanced participation of Hutus and Tutsis in political and institutional life. Nevertheless, the achievements of the Arusha Agreement now seem threatened, on the one hand, by the failure of the electoral process in 2010 and, on the other hand, by the progressive reduction of the democratic space a few months prior to the next local, legislative and presidential elections in 2015.

After the years of civil war (1993-2003), the victory of the CNDD/FDD of President Pierre Nkurunziza during the 2005 elections concluded a first electoral process whose democratic character was acknowledged by all of the political parties and foreign observers. This step has enabled the establishment of the legitimate institutions that Burundi needed. The abandonment in April 2009 of armed conflict by the FNL, the last of the Burundian rebel groups to be active, kept up the hope that the country will definitively leave violence behind.

Following accusations of fraud during the local elections of May 2010 made by a section of the opposition but not confirmed by national and international observers, the majority of the opposition parties (FNL, MSD, FRODEBU...) took the decision to boycott the legislative and presidential elections of June 2010. Feeling threatened by those in power, the main leaders of these parties left the country. Pierre Nkurunziza was re-elected for a second presidential mandate and CNDD-FDD won 79% of Parliamentary seats. The UPRONA and FRODEBU-Nyakuri parties, holding 16% and 4.7% of the seats in Parliament respectively, joined the CNDD-FDD to form the current Government of Burundi<sup>46</sup>.

Under pressure from the International Community, several opposition leaders returned to the country at the beginning

of 2013. In March of the same year, a workshop bringing together Burundian political leaders was organised with the support of the BNUB with a view to discussing the next electoral cycle planned in 2015. The **roadmap** produced at the end of the workshop lists a series of principles intended to provide guarantees regarding the democratic inclusion and participation of the parties in power and the opposition<sup>47</sup>. More than one year after the workshop, it should be noted that the principles of the roadmap have regularly been breached by those in power.

### Democratic space in danger

In Burundi, the right to freedom of expression is guaranteed by the Constitution and international and regional treaties ratified by the State. In addition, freedom of expression is part of the National Strategy for good governance and the fight against corruption. Organisations from Burundian civil society, including partners of EurAc and its members, play a key role in the monitoring of Government action and protection of the democratic space. Alas, a series of **restrictive laws** already adopted or in the process of being adopted, has added to the harassment and threats suffered since 2010 by journalists and other critical voices denouncing political assassinations, corruption and poor management of the country.

In April 2013, the National Assembly adopted a **media law** aimed at forcing journalists to reveal their sources of information relating to offences concerning State security, public order, defence and people's physical and mental health (article 17). In addition, journalists must refrain from reporting information that could affect "national unity, public security and order, morality and public decency, human dignity and honour, national sovereignty, the private life of individuals, the presumption of innocence" (article 18). The law also enshrines a "prohibition to disseminate information or publish documents in relation to the secrecy of national defence, State security and public security, the stability of the currency, illegal public demonstrations" (article 20). The fines for breaches of these articles are exorbitant, and can reach 6 million Burundian Francs (3000 euros).

<sup>45</sup> *Accord d'Arusha pour la Paix et la Réconciliation au Burundi*, 28 August 2000.

<sup>46</sup> The Uprona party broke into two camps in February 2014: on the one hand, the camp of Charles Nditije and Evariste Ngayimpinda (President and Vice-President of the party) who left the Government and, on the other hand, the camp of Concilie Nibigira who chose to remain in the Government.

<sup>47</sup> The creation of a platform for regular exchange between the Independent National Electoral Commission (CENI) and parties and political players; the need for young people affiliated with political movements to contribute to an environment favourable towards elections; the need to establish a security environment that protects all political players, which facilitates their activities and the free participation of the population in the electoral processes; the need to guarantee the free access of the parties and political players to State media as well as freedom of expression, demonstration and association.



Also, while the law has not yet been applied, cases of self-censorship by journalists have become a reality.

A **law on demonstrations and public meetings** adopted in August 2013 sets out that the administrative authorities must be notified four days before they take place. The main worry concerns the possibility for those in power to invoke this law to prevent opposition parties from mobilising their supporters and civil society organisations to demonstrate or hold press conferences<sup>48</sup>. In addition, the law sets out that no congress of a political party and no assembly of a civil society organisation can be held without the participation of a representative of the administration.

Civil society organisations also denounce a **draft law relating to non-profit organisations** which, if it had been adopted, would open up the path to a manipulation of the accreditation process for non-profit organisations by the Government: non-profit organisations are supposed to submit their request for approval to the Ministry for the Interior and the Ministry responsible for the field in which they work (health, agriculture etc.). Civil society fears that these measures serve to submit their activities to Government control and prevent non-profit organisations, as well as networks of associations, from working in several fields simultaneously. In addition, the registration of NGOs has to be renewed each year, subjecting them to permanent insecurity about their survival. Lastly, the bringing together of associations who do not work in the same field shall be prohibited, endangering numerous existing platforms that bring together various types of organisations (trade unions, religious denominations, NGOs...).

### **Deterioration in the pre-electoral context**

The introduction of restrictive laws described above, one year after the 2015 elections, bears witness to the CNDD-FDD's strategy consisting in weakening opposition parties, the media and civil society. This strategy might be explained by the party in power's fear of losing the hegemony that it has had since 2010.

Conscious of the weakness of the outcomes of governmental action, the CNDD-FDD is trying to reduce the other parties' capacity to represent the alternative. The CNDD-FDD's desire to hang on to power at the expense of the democratic process is also perceptible from an **attempt to ensure a level of control of the National Assembly equivalent to the current one**, despite the probable reduction in the number of seats that it will hold after the 2015 elections.

On 21 March 2014, the Burundian Government submitted a **proposal for constitutional review** before the National Assembly allowing President Pierre Nkurunziza to seek a third mandate and modifying the system for the adoption of laws in the National Assembly from two-thirds to simple majority. This proposal clearly threatens the achievements of the Arusha Agreement assuring a balanced representation and participation of the various community components in the country's political and institutional life.

However, all of the political parties, civil society organisations and religious denominations had signed in December 2013 an agreement ("**Kigobe consensus**") establishing that if a change in the Constitution is desirable with a view to developing a new electoral Code, changes in the number of presidential terms and the parliamentary majority should only be revised after the 2015 elections. Although the National Assembly narrowly rejected (by one vote) the proposal for constitutional review, the **Government's** attempt to force through a measure against the "Kigobe consensus" gives cause to worry given the fragility of the situation.

**Internal insecurity and violence** are increasing. Youth from the CNDD-FDD, the **Imbonerakure** ("Those who see far") are regularly involved in human rights violations (beatings, acts of intimidation, restrictions on the holding of political meetings) and have also been implied in several murders between 2012 and 2014<sup>49</sup>. Present throughout the country, they benefit from a certain level of impunity because their actions are not in anyway countered by the administration or local security forces.

On 3 April 2014, BNUB sent a report to the UN's headquarters accusing the Burundian Government of having **distributed arms to the Imbonerakure**. On 16 May 2014, the judicial police in Bujumbura arrested Pierre Claver Mbonimpa, President and founder of APRODH. His arrest followed a radio broadcast, on 6 May 2014, in which he confirmed that he had evidence that **military training had been given in the DRC to young Burundians under the supervision of an executive of the Burundian SNR**. According to the activist, some of these young people had been killed on Congolese territory.

In addition, there is a risk of escalation if the youth of other parties decide to respond in a proportionate manner to the actions of Imbonerakure.

When **clashes occurred on 8 March 2014** between the police and representatives of the MSD during a sporting event organised by the latter, **69 members of the party were arrested**, of whom **21 were sentenced in perpetuity** without the judicial authority providing the slightest grounds for this. In addition, **an arrest warrant was issued against the President of the MSD Alexis Sinduije**, because of "participation in an insurrection movement, rebellion, contempt and violence towards persons wielding public authority or police force". Following the events of 8 March, the Government has also **prohibited the carrying out of any sporting activity as a group**.

The **National Commission on Land and other Assets (CNTB)** is responsible for handling disputes (particularly land disputes) between assassinations and war

victims and third-parties. For some time it has been the subject of regular criticism, and the recent reform of the CNTB (December 2013) has caused worry among certain groups in Burundian society. They have doubts about the independence of the new provision from the current regime. The situation does not bode well for risks of **manipulation of the ethnic issue** for political ends.

### **Transitional justice**

Promulgated on 15 May 2014 by the President, the law on the creation and functioning of the future **Truth and Reconciliation Commission (CVR)** should have represented a significant advance in the implementation of the Arusha Agreement. However, the text adopted by the National Assembly does not make reference to the creation of a Special Tribunal, as stipulated by the Arusha Agreement, or the possibility of bringing judicial proceedings before the ordinary courts on the basis of evidence gathered in the context of the work of the CVR. In addition, the procedure for nominating the 11 commissioners raises doubts about their independence. These faults jeopardise the **reconciliation and reparation work and the fight against impunity** in Burundi.

These facts illustrate the establishment of a **climate of fear** a few months from elections and in return contribute to a **more than just worrying level of tension**. The situation has become critical and requires **strong engagement by the EU and Member States, in order to prevent an escalation of violence that would be damaging not only for Burundi, but also for countries in the region**.

## **RECOMMENDATIONS**

EEAS-MS: put pressure on the Burundian Government so that the democratic space remains open and the political players, both from the majority and the opposition, can safely participate in the political life of the country, in accordance with the recommendations contained in the roadmap of March 2013;

EP-EEAS-EC-MS: make the financial support of the EU and its Member States to the electoral process dependent on (1) the holding of elections that are inclusive, transparent and peaceful and (2) the establishment of an environment enabling civil society, the media and the political opposition to democratically exercise their respective roles;  
EEAS-EC-MS: support the action of Burundian civil society, particularly through the financing of civic and electoral education;

EEAS-EC-MS: support the professionalisation, freedom and diversification of independent media in Burundi;  
EEAS-EC-MS: support the transitional justice process in such a way that it operates in a transparent, impartial and inclusive manner. One of the priorities of this support should be the nomination within the CVR of competent and independent commissioners.

## Democratic Republic of Congo (DRC)

After 20 years of war and political crises, the DRC is still facing the activities of numerous armed groups and the major challenges of rebuilding the State and its socio-economic development. In this regard, significant developments have been observed since 2013: the signing of the Framework Agreement (February), surrender of the M23 (October/November), operations against armed groups (ADF and FDLR), banking system for the payment of civil servants, soldiers and police officers, high rate of economic growth (8.5% in 2013). These developments must not lead the DRC's partners to reduce their level of engagement, particularly their support for the construction of the rule of law and democratisation.

The signing of the Sun City Agreement (2002) and the political transition (2003-2006) that followed, led to the adoption of a new Constitution (18 February 2006). The first democratic elections in the DRC since 1964 were organised in 2006 (presidential and legislative) and 2007 (provincial and senatorial). This first important step was taken thanks to the significant political and financial support of the international community, particularly the EU and some of its member States. The main problem: the local elections, which according to the Constitution should have closed this first electoral cycle, were postponed.

In January 2001, a change to the Constitution establishing a one round system for the presidential election was adopted. In reaction, the EU reduced its support for the presidential and legislative elections of November 2011. These elections were marred by significant flaws in terms of preparation and numerous irregularities during the collection and compilation of results. As a consequence of this, the credibility of the election results has been seriously reappraised<sup>50</sup>. Congolese and international observers have clearly pointed the finger at the CENI for its lack of transparency and its too close proximity to those in power.

## Crisis of legitimacy among political institutions

The failure of the 2011 elections caused a generalised crisis of legitimacy among political institutions, exacerbated by the **non-organisation of local elections** (expected since 2006) and the **postponement of provincial and senatorial elections**. Elected in 2007, the provincial Deputies and Senators have held office and continued to be paid as such, illegally, since 2011.

In order to respond to the criticisms lodged in 2011 with the CENI, this organisation was reformed, allowing 3 representatives of civil society to be involved in its management. But **worries about CENI's independence** remain since it continues to be made up of individuals from the political class, most of whom are close to the presidential majority.

## Challenges for the 2014-2016 electoral cycle

In January 2014, the new CENI presented a **roadmap** for the 2014-2016 electoral process proposing two possibilities for the organisation of various elections. **The first scenario** sees the holding of municipal and local elections **in 2015** with direct suffrage, and elections of presidential deputies, senators, governors and vice-governors, city councillors, chiefs of sector, *bourgmestres*, mayors and deputy mayors elected by indirect suffrage. The election of national deputies and the President will henceforth be held by direct suffrage **in 2016**.

**The second scenario** sees the holding of municipal and local elections **in 2015** with direct suffrage, and elections of city councillors, chiefs of sector, *bourgmestres* and mayors by indirect suffrage. It sees the election by direct suffrage of provincial and national deputies **being postponed to 2016**, at the same time as the presidential elections, and proposes that elections of senators and vice-governors by indirect suffrage be held **in 2017**.

The scenarios presented by the CENI are opposed by Congolese civil society, particularly the use of the indirect suffrage method which is rejected *en masse*<sup>51</sup>. Given the **calendar** of urban, municipal and local elections published on 26 May 2014 by the

CENI, **the proposals of civil society have clearly not been taken into account**. The calendar seems to opt for the 2<sup>nd</sup> scenario of the road map of January 2014, since it fixes the election of councillors of communes, sectors and *chefferies* for 14 June 2015, the election of urban councillors, *bourgmestres* and chiefs of sector for 29 August 2015, and the election of mayors and deputy mayors for 15 October 2015.

The publication of this calendar provoked strong reactions from civil society organisations and several opposition parties. The former believe that the calendar *“aggravates the crisis of consensus between the stakeholders in the 2014-2016 electoral process”*<sup>52</sup> and the latter have described it as a “provocation”. There are multiple reasons for these reactions: worries about the proper organisation of local elections, the lack of political consensus about the calendar and, above all, the fact that the calendar fails to clarify the periods planned for the holding of provincial, legislative and presidential elections. In response to these worries, on 3 June 2014, the special envoys of the UN, African Union, European Union (EU) and United States called for the publication of an “overall” calendar which includes all the elections planned in the DRC between now and the presidential elections of 2016.

Despite the opposition of civil society and a section of the Congolese political class, on 9 June 2014 the Government approved a **draft review of the Constitution**, which aims to introduce the indirect method of elections for provincial elections. There is also a fear that this constitutional unlocking opens up the possibility for those in power to also amend article 220 limiting the number of authorised presidential terms to 2, with a view to allowing President Kabila to seek a **third term**.

## Reduced democratic space

**The democratic space, freedom of expression and the conditions for the mobilisation of citizens are deteriorating** as the electoral deadlines approach. The feverishness of those in power is reflected in the methods that they use increasingly frequently to repress the expression of popular discontent and aspirations for change<sup>53</sup>.

The democratic space held by the **opposition** is also reduced. In February 2014, Vital Kamerhe, President of the UNC, was twice refused permission to go to the East of the country to hold political meetings there. There are also other examples of opponents being restricted in their political activity<sup>54</sup>.

In this context, **civil society finds it difficult to make its voice heard** on the issues of elections. **The pre-election climate is becoming gloomier, preventing the return to peace and trust in institutions**.

The **worries of civil society**, and a share of the Congolese opposition, about the electoral issue concern:

- the persistent doubts about the intention of those in power to **change the Constitution** with a view, among other things, to allow President Joseph Kabila to seek a **third term**.
- The drawing up of the roadmap by the CENI which took place **without real dialogue with civil society** and the political opposition despite the constitution of a national consultation Framework planned for this purpose<sup>55</sup>.
- **The electoral register**, the reliability of which is entrusted to the CENI (inclusion of “omitted persons”) excludes the inclusion of “newly over-18s” (those who have acquired the right to vote since 2011) and the removal of numerous duplications noted in the 2011 register.

## Decentralisation stationary

Although the building of democratic institutions goes through the organisation of local elections, it also requires a process of decentralisation. In a country the size of the DRC, these steps are crucial with a view to **moving the processes of political decisions closer to citizens and introducing transparency and accountability into these processes**.

In the DRC, the vast **decentralisation** project has for a long time been stationary. The Constitution planned in 2006 to grant the 26 Provinces and decentralised territorial entities (cities, communes, sectors and *chefferies*) broad autonomy, a legal personality and suitable funding. In the absence of local elections, decentralised entities will not be constituted by any

<sup>52</sup> The position of Congolese civil society organisations regarding the CENI's electoral calendar, Kinshasa, 2 June 2014.

<sup>53</sup> Arbitrary arrests, prohibition of travel by opposition leaders, intimidation and interference with regard to the media and NGOs.

<sup>54</sup> La Voix des Sans Voix pour les Droits de l'Homme, *RDCongo : La VSV invite les autorités à mettre fin au musellement des opposants politiques*, Press release No. 042/DRC/VSV/EC/2014, 18 September 2014.

<sup>55</sup> The consultation framework put in place by the CENI to have an exchange with all the stakeholders in the electoral process does not offer, in the circumstances, a real space for discussion.

<sup>50</sup> See the European Union's Electoral Observation Mission, *Presidential and Legislative Elections - 28 November 2011, Final Report*; Carter Centre, *Presidential and legislative elections - Democratic Republic of Congo - 28 November 2011, Final Report*.

<sup>51</sup> AETA, declaration of 30 April 2014; CENCO, *Communiqué on the electoral cycle 2013-2016 of 28 February 2014*.

elected body; and, in the absence of effective decentralisation, elected representatives at local level will be prohibited from fully exercising their powers.

In order to continue to play a positive role

in Congolese reconstruction, **the EU and its Member States must strengthen their targeted and coordinated support for democratisation**, which remains one of the major challenges for the establishment of rule of law in the DRC.

## RECOMMENDATIONS

EP–EEAS–EC–MS: contribute actively to the organisation of democratic and trustworthy elections that are in accordance with the Constitution, at all levels of power between now and the end of 2016;

EP–EEAS–MS: take a clear position so that fundamental articles of the Congolese constitutions are respected and that no change is introduced with a view to extending the duration or the number of presidential terms or changing the election method;

EP–EEAS–EC–MS: make the financial support of the EU and its Member States to the electoral process dependent on (1) the holding of elections that are inclusive, transparent and peaceful, (2) minimum consensus about the organisation of elections and (3) the establishment of an environment enabling civil society, the media and the political opposition to democratically exercise their respective roles;

EP–EEAS–EC–MS: encourage the Government and Congolese MPs to speed up the decentralisation process, in accordance with the Constitution.

EEAS–MS: encourage the CENI to use the consultation Framework to draw up (1) an electoral road map resulting from a consensus between the demands and observations of civil society organisations, parties of the majority and opposition parties, and (2) an electoral calendar including all the elections at the various levels of power to be planned between now and the end of 2016;

EEAS–MS: encourage the CENI to make sure that the electoral register of the 2015 elections integrates not only omitted people but also “newly-over-18s” (people who have acquired the vote since 2011) and eliminate the numerous duplications noted in the 2011 register;

EEAS–EC–MS: support the action of Congolese civil society, particularly through the financing of civic and electoral education; special attention should be paid to the mobilisation and participation of women, particularly in rural areas.

## Rwanda

**After three years of civil war between Tutsi rebels from the Rwandan Patriotic Front (RPF) and the Rwandan Government, the signing of the Arusha Agreements on 4 August 1993 led to the formation of a national unity Government. On 6 April 1994, the aeroplane of President Juvénal Habyarimana was shot down while coming down to land in Kigali, marking the start of the genocide that devastated the country and caused the death of nearly one million people. Twenty years later, Rwanda is commemorating this tragedy, which constitutes one of the worst tragedies of the second half of the 20th century. This moment must not prevent us from having a clear-headed assessment of the outcome of the political and social reconstruction directed since 1994 by President Paul Kagame’s RPF.**

In 20 years, Rwanda has made remarkable progress with regard to the **reconstruction of infrastructures, economic governance and consolidation of domestic security**. The growth in GDP has hovered around 8% for several years and real advances can be noted in the achievement of the MDGs, even

if poverty remains an important challenge, especially in rural areas. In this regard, credit should go to the Rwandan authorities regarding **administrative reorganisation and institutional stability**.

While often cited as an example of technocratic governance and economic development on the African continent, the idyllic picture of the “Rwandan model” crumbles as soon as you look at the challenge of political governance. **The voices of dissidents and civil society independent of power almost no longer exist in Rwanda. The democratic space and freedom of expression are extremely reduced;** governmental authorities exert constant pressure on the media, civil society and the political opposition.

### **Towards a new hardening of the regime?**

This pressure is exerted through administrative barriers, manipulation of judicial power (arrests, imprisonments) and, in certain cases, physical threats (intimidation, murders). According to the NGO HRW, “a growing number of people have been the victims of forced disappearances or have been missing

in Rwanda since March 2014”<sup>56</sup>. In particular, this is the case for the director of the religious radio station Amazing Grace<sup>57</sup>, Cassien Ntamuhanga, and Jean Damascène Munyeshyaka, executive of the Democratic Green Party of Rwanda (DGPR), who disappeared at the end of June 2014<sup>58</sup>. According to information received by HRW, some victims of disappearances have been arrested by soldiers from the Rwandan Defence Forces (RDF).

In a communiqué dated 4 June 2014, the American State Department said that it was very worried about this wave of arrests and disappearances.

In reaction, the president of Rwanda declared in particular that the current regime would continue to “*arrest more suspects and if possible kill in broad daylight those who attempt to destabilise the country*”<sup>59</sup>. In the last few months, the repression has also hit former members of President Paul Kagame’s inner circle<sup>60</sup>.

### **Political freedoms and freedoms of expression**

On 8 August 2010, President Paul Kagame was re-elected by winning 93% of the votes. According to HRW, these elections were marred by “*a worrying trend towards intimidation, persecutions and other abuses [and] an increased repression against the opposition*”<sup>61</sup>. By way of example, we can cite the arrest of the opposition leaders Victoire Ingabire (FDU-Inkingi) and Bernard Ntaganda (PS-Imberakuri) before the holding of presidential elections, and their sentencing for “conspiracy, undermining the security of the State and denial of genocide”. Bernard Ntaganda was freed in June 2014 after having spent 4 years in prison, while Victoire Ingabire is still being held.

In this context, it is not surprising that the legislative elections of September 2013 were largely won by the RPF (76.22% of the votes). As during the 2008 elections, the Social Democratic Party (SDP) and the Liberal Party (PL), which are considered to be close to the regime, obtained the second (13%) and third (9%) scores. None of the other political parties and the four independent candidates were able to participate in these elections. As for the DGPR, it was not able to participate

in the election, since the Government only granted it its registration the day before the deadline set for presenting electoral lists.

It seems that the status of political freedoms and expression have not improved since the last legislative elections. In a report on Rwanda published in June 2014, the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, highlighted that the “*recourse to criminalisation of any peaceful public disagreement instils fear, and prevents any dissidence and pluralism*”<sup>62</sup>.

This deterioration in freedoms clearly affects the position of the media. On 8 February 2013, a **new law** was adopted with a view to helping the development of independent journalism in Rwanda. Although, in theory, it says that it protects journalists’ right to freedoms of opinion and expression, it is, in reality, inoperative due to the media space locked down by the regime. The media are largely dominated by pro-Government opinions and journalists who only rarely have the opportunity to criticise the Government’s actions, due to intimidation, threats and proceedings brought against them<sup>63</sup>.

### **Has civil society been annihilated?**

EurAc has always advocated for the consolidation of democratic governance as an essential factor in stability and development in the Great Lakes region. In this regard, civil society has a vital role to play as an intermediary between citizens, public power and the private sector. However, in Rwanda, civil society organisations **only have a very restricted space of freedom, interaction and dialogue with the Government, and therefore cannot ensure a truly independent monitoring of the Government’s actions**.

Numerous organisations from Rwandan civil society have been the victims of attacks and persecutions. Their leaders have been forced to go into exile and have been replaced by people close to the Government. This was still the case in 2013 for the Rwandan League for the Promotion and Defence of Human Rights (LIPRODHOR), the last independent and effective national group defending human rights, over which

<sup>56</sup> Human Rights Watch, *Rwanda: Vague de disparitions forcées*, 16 May 2014.

<sup>57</sup> RSE, *Un directeur de radio disparaît au soir des commémorations du génocide des Tutsis au Rwanda*, 9 April 2014.

<sup>58</sup> “*Rwanda: l’inquiétude grandit suite à la disparition d’un opposant*”, RFI, 16 July 2014.

<sup>59</sup> “*Le président rwandais Kagame menace de «tuer en plein jour ceux qui déstabilisent le pays*”, *Le Soir*, 6 June 2014.

<sup>60</sup> Colette Braeckman, “*Kigali: des arrestations frappent le «premier cercle*”, *blog.lesoir.be*, 26 August 2014.

<sup>61</sup> Human Rights Watch, *Rwanda: Silencing Dissent Ahead of Elections*, 2 August 2010.

<sup>62</sup> “*Liberté d’expression: un rapporteur de l’ONU critique le Rwanda*”, RFI, 15 June 2014.

<sup>63</sup> Human Rights Watch, *World Report 2014. Events of 2013*, p.157.

“members considered as being favourable to the Government have taken control”<sup>64</sup>.

The recent instructions of the Rwandan Prime Minister establishing the creation of the Joint Action Forum for Development<sup>65</sup> (JADF) jeopardise the **independence and autonomy of international NGOs** present in the country. The instructions require NGOs to automatically become members of the JADF, and as such, they are subject to the obligation to submit to the Government an annual action plan, budget and reports every four months for each sector and each geographical area in which they work. The annual action plans submitted by international NGOs must first be approved by the Government before being implemented. In addition, the submission of an excessive number of reports, since NGOs are generally active in several sectors and geographical areas, represent an administrative overload which simply risks preventing these NGOs from working.

### True reconciliation?

In order to be sustainable, Rwanda's stability needs to be founded on a **process of democratic and political opening**, as well

as the **active participation of civil society and the population in the development of the country**. However, the authorities' pressure and control over the population and the **feeling of fear** that derives from this, prevent the participation of the various components of society in political life and a true equality of rights between Rwandans.

Serious worries exist about the conditions and consequences of a possible change at the helm of power in Rwanda. In fact, in the absence of any form of change during the last 20 years, it is impossible to know if the “Rwandan model”, often defended as necessary for the post-genocide stability of the country, will have led to true reconciliation and the defusing of the ethnic issue. As the UN Special Rapporteur, Maïna Kiai, says: “*the fear of a new genocide cannot be invoked when reducing fundamental freedoms, since they are necessary for the prevention of conflicts*”<sup>66</sup>.

Given the above, it is essential that the **EU and its Member States develop a constructive yet firm dialogue with the regime for the opening of the democratic and political space** in Rwanda.

### RECOMMENDATIONS

EP–MS–EEAS–EC: put pressure on the Rwandan Government so that it opens up the democratic space and lifts the introduced measures that prevent both Rwandan and international civil society organisations from working and threaten their actual existence;

EP–MS–EEAS–EC: put pressure on the Rwanda Government so that it starts a process of opening up an inclusive political space, which enables the democratic opposition parties to be credited and to participate in the elections at all levels of power;

MS–EEAS–EC: support the emergence of a professional and independent civil society and media in Rwanda.

**C**reated in 2003, the European Network for Central Africa (EurAc) has 39 member organisations from civil society in 12 European countries\*. These organisations work on and in the Great Lakes region. They support civil society organisations in Burundi, the Democratic Republic of Congo (DRC) and Rwanda in their efforts to promote peace, the defence of human rights and development.

EurAc's members wish to tackle the structural causes of instability in the Great Lakes region and support or back local dynamics. EurAc's members share the same vision and objective: **a policy of the EU and its Member States in Central Africa that is coherent and attentive to the needs and aspirations of the populations of this region**, particularly the most vulnerable and most marginalised.

EurAc concentrates its activities on advocacy with European institutions and political decision-makers, around **3 central themes** for the Great Lakes region: (1) peace and security, (2) democratisation and (3) management of natural resources. **Transversely** from these fields, the improvement of governance and the strengthening of non-State players as a counter-power are priorities of our advocacy work.

**The objective** of this memorandum is to attract attention to **the importance of the EU's commitment for Central Africa** and to advocate in favour of its strengthening during the new European legislature 2014-2019. This period will be delicate for the stability of the **DRC, Burundi and Rwanda**. EurAc's intention is to encourage MPs, the Commission, the External Action Service and European States to engage more so that **the EU plays its role in full in the pacification, stabilisation and development of the Great Lakes region**.

\* Belgium, Finland, France, Germany, Ireland, Italy, Netherlands, Norway, Spain, Sweden and Switzerland, United Kingdom.

The logos of the EurAc members cosigning this memorandum can be found on the following page.



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Photograph on cover: gathering of citizens in the city of Kamituga (South Kivu) in 2009 (Commission Justice et Paix Belgique francophone)

